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DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

6 CCR 1007-1

STATE BOARD OF HEALTH

RULES AND REGULATIONS PERTAINING TO RADIATION CONTROL

PART 12: FEES FOR RADIATION CONTROL SERVICES

12.1 Purpose and Scope.

12.1.1 Authority.

12.1.1.1 Rules and regulations set forth herein are adopted pursuant to the provisions of Sections 25-1-108, 25-1.5-101(1)(k) and 25-1.5-101(1)(l), and 25-11-104(6), CRS.

12.1.2 Basis and Purpose.

12.1.2.1 A statement of basis and purpose accompanies this part and changes to this part. A copy may be obtained from the Department.

12.1.3 Scope

12.1.3.1 The regulations in this part establish fees for radiation control services rendered by the Department as authorized by the Act.

12.1.4 Applicability.

12.1.4.1 ~~Except for persons who apply for, or hold specific licenses exempted in 12.3, the regulations in this part apply to radiation control services for a person who is an applicant for, or holder of, a:~~

(1) ~~Specific radioactive material license or a general radioactive material license, issued pursuant to Part 3 of these regulations.~~

(a) **EXCEPT FOR A PERSON WHO APPLIES FOR OR HOLDS A SPECIFIC LICENSE EXEMPTED IN 12.3.**

(2) **REGISTRATION, ISSUED PURSUANT TO PART 2.**

12.1.4.2 The regulations of this part also apply to a ~~specific~~ request for:

(1) ~~Evaluation of A sealed sources and/OR devices containing radioactive material;~~

(2) ~~for a special project review, which~~ **THAT** the Department completes or makes whether or not in conjunction with a license application on file or which may be filed, and **OR**

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33 (3) ~~for~~ **ANY** other services as specified.

34 12.1.5 Published Material Incorporated by Reference.

35 12.1.5.1 Published material incorporated in Part 12 by reference is available in
36 accord with Part 1, Section 1.4.

37 **12.2 Definitions.**

38 12.2.1 As used in this part, these terms have the definitions set forth as follows.

39 “Abandoned application” means any application filed with the Department for which the
40 Department has in writing requested additional information needed to process the
41 application and the Department does not receive a written reply from the applicant within
42 forty-five (45) days after the Department’s most recent written request for additional
43 information.

44 “Anniversary Date” means that date upon which annual fees shall be due and payable.
45 Anniversary Date is determined as the last day of the month corresponding to the month
46 listed as the licensee’s expiration date.

47 “Application” means any request filed with the Department for a permit, license, approval,
48 exemption, exception, certificate, registration, other permission, or for any other service.

49 “Full cost fee” means a fee based on reasonable and actual professional staff time and
50 appropriate contractual support services expended for certain radiation control activities
51 as specified in Appendix 12A.

52 “Inspection” (routine or non-routine) means:

53 (1) “Routine inspection” designed to evaluate the licensee’s or registrant’s
54 activities within the context of the licensee or registrant having primary
55 responsibility for protection of the public and environment.

56 (2) “Non-routine inspection” in response or reaction to an incident,
57 allegation, follow up to inspection deficiencies, inspection to determine
58 implementation of safety issues including radioactive waste control
59 services pursuant to CRS Sections 25-11-101–305 and
60 Sections 24-60-2201–2212 and these regulations. A non-routine or
61 reactive inspection has the same purpose as the routine inspection.

62 “Low-Level Radioactive Waste Access Approval” means those reviews and on-site
63 evaluations necessary to assure waste generator compliance with low-level radioactive
64 waste site access criteria as established by the Rocky Mountain Low-Level Radioactive
65 Waste Board (the Board) or by a compact with which the Board has an agreement to
66 accept low-level radioactive waste from Colorado or by a state with which the Board has
67 an agreement to accept low-level radioactive waste from Colorado or by any state or site
68 to which a Colorado generator ships low-level radioactive waste.

69 “Open Records Act” means the Colorado Open Records Act, CRS 24-72-201 et seq.

70 “Permanent location” means, for purposes of Part 12, a location where radioactive
71 material is used and/or stored for more than 180 cumulative total days in any calendar
72 year.

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"Special Project" means a request submitted to the Department for review for which a fee is not otherwise specified in this part. Examples of special projects include, but are not limited to, early site reviews, consultation, emergency response plan reviews, assessment of responses to Department orders, contamination surveys in response to license termination or relocation, and financial surety reviews.

12.3 Exemptions.

12.3.1 No fees pursuant to 12.4.1 through 12.4.5 shall be required for:

~~12.3.1.1~~ ~~AA~~ radioactive materials license authorizing the use of source material as shielding only in devices and containers, provided that all other licensed radioactive material in the device or container will be subject to the fees described in Appendix 12A.

~~12.3.1.2~~ ~~An application for possession and use of radioactive material applied for by, or issued to, an agency of Colorado or any political subdivision thereof, except for a license which authorizes distribution of radioactive material or products containing radioactive material or licenses authorizing services to any person other than an agency or political subdivision of the State. This exemption does not apply to fees for inspection or annual fees for such licensees.~~

~~12.3.1.3~~ ~~A general license for reciprocity pursuant to 3.24. This exemption does not apply to fees for inspection of, or annual fees for such licensees.~~

12.3.2 Application for Exemptions.

12.3.2.1 The Department may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of this part for good cause as it determines are authorized by law and are otherwise in the public interest.

12.3.2.2 Applications for exemption under this section may include activities such as, but not limited to, the use of licensed materials for educational or noncommercial public displays or scientific collections.

12.4 Specific Radioactive Materials Licenses.

12.4.1 Application Fees.

12.4.1.1 The application fee for new radioactive materials license not subject to full cost fees must accompany the application when it is filed.

(1) Except for a license subject to full cost fees, no application for a new license, for the reinstatement of an expired license, or for an application for amendment to a materials license that would place the licensee in a higher fee category will be accepted for filing or processed prior to payment of the full amount specified in Appendix 12A.

(2) Except for a license ~~not~~ subject to full cost fees, an application fee is not required for a routine or renewal license amendment that does not involve a change in fee category.

(3) Applications for which fee payment is required and no remittance is received may be returned to the applicant.

