

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

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ARCHIVES DIVISION
SECRETARY OF STATE

Oregon Health Authority, Public Health Division
Agency and Division

333
Administrative Rules Chapter Number

Amendment of rules to adopt federal regulations by reference for the Lead-based Paint Program

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Permanently adopting, repealing and amending and renumbering Oregon Administrative Rules in chapter 333, divisions 68, 69 and 70 pertaining to the Lead-based Paint Activities and Renovation, Repair and Painting programs.

Statutory Authority:

ORS 183.310 - 183.540, 183.745, 431A.355, 431A.358, 431A.363, 701.992

Other Authority:

Code of Federal Regulations (CFR) 40CFR Part 745 Subpart D and L

Statutes Implemented:

ORS 183.310 - 183.540, 183.745, 431A.355, 431A.358, 431A.363, 701.992

Need for the Rule(s):

The U.S. Environmental Protection Agency (EPA) authorized the Oregon Health Authority (Authority) to implement the Lead-based Paint Activities program in 1998, and the Renovation, Repair and Painting Program in 2010. Oregon Administrative Rules (OAR) 333-068, 069 & 070 were adopted to implement the programs. Recently, the EPA has notified the Authority that there are certain areas of the OARs that are not as stringent as the CFR. The Authority intends to adopt the CFR by reference so that its rules would essentially be the same as the CFR, with the exception of fee and penalty sections.

During the 2015 legislative session, fee changes were legislatively approved as a part of the Authority's budget in SB 5526 (Oregon Laws 2015, chapter 838). This included an increase in student fees from \$17 to \$50 per student. Changes were also made to individual and firm certification fees, which went from \$85 for one year to \$255 for a three year certification. The Authority was unsure if it would be keeping the Lead-based Paint Program or returning it to the EPA, so the fee changes were not incorporated into the text of the rules at the time. The Authority has decided to keep the program, and now needs to incorporate the fee changes into the rule language.

Documents Relied Upon, and where they are available:

Title 40 Code of Federal Regulations Subpart D-LEAD BASED PAINT HAZARDS and Subpart L-LEAD-BASED PAINT ACTIVITIES. Available online at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr745_main_02.tpl

SB 5526 (Oregon Laws 2015, chapter 838): <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB5526/Enrolled>

Fiscal and Economic Impact:

The increase in student fees will generate an estimated \$59,400 in revenue per year for the Authority. This cost will be passed on to the individuals that take certification trainings from Oregon Accredited Training Providers. Switching from a one to a three year certification will not increase costs to the regulated community. It simply allows individuals to apply for certification every three years as opposed to annually.

The Authority accredits training providers to ensure that individuals receive proper training and certification to work with lead-based paint. Adopting the CFRs by reference will allow online refresher courses to be offered in Oregon, which the current rules don't allow. The increase in student fees will be paid by individuals taking certification training or the firm by which they are employed. Many of these firms would fit the criteria of a small business. Exact numbers are not known. No other effects on small businesses are anticipated from the adoption of these rules.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The Authority and the CCB jointly implement the Lead-based Paint and Renovation, Repair and Painting Programs in Oregon. Adopting the CFR by reference will not result in a significant impact on state and local government or the general public. Adoption of these rules will result in the Authority taking on a portion of CCB's regulatory efforts. It will also remove an exemption for local health officials to be certified as Risk

Assessors to collect samples during a childhood lead poisoning case investigation. The Authority is currently looking for alternate ways to provide these services in childhood lead poisoning cases.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

These rules apply to any business that disturbs lead-based paint in target housing or child occupied facilities. However, the adoption of the CFRs by reference will not result in any regulatory changes to these businesses, as they are currently operating under a nearly identical set of regulations. There are currently about 4,300 firms certified to provide renovation, repair and painting and lead-based paint activities in Oregon. Of these firms, the vast majority would likely fall into the definition of a small business with 50 or fewer employees. However, the exact number is unknown.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The reporting, recordkeeping and other administrative activities that are currently in place will continue on as usual. There is no increase in any costs or demand for services expected from the adoption of the new rules.

c. Equipment, supplies, labor and increased administration required for compliance:

Adoption of these rules is not anticipated to increase the need for equipment, supplies or labor costs from what is currently in place.

How were small businesses involved in the development of this rule?

The Rule Advisory Committee included Accredited Training Providers and representatives from industry.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

11-22-2016 5:00 p.m.	Brittany Sande	brittany.a.sande@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address