

**FINAL REGULATORY FLEXIBILITY ANALYSIS AND  
SUMMARY OF LEGISLATIVE STANDING COMMITTEE COMMENTS**

April 27, 2023

CR 22-015

Department of Health Services

DHS 157, relating to radiation protection requirements for radiation producing machines and radioactive materials.

**Final Regulatory Flexibility Analysis or Summary:**

The methods specified in s. 227.114 (2), Stats., for reducing a rule's impact on small business were considered by the Department but have not been adopted in the proposed rules because they are not feasible. Adopting the methods specified in s. 227.114 (2), Stats., would be contrary to the state's public policy on radiation control stated in s. 254.33, Stats., as well as federal requirements, and the agreement between the state and the NRC, which are the basis for the proposed rule. The department's analysis of the effect of rulemaking on small businesses regulated by ch. DHS 157 is therefore confined to proposed revisions addressing x-ray regulatory requirements and fee changes. The department's x-ray registration and inspection program, and radioactive materials licensing and inspection program, are both entirely supported by the annual fees authorized under ss. 254.35 (3) and 254.365 (5), Stats. The department applied the fee changes as proposed to current licensees. The site fee equal to 25% of the applicable use category would apply to 67 of the 442 licensed sites. This would affect 42 licensees and total \$48,075. There are five licensees that hold a license for research and development purposes that authorize greater than 5 curies of radioactive material. The proposed fee change for those five licensees would total \$9,000. Out of the 285 current licensees, 47 would be subject to a fee change as proposed. Smaller businesses do not typically have large possession authorizations or more than two sites of use. Of the 47 licensed businesses affected by the proposed fee change, it is estimated that 23 do not meet the small business definition in s. 227.114(1) based on being a large health care provider, government entity, national company, or large publicly traded company. In the absence of further information, if it is assumed that the remaining affected business meet the small business definition, the proposed license fee changes would apply to 24 businesses and total \$22,750. This analysis conservatively shows that total impact on small business would be less than \$50,000. There is expected to be little to no fiscal impact to x-ray registrants from the proposed requirement.

Based on the foregoing analysis, the proposed rule is anticipated to have little to no economic impact on small businesses. The entities that will be affected by the proposed rule are not "small businesses" as defined in s. 227.114 (1), Stats.

**Comments of Legislative Standing Committees:**

No comments were provided from the standing committees.