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- 113 12.4.1.2 An application for renewal of a license not subject to full cost fees which
114 has expired and for which a renewal was not timely filed pursuant to 3.17.2 shall
115 be accompanied by a reinstatement fee of \$400.
- 116 12.4.1.3 Application fees for new radioactive materials licenses, renewals,
117 amendments, other required approvals and requests for dismantling,
118 decommissioning and termination of licensed activities, that are subject to the full
119 cost fees are payable upon notification by the Department.
- 120 12.4.1.4 All licensing fees will be charged irrespective of the Department's
121 disposition of the application or a withdrawal of the application.
- 122 12.4.1.5 Abandoned Applications.
- 123 (1) In the case of an abandoned amendment application, if the licensee
124 desires to submit a new amendment application for the same or similar
125 authorization, the reapplication shall be accompanied by a \$100
126 reapplication fee.
- 127 (2) In the case of an abandoned new license application, if the applicant
128 desires to submit a new application, then the applicant is subject to the
129 application fee specified in Appendix 12A.
- 130 12.4.1.6 Expedited License Review.
- 131 (1) An hourly rate for direct staff time associated with the review of an
132 application will be assessed for an expedited review.
- 133 (2) This expedited license review fee only applies when, by consent of the
134 applicant, a licensing request is taken out of the date order in which it
135 was received.
- 136 **12.4.2 Termination Fees.**
- 137 12.4.2.1 Applications for license termination for licensees not subject to full cost
138 fees will not be subject to fees provided that the licensee notifies the Department
139 and requests termination pursuant to 3.16, as appropriate, and provided that
140 there is no decommissioning or decontamination involved subsequent to the
141 request for termination. Licensees subject to full cost fees shall be billed for the
142 full cost of the review of the application for termination.
- 143 12.4.2.2 Staff time spent in obtaining information which is not provided by the
144 licensee as required by 3.16.6 and 3.16.7 when decontamination is necessary, or
145 in supervising the licensee's decommissioning or decontamination of the site, will
146 be billed at the Department's hourly rate.
- 147 12.4.2.3 The charges for staff time billed under 12.4.2 are payable upon
148 notification by the Department.

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149 **12.4.3 Inspection Fees.**

150 12.4.3.1 Inspection costs include reasonable and actual preparation time, time on
151 site, documentation time, any associated contractual service costs, and time
152 involved in the processing and issuance of a notice of violation or civil penalty.

153 12.4.3.2 Fees for inspection of licensees and registrants not subject to full cost
154 fees:

155 (1) Fees for routine inspections are included in the annual fee and will not be
156 charged separately.

157 (2) Fees for all non-routine inspections will be assessed on a per-inspection
158 basis and are payable upon notification by the Department.

159 12.4.3.3 Fees for inspections of licensees and registrants subject to full cost fees:

160 (1) Inspection fees will be assessed to recover the full cost for each specific
161 inspection as specified in Appendix 12A, including licensee-specific
162 performance reviews and assessments, evaluations, and incident
163 investigations.

164 (2) Inspection fees for licensees and registrants subject to full cost fees, and
165 for inspections other than routine, are due upon notification by the
166 Department.

167 **12.4.4 Annual fees.**

168 12.4.4.1 Persons who hold specific radioactive materials licenses shall pay an
169 annual fee.

170 (1) The licensee shall pay the fee in Appendix 12A for each license the
171 person holds on the date the annual fee is due.

172 (2) If a person holds more than one license, the fee will be the cumulative
173 total of the annual fee for all licenses held by that person.

174 (3) For those licenses that authorize more than one activity (e.g., human use
175 and irradiator activities), annual fees will be assessed for each category
176 applicable to the license.

177 (4) Persons with licenses authorizing permanent, multiple locations of use
178 and/or storage that are separated by more than one mile shall increase
179 the annual fee by 75 percent for the second location; 50 percent for the
180 third location; and 25 percent for each additional location of use.

181 12.4.4.2 A licensee required to pay an annual fee may qualify as a small entity.

182 (1) If a licensee qualifies as a small entity and provides the Department with
183 the proper certification, the licensee may pay reduced annual fees as
184 shown in Table 12-1.

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| Table 12-1: Small Entity Fees | | |
|---|---|--|
| Entity Category | Size Standard | Maximum Annual Fee Per Licensed Category |
| Small businesses not engaged in manufacturing and small not-for-profit organizations | \$350,000 – \$5,000,000 gross annual receipts | ½ Annual Fee <u>OR \$500, WHICHEVER IS GREATER</u> |
| | Less than \$350,000 gross annual receipts | \$ 500 |
| Manufacturing entities that have an annual average of 500 employees or less | 35 to 500 employees | ½ Annual Fee <u>OR \$500, WHICHEVER IS GREATER</u> |
| | Less than 35 employees | \$ 500 |
| Small governmental jurisdictions (including cities, counties, towns, townships, villages, school districts, special districts or publicly supported educational institutions) | 20,000 – 50,000 population | ½ Annual Fee <u>OR \$500, WHICHEVER IS GREATER</u> |
| | Less than 20,000 population | \$ 500 |
| Educational institutions that are not state or publicly supported, and have 500 employees or less | 35 to 500 employees | ½ Annual Fee <u>OR \$500, WHICHEVER IS GREATER</u> |
| | Less than 35 employees | \$ 500 |

- (2) A licensee who seeks to establish status as a small entity for purpose of paying the annual fees required under this section shall file a certification statement with the Department.
- (3) The licensee shall file the required “radioactive materials licensee certification of small entity status,” Department Form R-62, for each license under which the licensee is billed.
- (4) For the licensee to be granted small entity status by the Department, a completed Form R-62, signed by the owner of the entity or an official empowered to act on behalf of the entity, shall accompany each application for a new license and each annual fee.
- (5) The licensee shall provide a new Department Form R 62, signed by the owner of the entity or an official empowered to act on behalf of the entity, within thirty days from receipt of such a request from the Department.
- (6) Failure to file a small entity certification, or to provide an updated certification upon the request of the Department, could result in the denial of the fee reduction that might otherwise be granted.
- (7) A licensee who is a subsidiary of a large entity does not qualify as a small entity for purposes of Table 12-1.

