

EXECUTIVE SUMMARY

Proposed Rulemaking Radiological Health Fees 25 Pa. Code Chapter 218

This proposed rulemaking amends Chapter 218 (relating to fees) to update the regulations as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed regulation seeks to ensure the Department of Environmental Protection's (Department) Radiation Protection Program (RPP) is adequately funded to support the safe and effective use of licensed radioactive materials and radiation-producing machines to protect the health and safety of residents in this Commonwealth.

The Radiation Protection Act (RPA), 35 P.S. §§ 7110.101—7110.703, requires the Board to establish fees in amounts at least sufficient to cover the costs of the radiation protection programs mandated by the RPA. Following the Department's Three-Year Regulatory Fee and Program Cost Analysis Report analyzing the financials of three RPP areas, including Accelerator, Radiation-Producing Machines, and Vendors/Service Providers; Radioactive Materials and Decommissioning; and Radon, the Department found that the fund balance for the Accelerator, Radiation-Producing Machines and Vendors/Service Providers RPP fee category will be negative in FY 2023-24, and the fund balance for the Radioactive Materials and Decommissioning area will be negative in FY 2024-25.

Therefore, the proposed rulemaking seeks to increase fees for radioactive material licenses to ensure that adequate funding is available for the Commonwealth to carry out its duties under the Agreement State program and the RPA. If the Commonwealth were forced to cede its authority to regulate radioactive materials back to the U.S. Nuclear Regulatory Commission (NRC), the regulated community would be subject to higher NRC fees. Radioactive material controls under the Agreement State program guard against the potential for unnecessary public radiation exposure from the use of radioactive material benefitting the health of all Pennsylvanians.

The proposed rulemaking also seeks to increase fees for the registration of X-ray facilities, licensing of accelerators, and registration of vendors to prevent the oversight of radiation safety-related activities being diminished and the replacement of obsolete survey equipment being delayed, reducing the assurance that regulated radiological activities are being conducted safely.

Summary of the Proposed Rulemaking

The proposed rulemaking would increase the Chapter 218 fees for the Accelerator, Radiation-Producing Machines, and Vendors/Service Providers program area by 30% and would increase the Chapter 218 fees for with the Radioactive Materials and Decommissioning program area by 10%. The proposed fee increases will ensure the program meets the RPA requirements to

adequately fund the registration and inspection of radiation-producing machines, and the licensing and inspection of radioactive materials through FY 2027-28.

The proposed rulemaking would also change the annual fee category that chiropractors are included in so that they will pay the same amount as dentists, podiatrists and veterinarians. This change is proposed as chiropractors' equipment is more in-line with the equipment used by dentists, podiatrists, and veterinarians.

Affected Parties

All Pennsylvania radiation-producing machine registrants, accelerator licensees, vendors, and radioactive material licensees will be required to comply with this proposed rulemaking. There are approximately 10,400 radiation-producing machine registrants, 148 accelerator licensees, 350 vendors, and 850 specific and general licensees issued for radioactive material users.

Advisory Groups

The proposed amendments to the Chapter 218 fees for radiation-producing machines, vendors, and accelerators and for radioactive materials and decommissioning were reviewed with the Department's Radiation Protection Advisory Committee (RPAC). RPAC represents various stakeholders, including radiation-producing machine registrants, radioactive materials licensees and radon service providers, as well as the general public. The Department discussed the need for fee revisions and presented the draft proposed amendments to Chapter 218 with RPAC on March 3, 2022. At the March 3, 2022, meeting, RPAC endorsed moving forward with the proposed rulemaking.

Recommendation

The Department recommends adoption of this proposed rulemaking. A 30-day public comment period with no public hearings is also recommended.