

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

X-ray operator requirements, repeal of leaded apron, licensing fee increase and corrections to rule references

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

In the Matter of:

Amending and repealing rules in Oregon Administrative Rules chapter 333, divisions 101, 102, 103, 106, 116, and 125 pertaining to Radiation Protection Service's (RPS) programs.

Statutory Authority:

ORS 453.605 - 453.807

Other Authority:

Nuclear Regulatory Commission's (NRC) 10 CFR Parts 20 through 71

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 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 amend rules for compatibility with the Nuclear Regulatory Commission's regulations 10 CFR parts 20 through 71 within divisions 102 and 125 by correcting rule references within Oregon Administrative Rules pertaining to material safety and security.

RML is amending rules relating to licensing fees within division 103. RPS projected that all licensees would need to have a 25% fee increase in order to remain solvent during the 2015-2017 biennium. During the 2015 Legislative Assembly, Senate Bill 228 was passed, authorizing the Oregon Health Authority to raise the licensing fee cap to \$5,000, and allowing RPS to amend administrative rules to address the disproportionate fee increase among RPS's licensees. Proposed rulemaking will affect specific licensees who were near or at the \$3,000 fee cap during the 2013-2015 biennium. Fee increases will range for 15% to 25% accordingly.

In addition, the RML program is proposing to repeal rules relating to the definition and reporting of misadministration and amending administrative rule for specific licensing application fees by only being refundable if the application is withdrawn within 10 calendar days of receipt by the Authority.

The X-ray program is amending rules in division 106 by adding language to the definition that will allow a physician to provide diagnostic use of X-rays by being eligible for the American Board of Radiology exam, and allowing an out of state licensed physicians to practice the healing arts without being licensed in Oregon. Division 101 is being amended to require an X-ray registrant to submit a non-refundable fee if the registration application is withdrawn after 10 calendar days after receipt by the Authority.

Within division 106, administrative rule will be amended allowing physician assistants who have obtained a fluoroscopy permit issued by the Oregon Board of Medical Imaging to activate the fluoroscopic tube. The X-ray program is also repealing rules that required the operator of an Authority approved hand-held X-ray device to wear a protective apron.

Documents Relied Upon, and where they are available:

Nuclear Regulatory Commission:

Oregon 2015 Legislative Session Senate Bill 228

<https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB228/Enrolled>

10 CFR Parts 20 through 71

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

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

Proposed rules in division 103 will impact 26 licensees out of approximately 400 licensees by increasing licensing fees between 15% and 25%.

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 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.

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. Rules for X-ray registrants were established by the passage of Senate Bill 228, which authorized the 25% fee increase. Stakeholders affected by the proposed fee increase were represented by the Radiation Advisor Committee. All other rule amendments pertaining to the X-ray program will have no impact, since applicable rules are being amended for clarity purposes and do not change the regulation requirements.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

07-28-2016 5:00 p.m.	Tracy Candela	tracy.candela@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address