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- 203 12.4.4.3 An annual management fee shall be charged for persons operating in the
204 State under reciprocity as follows:
- 205 (1) Any radioactive material brought into the state for use under reciprocity
206 shall pay a reciprocal recognition fee equal to 75 percent of the
207 appropriate annual fee in Appendix 12A.
- 208 (2) Reciprocal fees shall be due and payable prior to entry into the state.
- 209 (3) An acknowledgement of fee payment will be provided by the
210 Department. The acknowledgement of fee payment shall be retained by
211 the licensee and maintained with the pertinent documents prescribed in
212 3.24.1.1(6).
- 213 (4) Reciprocal recognition fees shall not be transferred or refunded.
- 214 (5) Reciprocal recognition fees shall expire 12 months from the issue date².
215 ² Pursuant to 3.24, an out-of-state licensee may operate in Colorado under
216 reciprocity for no more than 180 cumulative total days in any calendar year.
- 217 12.4.4.4 Payment of Annual Fees.
- 218 (1) The annual fees shall be due and payable each year on the anniversary
219 date. The annual fees are not refundable except in those cases where
220 the Department has determined that the fee is not required.
- 221 (2) Annual fees shall be charged and payment required for any license that
222 has not been terminated on or before the anniversary date or for which a
223 request for termination has not been submitted to the Department
224 pursuant to 3.16.7.
- 225 **12.5 General Licenses.**
- 226 12.5.1 Persons who hold general licenses under the following categories shall pay an annual
227 fee:
- 228 12.5.1.1 Depleted uranium in industrial products and devices authorized under
229 3.5.5;
- 230 12.5.1.2 Possession of more than 1 kilogram of source material other than
231 depleted uranium for shielding under 3.5;
- 232 12.5.1.3 Measuring, gauging and controlling devices under 3.6.4; and
- 233 12.5.1.4 In vitro licenses under 3.6.9.
- 234 12.5.2 The basis for the annual fee is to cover the Department's cost associated with the
235 regulation and control of these sources, and to cover the Department's administrative
236 costs for those generic activities directly related to the regulation of materials licensees.
- 237 12.5.3 Fees for general licenses are listed in Appendix 12A and shall be payable every July 1,
238 for as long as the license remains in effect.
- 239 12.5.4 Fees for inspection of licenses, authorized under 3.5.5 and 3.6, that are based on the full
240 cost of the inspection are payable upon notification by the Department.

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241 **12.6 Special Project Fees.**

242 12.6.1 Fees for special projects are assessed for the full cost of the review, as specified in
243 Appendix 12A.

244 12.6.1.1 Special project fees shall be based on reasonable and actual
245 professional staff time.

246 12.6.1.2 Appropriate contractual support services expended for certain radiation
247 control activities will also be included.

248 12.6.2 Fees for special projects are payable upon notification by the Department.

249 **12.7 Low-Level Radioactive Waste Access Approval Fees.**

250 12.7.1 Fees for services required for low-level radioactive waste access approval are payable
251 upon notification by the Department.

252 **SEARCH, REVIEW, DUPLICATION AND SPECIAL SERVICE FEES**

253 **12.8 Search, Review, Duplication and Special Service Fees.**

254 12.8.1 Search, Review, and Special Service Fees.

255 12.8.1.1 The Department charges fees for search, duplication and review.

256 (1) The Department may assess fees even when no Department records are
257 located as a result of the search or when Department records that are
258 located as a result of the search are not disclosed; and,

259 (2) If the public record is a result of a computer output, other than word
260 processing, the fee for a copy, printout, or other photograph thereof may
261 be based on recovery of the actual incremental costs of providing the
262 electronic services and products together with a reasonable portion of
263 the costs associated with building and maintaining the information
264 system.

265 (a) The Department shall charge a reasonable fee, if, in response to
266 a specific request, it has performed a manipulation of data so as
267 to generate a record in a form not used by the State. Such fees
268 shall not exceed the actual cost of manipulating the said data
269 and generating the said record in accordance with the request.

270 (b) Persons making subsequent requests for the same or similar
271 records may be charged a fee not in excess of the original fee.

272 12.8.1.2 The Department shall charge requesters who request the following
273 services for the direct costs of the service:

274 (1) Certifying that records are true copies; or

275 (2) Sending records by special methods, such as Express Mail, package
276 delivery service, etc.

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277 12.8.2 Duplication Fees.

278 12.8.2.1 The charge for duplicating records shall be computed on the basis of
279 Department's direct costs, including both the cost of staff and the cost of the
280 actual copy.

281 12.8.2.2 Copyrighted material shall not be reproduced in violation of the copyright
282 laws.

283 12.8.3 Fees for Search and Review of Department Records by Department Personnel.

284 12.8.3.1 The Department shall charge the following hourly rates for search and
285 review of Department records by Department personnel:

286 (1) Clerical search, review, and duplication at a rate that is equivalent to the
287 actual cost of an Administrative Assistant III at the five-year rate;

288 (2) Professional search, review, and duplication at a rate that is equivalent to
289 the actual cost of an Environmental Protection Specialist II at the
290 five-year rate; and

291 (3) Senior management search, review, and duplication at a rate that is
292 equivalent to the actual cost of an Environmental Protection Specialist V
293 at the five-year rate.

294 12.8.4 Search and Duplication Provided Without Charge.

295 12.8.4.1 The Department may not bill any requester for fees if the cost of
296 collecting the fee would be equal to or greater than the fee itself.

297 12.8.4.2 The Department may aggregate requests in determining search and
298 duplication to be provided without charge as provided in 12.8.4.1, if the
299 Department finds a requester, or multiple requestors acting in concert, has filed
300 multiple requests for only portions of a Department record or similar Department
301 records for the purpose of avoiding charges.

302 12.8.5 Assessment of Fees.

303 12.8.5.1 If the request is expected to require the Department to assess fees in
304 excess of \$25 for search and/or duplication, the Department shall notify the
305 requester that fees will be assessed unless the requester has indicated in
306 advance the willingness to pay fees as high as estimated.

307 12.8.5.2 In the notification, the Department shall include the estimated cost of
308 search fees and the nature of the search required and estimated cost of
309 duplicating fees.

