

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

Update of Radiation Protection Service's X-ray and radioactive materials program administrative rules

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

In the Matter of:

Amending, repealing and adopting rules in Oregon Administrative Rules chapter 333, divisions 100, 102, 103, 105, 106, 116, 118, 120, and proposed adoption of division 125 pertaining to Radiation Protection Services (RPS).

Statutory Authority:

ORS 453.605 - 453.807

Other Authority:

Statutes Implemented:

ORS 453.605 - 453.807

Need for the Rule(s):

The Oregon Health Authority, Public Health Division, Center for Health Protection is proposing to amend, adopt and repeal Oregon Administrative rules relating to the X-ray and radioactive materials programs within the Radiation Protection Services (RPS) section. The Radioactive Materials Licensing (RML) program is proposing to adopt, repeal and amend rules for compatibility with the Nuclear Regulatory Commission's regulations 10 CFR parts 20 through 71 within divisions 100, 102, 105, 116, 118, 120, and proposed division 125. The amendments are in reference to updating decommissioning planning, notification to American Tribes of materials being transported and requirements for the distribution of radioactive materials. The proposed division 125, titled Materials Safety and Security centralizes all rules related to the security, protection and tracking the quantities of radionuclides of concern and adopts all regulations within 10 CFR Part 37. In addition, OAR 333-120-0800, Reports of Transactions Involving Nationally Traced Sources, will be repealed and become OAR 333-125-0001 within the centralize rules pertaining to radionuclide security.

In addition, RML is amending rules relating to exempt quantities of source material and general licensing requirements. RML also proposes to adopt rules relating to compatibility with federal regulations for the physical protection of byproduct materials. Proposed rules will require no changes to the licensee's administrative or operational functions. Licensees affected by the rules in proposed division 125 will experience no impacts due to NRC's Order EA-05-090 issued in 2005 and Order EA-07-305 issued in 2008 to Oregon licensees.

The X-ray program will be amending rules relating to X-ray device registration fees. OAR 333-103-0005, biennial fee for radiation machines, will be amended to reflect an additional 25% increase to the X-ray device registration fee schedule as directed by the passage of Senate Bill 228 (Oregon Laws 2015, chapter 778), during the 2015 legislative session.

The X-ray program is also amending rules in division 106 by realigning X-ray equipment operator requirements to the beginning of OAR 333-106-0055 for better clarity. No additional requirements are being established with this rule revision. In OAR 333-106-0325, RPS proposes to repeal the requirement that dental X-ray facilities provide all patients with a leaded apron during X-ray exposures.

Documents Relied Upon, and where they are available:

Nuclear Regulatory Commission:

10 CFR Parts 20 through 71

<http://www.nrc.gov/reading-rm/doc-collections/cfr/>

Nuclear Regulatory Commission:

Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

<http://www.nrc.gov/reading-rm/doc-collections/cfr/part037/>

Nuclear Regulatory Commission

NRC's Order EA-05-090

SB 228 (Oregon Laws 2015, chapter 778): <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB228/Enrolled>

Fiscal and Economic Impact:

RPS does not anticipate any impacts to radioactive material licensees by amending OARs for federal compatibility, or OARs relating to X-ray device operator requirements.

Proposed rules in division 103 will direct X-ray registration fees to be increased by 25 percent to cover the program's expenditures for the 2015-2017 biennium.

RPS will experience no impact to administrative and operational functions within the licensing, registration and enforcement programs as a result of the proposed rules.

Statement of Cost of Compliance:

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

There is no cost of compliance impact to state agencies, units of local government or the public as a result of the proposed rule changes.

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:

RPS estimates that approximately 3,475 X-ray facilities will be affected with revisions to divisions 103 and 106; 400 radioactive materials licensees will be affected with proposed revisions to divisions 100, 102, 105, 116, 118, and 120; and 14 Increased Control licensees will be affected with the adoption of the proposed division 125.

RPS does not possess the data to determine how many small businesses providing X-ray and radioactive materials services will be subject to these rules. Small businesses will not be affected by proposed rules within division 125.

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

RPS has determined that proposed rules within divisions 100, 102, 105, 116, 118 and 120 will not have an effect on the licensee's administrative activities to meet compliance. In addition, proposed amended rules within division 106 will not increase administrative functions to meet compliance standards.

Increased Control licensees will not see an increase in administrative requirements from the proposed division 125 due to the Nuclear Regulatory Increased Control Orders in 2005 and Fingerprint Orders in 2008.

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

No additional supplies, labor or administrative oversight will be required for compliance with the proposed rules.

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

Small businesses were not involved in the proposed rulemaking due to the proposed rules being amended based on federal regulation requirements. Rulemaking for X-ray registrants relating to the 25% fee increase was established by the passage of Senate Bill 228 (Oregon Laws 2015, chapter 778) during the 2015 legislative session. Stakeholders affected by the proposed fee increase were represented by the Radiation Advisory Committee, which met to discuss the proposed legislative concept to increase the fees. All other rule amendments pertaining to the X-ray program will have no impact because applicable rules are being amended for clarity purposes and do not change the regulation requirements.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

09-22-2015 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