310 12.8.5.3 The Department will encourage requesters to discuss with the
311 Department the possibility of narrowing the scope of the request with the goal of
312 reducing the cost while retaining the requester's original objective.

313 12.8.5.4 If the fee is determined to be in excess of \$250, the Department may
314 require payment at the time the information is provided.

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315 12.8.6 Requests for Waiver or Reduction of Fees.

316 12.8.6.1 The Department shall collect fees for searching for, reviewing, and
317 duplicating Department records, except as provided in 12.8.4, unless a requester
318 submits a request in writing for a waiver or reduction of fees and the Department
319 approves such request.

320 (1) To assure that there will be no delay in the processing of Open Records
321 Act requests, the request for a waiver or reduction of fees should be
322 included in the initial Open Records Act request letter.

323 12.8.6.2 Each request for a waiver or reduction of fees must be addressed to the
324 Director, Hazardous Materials and Waste Management Division, Colorado
325 Department of Public Health and Environment.

326 12.8.6.3 A person requesting the Department to waive or reduce search, review,
327 or duplication fees shall:

328 (1) Describe the purpose for which the requester intends to use the
329 requested information;

330 (2) Explain the extent to which the requester will extract and analyze the
331 substantive content of the Department record;

332 (3) Describe the nature of the specific activity or research in which the
333 Department records will be used and the specific qualifications the
334 requester possesses to utilize information for the intended use in such a
335 way that it will contribute to public understanding;

336 (4) Describe the likely impact on the public's understanding of the subject as
337 compared to the level of understanding of the subject existing prior to
338 disclosure;

339 (5) Describe the size and nature of the public to whose understanding a
340 contribution will be made;

341 (6) Describe the intended means of dissemination to the general public;

342 (7) Indicate if public access to information will be provided free of charge or
343 provided for an access fee or publication fee; and

344 (8) Describe any commercial or private interest the requester or any other
345 party has in the Department records sought.

346 12.8.6.4 The Department may waive or reduce the fee if, from information
347 provided with the request for Department records made under 12.8.6.3, the
348 Department determines that disclosure of the information in the Department
349 records is for a public purpose, including public agency program support,
350 nonprofit activities, journalism, and academic research, and is not primarily in the
351 commercial interest of the requester.

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- 352 12.8.6.5 In making a determination regarding a request for a waiver or reduction
353 of fees, the Department may consider the following factors:
- 354 (1) If disclosure is likely to contribute significantly to public understanding of
355 government operations or activities;
- 356 (2) If, and the extent to which, the requester has a commercial interest that
357 would be furthered by the disclosure of the requested Department
358 records; and
- 359 (3) If the magnitude of the identified commercial interests of the requester is
360 sufficiently large, in comparison with the public interest in disclosure, that
361 disclosure is primarily in the commercial interest of the requester.

362 **12.9 Partial Payment of Fees.**

- 363 12.9.1 In the case of services, which are subject to full cost fees, the Department may bill
364 monthly for any service rendered.

365 **12.10 Method of Payment.**

- 366 12.10.1 Approved credit cards, checks, drafts or money orders for payment of fees shall be
367 payable to the Colorado Department of Public Health and Environment.

368 **12.11 Schedule of Fees for Materials Licenses and Other Radiation Control Services.**

- 369 12.11.1 Applicants for radioactive materials licenses, for services related to radiation machines,
370 for other regulatory services and holders of materials licenses shall pay fees for the
371 categories of services listed in Appendix 12A.

- 372 12.11.1.1 License applications received prior to the effective date of this rule shall
373 be billed in accordance with the fee schedule, as updated by the hourly rate in
374 effect at that time the service is performed.

- 375 12.11.2 For each service provided subject to full cost fees, records will be maintained of time
376 spent, using reasonable accounting procedures by at least 15 minute intervals. A
377 summary of time spent on any activity will be provided upon request.

- 378 12.11.3 The Department will adjust all fees and the cost per person-hour every six (6) months
379 from the effective date of this part based on the Denver-Boulder-Greeley Consumer Price
380 Index for All Urban Consumers (January 1, 2007 summary). An updated version of the
381 fee schedule will be available upon request.

- 382 12.11.4 Every two (2) years from the effective date of these regulations, the Department will
383 review the fees and the Department's costs.

- 384 12.11.4.1 If the adjusted fees and costs for any categories differ by more than ten
385 percent (10%), the Department will propose a revised fee to the Board of Health
386 for those categories.

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387 **12.12 Failure by Applicant or Licensee to Pay Prescribed Fee.**

388 12.12.1 In any case where the Department finds that an applicant or a licensee has failed to pay
389 a prescribed fee for any licensing or inspection activities required in this Part, the
390 Department will not process any application, may suspend or revoke any license involved
391 pursuant to 3.23 and may request action pursuant to CRS 25-11-107(4). Staff time
392 expended in collection of any fee not paid within sixty (60) days of the date due will be
393 billed at the Department's hourly rate.

394 **12.13 Penalties.**

395 12.13.1 A ~~\$1520~~ \$20.00 penalty will be assessed for checks returned to the Department due to
396 insufficient funds.

397 12.13.2 Late Payments.

398 12.13.2.1 A penalty shall be assessed to any person whose fee is collected by a
399 collection agency.

400 12.13.2.2 The penalty shall be equal to the fee charged by the collection agency.

401 **12.14 Severability.**

402 12.14.1 The provisions of this regulation are severable, and if any provisions or the application of
403 the provisions to any circumstances is held invalid, the application of such provision to
404 other circumstances, and the remainder of this regulation shall not be affected thereby.
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**PART 12, APPENDIX A: SCHEDULE OF FEES FOR RADIOACTIVE MATERIALS
LICENSEES, FOR SERVICES RELATED TO RADIATION MACHINES, AND FOR
OTHER SERVICES^{3,4,5,6}**

³ Applications for new licenses, applications to reinstate expired or terminated licenses, except those subject to fees assessed at full costs, must be accompanied by the prescribed application fee for each category.

⁴ Application for amendments to licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

⁵ Renewal fees – Fees for applications for renewal of materials licenses will not be charged, except that fees for applications for renewal of licensees subject to full cost fees are due upon notification by the Department.

⁶ Inspection Fees: (a) Fees for routine inspections at locations authorized by the license or reciprocity permit will not be charged, except that routine inspections subject to full cost fees are due upon notification by the Department. (b) Separate charges will be assessed for each non-routine inspection which is performed. The frequency of routine inspections are those established in the Hazardous Materials And Waste Management Division Radiation Program Inspection and Enforcement Manual, and will be in accord with the frequencies established by the U.S. Nuclear Regulatory Commission for similar types of licenses.

CATEGORY 1 - SPECIAL NUCLEAR MATERIAL^{7,8}

⁷ Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

⁸ Applications for new licenses that cover both special nuclear material and radioactive material and/or naturally occurring and accelerator produced material in sealed sources for use of gauging devices will pay the appropriate processing fee for category 1.C only.

1.A Licenses for possession and use of 200 grams or more of plutonium in unsealed form or 350 grams or more of U-235 in unsealed form or 200 grams or more of U-233 in unsealed form. This includes applications to terminate licenses as well as licenses authorizing possession only.

NOTE: Colorado does not license this category of license.

| | |
|-------------|----------------|
| Application | Not Applicable |
|-------------|----------------|

| | |
|------------|----------------|
| Annual Fee | Not Applicable |
|------------|----------------|

| | |
|------------|----------------|
| Inspection | Not Applicable |
|------------|----------------|

1.B Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI).

NOTE: Colorado does not license this category of license.

| | |
|-------------|----------------|
| Application | Not Applicable |
|-------------|----------------|

| | |
|------------|----------------|
| Annual Fee | Not Applicable |
|------------|----------------|

| | |
|------------|----------------|
| Inspection | Not Applicable |
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443 1.C Licenses for possession and use of special nuclear material in sealed sources contained
444 in devices used in industrial measuring systems including x-ray fluorescence analyzers.

445 Application \$ 1,380

446 Annual Fee \$ 1,380

447 Inspection \$ 1,080

448 1.D All other special nuclear material licenses, except licenses authorizing special nuclear
449 material in unsealed form in combinations that would constitute a critical quantity.

450 Application \$ 3,300

451 Annual Fee \$ 3,300

452 Inspection \$ 2,445

453 **CATEGORY 2 - SOURCE MATERIAL**

454 2.A1 Licenses for possession and use of source material for refining uranium mill concentrates
455 to uranium hexafluoride.

456 NOTE: Colorado does not license this category of license.

457 Annual Fee Not Applicable

458 Licensing and Inspection Not Applicable

459 2.A2 Licenses for possession and use of source material in recovery operations such as
460 milling, in situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in
461 processing of ores containing source material for extraction of metals other than uranium
462 or thorium, including licenses authorizing the possession of byproduct waste material
463 (tailings) from source material recovery operations, and licenses authorizing
464 decommissioning, reclamation or restoration activities as well as licenses authorizing the
465 possession and maintenance of a facility in a standby mode.

466 2.A2 Class I License includes mill licenses issued for the extraction of uranium from
467 uranium ore.

468 Annual Fee \$ 94,300

469 Licensing and Inspection Full Cost

470 2.A2 Class II License includes solution mining licenses (in-situ and heap leach) issued
471 for the extraction of uranium from uranium ores including research and
472 development licenses.

473 Annual Fee \$ 79,005

474 Licensing and Inspection Full Cost

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|-----|---|---|-----------|
| 475 | 2.A2 Class III | "Other" license includes licenses for extraction of metals, heavy metals, and rare earths. | |
| 476 | | | |
| 477 | Annual Fee | | \$ 29,900 |
| 478 | Licensing and Inspection | | Full Cost |
| 479 | 2.A3 | Licenses that authorize the receipt of uranium waste tailings generated by milling operations from other persons for possession and disposal, except those licenses subject to the fees in category 2.A2 or category 2.A4. | |
| 480 | | | |
| 481 | | | |
| 482 | Annual Fee | | \$ 58,190 |
| 483 | Licensing and Inspection | | Full Cost |
| 484 | 2.A4 | Licenses that authorize the receipt of uranium waste tailings generated by milling operations from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in category 2.A2. | |
| 485 | | | |
| 486 | | | |
| 487 | | | |
| 488 | Annual Fee | | \$ 9,200 |
| 489 | Licensing and Inspection | | Full Cost |
| 490 | 2.B | Licenses for possession and use of source material for shielding. | |
| 491 | Application | | \$ 690 |
| 492 | Annual Fee | | \$ 690 |
| 493 | Inspection | | \$ 1,220 |
| 494 | 2.C | All other source material licenses. | |
| 495 | Application | | \$ 11,040 |
| 496 | Annual Fee | | \$ 11,040 |
| 497 | Inspection | | \$ 4,520 |
| 498 | CATEGORY 3 - BYPRODUCT MATERIAL, NATURALLY OCCURRING AND ACCELERATOR | | |
| 499 | PRODUCED RADIOACTIVE MATERIAL | | |
| 500 | 3.A | Licenses of broad scope for possession and use of radioactive material issued pursuant to 3.11 for processing or manufacturing of items containing radioactive material for commercial distribution. | |
| 501 | | | |
| 502 | | | |
| 503 | Application | | \$ 20,470 |
| 504 | Annual Fee | | \$ 20,470 |
| 505 | Inspection | | \$ 8,655 |

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| 506 | 3.B | Other licenses for possession and use of radioactive material for processing or | |
| 507 | | manufacturing of items containing radioactive material for commercial distribution. | |
| 508 | | Application | \$ 5,290 |
| 509 | | Annual Fee | \$ 5,290 |
| 510 | | Inspection | \$ 2,530 |
| 511 | 3.C | Licenses authorizing the processing or manufacture and distribution or redistribution of | |
| 512 | | radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing | |
| 513 | | radioactive material. | |
| 514 | | Application | \$ 12,305 |
| 515 | | Annual Fee | \$ 12,305 |
| 516 | | Inspection | \$ 2,530 |
| 517 | 3.D | Licenses authorizing distribution of radiopharmaceuticals, generators, reagent kits, and/or | |
| 518 | | sources or devices not involving processing of radioactive material. | |
| 519 | | Application | \$ 3,910 |
| 520 | | Annual Fee | \$ 3,910 |
| 521 | | Inspection | \$ 1,300 |
| 522 | 3.E | Licenses for possession and use of radioactive material in sealed sources for irradiation | |
| 523 | | of materials where the source is not removed from its shield (self-shielded units). | |
| 524 | | Application | \$ 3,195 |
| 525 | | Annual Fee | \$ 3,195 |
| 526 | | Inspection | \$ 1,380 |
| 527 | 3.F | Licenses for possession and use of less than 370 TBq (10,000 Ci) of radioactive material | |
| 528 | | in sealed sources for irradiation of materials where the source is exposed for irradiation | |
| 529 | | purposes. | |
| 530 | | Application | \$ 5,795 |
| 531 | | Annual Fee | \$ 5,795 |
| 532 | | Inspection | \$ 2,150 |

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| 533 | 3.G | Licenses for possession and use of 370 TBq (10,000 Ci) or more of radioactive material in sealed sources for irradiation of materials where the source is exposed for irradiation purposes. This category includes under water irradiators for irradiation of materials where the source is not exposed. | |
| 534 | | | |
| 535 | | | |
| 536 | | | |
| 537 | | Application | \$ 20,930 |
| 538 | | Annual Fee | \$ 20,930 |
| 539 | | Inspection | \$ 4,140 |
| 540 | 3.H | Licenses issued to distribute items containing radioactive material which requires device review to persons exempt from the licensing requirements of Part 3. | |
| 541 | | | |
| 542 | | | |
| 543 | | | |
| 544 | | Application | \$ 3,195 |
| 545 | | Annual Fee | \$ 3,195 |
| 546 | | Inspection | \$ 1,300 |
| 547 | 3.I | Licenses issued to distribute items containing radioactive material or quantities of radioactive material which do not require device evaluation to persons exempt from the licensing requirements of Part 3 except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed by the U.S. Nuclear Regulatory Commission or an Agreement State. | |
| 548 | | | |
| 549 | | | |
| 550 | | | |
| 551 | | Application | \$ 4,600 |
| 552 | | Annual Fee | \$ 4,600 |
| 553 | | Inspection | \$ 1,530 |
| 554 | 3.J | Licenses issued to distribute items containing radioactive material which require sealed source and/or device review to persons generally licensed. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 3. | |
| 555 | | | |
| 556 | | | |
| 557 | | | |
| 558 | | Application | \$ 2,095 |
| 559 | | Annual Fee | \$ 2,095 |
| 560 | | Inspection | \$ 1,425 |
| 561 | 3.K | Licenses issued to distribute items containing radioactive material or quantities of radioactive material that do not require sealed and/or device review to persons generally licensed. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 3. | |
| 562 | | | |
| 563 | | | |
| 564 | | | |
| 565 | | Application | \$ 1,380 |
| 566 | | Annual Fee | \$ 1,380 |
| 567 | | Inspection | \$ 770 |

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| 568 | 3.L | Licenses of a broad scope for possession and use of radioactive material for research and development which do not authorize commercial distribution. | |
| 569 | | | |
| 570 | | Application | \$ 10,005 |
| 571 | | Annual Fee | \$ 10,005 |
| 572 | | Inspection | \$ 3,520 |
| 573 | 3.M | Other licenses for possession and use of radioactive material for research and development which do not authorized commercial distribution. | |
| 574 | | | |
| 575 | | Application | \$ 4,405 |
| 576 | | Annual Fee | \$ 4,405 |
| 577 | | Inspection | \$ 1,755 |
| 578 | 3.N | Licenses that authorize services for other licensees, except (1) licenses that authorize calibration and/or leak testing services only are subject to the fees specified in fee category 3.Q, and (2) licensees that authorize waste disposal services are subject to the fees specified in fee Categories 4.A, 4.B., or 4.C. | |
| 579 | | | |
| 580 | | | |
| 581 | | | |
| 582 | | Application | \$ 4,795 |
| 583 | | Annual Fee | \$ 4,795 |
| 584 | | Inspection | \$ 2,070 |
| 585 | 3.O | Licenses for possession and use of radioactive material for industrial radiography operations. | |
| 586 | | | |
| 587 | | Application | \$ 12,535 |
| 588 | | Annual Fee | \$ 12,535 |
| 589 | | Inspection | \$ 2,680 |
| 590 | 3.P | Portable gauge radioactive material licensees. | |
| 591 | | Application | \$ 2,405 |
| 592 | | Annual Fee | \$ 2,405 |
| 593 | | Inspection | \$ 1,680 |
| 594 | 3.Q | All other specific radioactive material licensees, except those in fee categories 1, 2, 3.A through 3.P, and 4.A. through 9.D. | |
| 595 | | | |
| 596 | | Application | \$ 2,405 |
| 597 | | Annual Fee | \$ 2,405 |
| 598 | | Inspection | \$ 1,680 |

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599 **CATEGORY 4 - WASTE HANDLERS**

600 4.A Licenses specifically authorizing the receipt of waste byproduct material, source material,
601 special nuclear material, or naturally occurring and accelerator produced material from
602 other persons for the purpose of commercial disposal by land burial by the licensee; or
603 licenses authorizing contingency storage of low-level radioactive waste at the site of
604 nuclear power reactors; or licenses for treatment or disposal by incineration and transfer
605 of packages to another person authorized to receive or dispose of waste material.

606 Annual Fee Not Applicable⁹

607 ⁹ There are no existing Colorado licenses in these fee categories. Once Colorado issues a license for
608 these categories, the Department will consider establishing an annual fee for that type of license.

609 Licensing and Inspection Full Cost

610 4.B Licenses specifically authorizing the receipt of waste byproduct material, source material,
611 special nuclear material, or naturally occurring and accelerator produced material from
612 other persons for the purpose of packaging or repackaging the material. The licensee will
613 dispose of the material by transfer to another person authorized to receive or dispose of
614 the material.

615 Application \$ 9,775

616 Annual Fee \$ 9,775

617 Inspection \$ 2,530

618 4.C Licenses specifically authorizing the receipt of prepackaged waste byproduct material,
619 source material, special nuclear material, or naturally occurring and accelerator produced
620 material from other persons. The licensee will dispose of the material by transfer to
621 another person authorized to receive or dispose of the material.

622 Application \$ 7,395

623 Annual Fee \$ 7,395

624 Inspection \$ 2,830

625 **CATEGORY 5 - WELL LOGGING**

626 5.A Licenses for possession and use of byproduct material, source material, special nuclear
627 material, or naturally occurring and accelerator produced material for well logging, well
628 surveys, and tracer studies other than field.

629 Application \$ 8,795

630 Annual Fee \$ 8,795

631 Inspection \$ 2,830

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632 5.B Licenses for possession and use of byproduct material for field flooding tracer studies.

633 Annual Fee \$ 10,395

634 Licensing and Inspection Full Cost

635 **CATEGORY 6 - NUCLEAR LAUNDRIES**

636 6.A Licenses for commercial collection and laundry of items contaminated with radioactive
637 material, source material, special nuclear material, or naturally occurring and accelerator
638 produced material.

639 Application \$ 16,905

640 Annual Fee \$ 16,905

641 Inspection \$ 4,140

642 **CATEGORY 7 - HUMAN AND VETERINARY USE OF RADIOACTIVE MATERIAL**

643 7.A Licenses issued for human or veterinary use of radioactive material, source material,
644 special nuclear material, or naturally occurring and accelerator produced material in
645 sealed sources contained in teletherapy devices.

646 Application \$ 13,915

647 Annual Fee \$ 13,915

648 Inspection \$ 2,370

649 7.B Licenses of broad scope issued to medical institutions or two or more physicians or
650 veterinarians authorizing research and development including human and/or veterinary
651 use of radioactive material, source material, special nuclear material, or naturally
652 occurring and accelerator produced material except material in sealed sources.

653 Application \$ 24,150

654 Annual Fee \$ 24,150

655 Inspection \$ 6,325

656 7.C Other licenses issued for human or veterinary use of radioactive material, source
657 material, and/or naturally occurring and accelerator produced material except material in
658 sealed sources contained in teletherapy devices.

659 Application \$ 4,600

660 Annual Fee \$ 4,600

661 Inspection \$ 2,220

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662 **CATEGORY 8- CIVIL DEFENSE**

663 8.A Licenses for possession and use of radioactive material for civil defense activities.

664 Application \$ 1,095

665 Annual Fee \$ 1,095

666 Inspection \$ 1,840

667 **CATEGORY 9 - DEVICE, PRODUCT, OR SEALED SOURCE SAFETY EVALUATION**

668 9.A Safety evaluation of devices or products containing byproduct material, source material,
669 special nuclear material, or naturally occurring and accelerator produced material except
670 reactor fuel devices, for commercial distribution.

671 Annual Fee \$ 5,795

672 Evaluations Full Cost

673 9.B Safety evaluation of devices or products containing radioactive material, source material,
674 special nuclear material, or naturally occurring and accelerator produced material
675 manufactured in accordance with the unique specifications of, and for use by a single
676 applicant, except reactor fuel devices.

677 Annual Fee \$ 5,795

678 Evaluations Full Cost

679 9.C Safety evaluation of sealed sources containing byproduct material, source material,
680 special nuclear material, or naturally occurring and accelerator produced material, except
681 reactor fuel, for commercial distribution.

682 Annual Fee \$ 1,690

683 Evaluations Full Cost

684 9.D Safety evaluation of sealed sources containing byproduct material, source material,
685 special nuclear material, or naturally occurring and accelerator produced material,
686 manufactured in accordance with the unique specifications of, and for use by a single
687 applicant, except reactor fuel.

688 Annual Fee \$ 575

689 Evaluations Full Cost

690 **CATEGORY 10 - TRANSPORTATION OF RADIOACTIVE MATERIAL**

691 Note: Colorado does not license this category of license.

692 **CATEGORY 11 - REVIEW OF STANDARDIZED SPENT FUEL FACILITIES**

693 Note: Colorado does not license this category of license.

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694 **CATEGORY 12 - SPECIAL PROJECTS**

695 12.A Special Projects and all uses of radioactive material which are not included in any other
696 category.

697 Application Full Cost

698 Annual Fee Full Cost

699 Inspection Full Cost

700 **CATEGORY 13 - SPENT FUEL STORAGE COSTS**

701 Note: Colorado does not license this category of license.

702 **CATEGORY 14**

703 14.A Byproduct material, source material, special nuclear material, naturally occurring or
704 accelerator produced radioactive material licenses and other approvals authorizing
705 decommissioning, decontamination, reclamation or site restoration activities.

706 Annual Fee Not Applicable¹⁰

707 ¹⁰ Licensees in this category are not assessed an annual fee because they are charged an annual fee in
708 other categories while they are licensed to operate.

709 Licensing and Inspection Full Cost

710 **CATEGORY 15 - EMERGENCY RESPONSE**

711 15.A Emergency response requiring over 10 person-hours in any 12 consecutive months.

712 Full Cost

713 15.B Emergency response planning and exercises.

714 Full Cost¹¹

715 ¹¹ Fees will be charged only when service is requested or required by an authorized person outside of
716 the Department who has legal authority to make such requests.

717 **CATEGORY 16 - ANALYTICAL PROCEDURES**

718 Full Cost

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719 **CATEGORY 17 - GENERAL LICENSES¹²**

720 ¹² Fees are for each license at each facility. Fees for general licenses are annual fees, and are due July
721 1 each year. Non-routine inspections of general licensees related to (1) exposures to individuals; or (2) release
722 of radioactive materials in excess of limits established in Part 4 of these regulations.

723 17.A Source material, gauges and other similar devices pursuant to 12.5.1.1 through 12.5.1.3.

724 Annual Fee \$ 100

725 Inspection Full Cost

726 17.B In vitro pursuant to 12.5.1.4.

727 Annual Fee \$ 50

728 Inspection Full Cost

729 **CATEGORY 18 - LOW-LEVEL RADIOACTIVE WASTE ACCESS APPROVAL**

730 Full Cost

731 **CATEGORY 19 - HOURLY RATE¹³**

732 \$ 152

733 ¹³ For any service provided by the Department in accord with 12.11.2 and 12.11.3. A statement will be
734 sent to the registrant indicating the actual costs incurred.

735 **CATEGORY 20 - TRANSFER OF RECORDS TO DEPARTMENT PURSUANT TO 4.40**
736 **THROUGH 4.50**

737 Per box for indexed paper records submitted in state storage boxes

738 \$ 40

739 For records not indexed and/or requiring repackaging in standard storage boxes

740 Full Cost

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741 **CATEGORY 21 – RADIATION MACHINES ENFORCEMENT ACTION**

742 Maximum fee per each radiation machines certification enforcement action^{14,15}: \$ 1,330

743 14 Any registrant that fails the requirements of 2.5.1, or does not correct any violation in accordance with
744 the compliance schedule established in 2.5.2.3, shall be subject to a Department enforcement action at the
745 current hourly rate and/or maximum fee. The Department shall charge enforcement fees, which may include
746 inspection fees for the inspection of radiation machines and facilities that have been determined, by either a
747 qualified inspector or by the Department, to be in noncompliance with these regulations and with the
748 certification frequency. These fees do not include penalties imposed under Part 13.

749 15 This represents the maximum fee that may be incurred for the Department enforcement actions of
750 each radiation machine and/or facility determined to be in violation with these regulations by either a qualified
751 inspector or by the Department.

752 **CATEGORY 22 – QUALIFIED INSPECTOR OR SERVICING AND SERVICES**

753 Maximum fee per registration every 2 years: \$ 160^{16,17}

754 16 The qualified inspector registration fee is an individual fee. The servicing and services registration fee
755 is a company fee.

756 17 The annual fee is \$80 and is payable every two years in the amount of \$160. This fee is non-
757 refundable in the event that the application is not approved by the Department.

758 **CATEGORY 23 – REVIEW OF PROVISIONAL MAMMOGRAPHY—CERTIFICATION**

759 Maximum fee per each certification review or renewal: \$ 50

760 **CATEGORY 24 – REVIEW OF ADEQUATE TRAINING FOR LIMITED SCOPE OPERATORS,**
761 **BONE DENSITOMETRY OPERATORS AND COMPUTED TOMOGRAPHY**
762 **OPERATORS—ACCEPTANCE**

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763 Maximum fee per each acceptance review: \$ 50

764 **CATEGORY 25 – CERTIFICATION LABEL ISSUED BY A QUALIFIED INSPECTOR**

765 Required fee for each certification label issued to a registrant: \$ 50

**STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
FOR
AMENDMENTS TO THE COLORADO STATE BOARD OF HEALTH
RULES AND REGULATIONS PERTAINING TO RADIATION CONTROL
6 CCR 1007-1**

Part 12, Fees for Radiation Control Services

November 29, 2010

Basis and Purpose.

The Colorado Radiation Control Act, Title 25, Article 11, Colorado Revised Statutes (the Act), requires the State Board of Health to formulate, adopt and promulgate rules and regulations pertaining to radiation control. Section 25-11-104 of the Act requires Colorado's radiation regulations to be consistent with the Suggested State Regulations for Control of Radiation (SSRCR) of the Conference of Radiation Control Program Directors, Inc., except when the Board of Health concludes, on the basis of detailed findings, that a substantial deviation from the SSRCR is warranted. The Department's regulations, in certain parts, must also be compatible with the regulations adopted by the U.S. Nuclear Regulatory Commission (NRC). The Act requires consistency with the SSRCR for Colorado rules when adopting NRC regulatory provisions. There is however, not an SSRCR equivalent to Part 12. Part 12 was last revised January 21, 2009, with an effective date of March 2, 2009.

This amendment revises Part 12 to make multiple changes. The changes are:

1. In 12.1.4.1, moved wording to subpart (1)(a) below. Added clarifying wording in subparagraph (2) of 12.1.4.1 related to Department fees for radiation machine registrants. Part 12 has always applied to and contained provisions for radiation machine registrants, but this was not clearly stated. This change corrects this oversight.
2. In 12.1.4.2, made one paragraph into 3 subparagraphs, and reworded for clarity and consistency.
3. Made 12.3.1.1 into 12.3.1 due to deletion of subsequent paragraph.
4. In 12.3.1, deleted subsections 12.3.1.2, 12.3.1.3. This deletes the exemption from fees provision which was recently deleted from the Radiation Control Act. Refer to the Regulatory Analysis for this part for additional information.
5. In 12.4.1.1.(2), delete word "not" to avoid double negative. Renewal and amendment fees are assessed for and applicable to licensees subject to full cost fees.

6. In 12.4.4.2, Table 12-1 was clarified such that the annual fee for a “Tier 1” small entity is not less than the “Tier 2” small entity fee of \$500.
7. In 12.13.1, changed returned check fee from \$15.00 to \$20.00, consistent with Department accounting and common banking fees.
8. In Part 12, Appendix A, Category 23, added wording “review of” for clarification. Changed “mammography” to “mammographer” since the review process is applicable to individuals and not a facility.
9. In Part 12, Appendix A, Category 24, added wording to clarify intent of fee applicability. Deleted “acceptance” due to redundancy. This does not change or add new fees or scope.

Specific Statutory Authority.

These rules are promulgated pursuant to the provisions of Sections 25-1.5-101(1)(l), 25-1-108(1)(c), and 25-11-104, C.R.S.

Major Factual and Policy Issues Encountered.

There are no significant factual or policy issues anticipated with these changes. Changes are primarily intended for clarification purposes and are not intended to add significant additional fees or fee related scope.

Alternative Rules Considered and Why Rejected.

The primary purpose of this revision to Part 12 is to incorporate requirements from and to ensure consistency with the statute (Colorado Radiation Control Act), which was revised in 2010. Changes are also made for clarification purposes based upon input from staff, and the Colorado Radiation Advisory Committee, and to correct minor typographical errors and ensure consistency in formatting with other regulatory parts and the secretary of state required format for regulations.

Making the changes is preferable to the alternative of no action.

The Colorado Radiation Advisory Committee reviewed these changes during the September 29, 2010, and November 10, 2010 meetings.