

DIVISION 60
TRANSPORTATION OF RADIOACTIVE MATERIAL

345-060-0001

Definitions

(1) The definitions set out in ORS 469.300 are the definitions to be used in interpreting the rules in this division, unless the context requires otherwise or unless a term is specifically defined in this rule. Terms not otherwise defined are defined as found in 10 CFR 71 and 49 CFR 171 through 178 in effect as of the date of this rule.

(2) “Radioactive material” is as defined in 49 CFR 173.403 in effect as of the date of this rule.

(3) “Radioactive material shipments” include but are not limited to any number of truck trailers, automobiles, vans or barges, moved by one or interconnected power sources.

(4) “Radiopharmaceuticals” are radioactive materials used in the medical testing or treatment of animals or humans.

(5) “Radiographic materials” include any sealed radioactive source fastened or contained in any instrument used for the examination of the macroscopic structure of materials by nondestructive methods using the source.

(6) “Well-logging radioactive materials” are radioactive sources used in measuring devices or tools used to obtain information about wells or the adjacent soil or geologic formations.

Stat. Authority: ORS 469.470, ORS 469.605, ORS 469.607

Stat. Implemented: ORS 469.603 to ORS 469.615

345-060-0003

Applicability and Scope

(1) These rules apply to the transportation of radioactive material by means other than railcars in the State of Oregon. The rules contained in OAR 345-060-0001 to 345-060-0055 are auxiliary to and supplemental to the rules of OAR 740-110-0060 to 740-110-0090 for highway transport.

(2) Transport by or under the direction of an agency of the federal government in federal vehicles is exempt. This section does not exempt other shipments:

- (a) That are subject to federal physical security requirements;
- (b) That originate from or are destined for a federal facility; or
- (c) That include material owned by the federal government.

(3) In accordance with ORS 469.603 and 469.607, it is the intent of these rules to be consistent with the United States Department of Transportation and Nuclear Regulatory Commission rules.

Stat. Authority: ORS 469.470, ORS 469.605, ORS 469.607

Stat. Implemented: ORS 469.603 to ORS 469.615

345-060-0004

Permits

(1) Persons must obtain an “Oregon Radioactive Material Transport” permit from the Oregon Department of Transportation (ODOT) Motor Carrier Transportation Division (MCTD) prior to transport in the State of Oregon of radioactive material that requires a placard on the vehicle according to 49 CFR 172(f) in effect as of the date of this rule.

(2) A carrier shall submit a permit application annually to ODOT MCTD, 550 Capitol Street NE, Salem, Oregon 97301. A carrier applying for the first time shall submit the application at least 30 days prior to transporting any materials specified in section (1).

(3) ODOT may issue a permit on an emergency basis by telephone when the carrier cannot comply with the 30 day requirement of section (2) as a result of conditions beyond the carrier's control. A carrier acquiring a permit under this section shall provide the information contained in subsections (4)(a) through (d) and (f) of this rule and the name of its insurance company, policy number, minimum levels of coverage and date of policy expiration or verification of self insurance.

(4) In the permit application, the carrier shall include:

(a) The name and address of the carrier;

(b) The telephone numbers of the carrier that will be answered at any time for emergencies and a statement that the carrier has a 24-hour telephone number for contacting all shippers;

(c) A description of the material to be transported, number of shipments and estimated radioactivity per shipment. Precise information is not necessary if unavailable;

(d) A description of the route or routes to be taken and approximate schedule. Precise information is not necessary if unavailable;

(e) A description of any violations by the applicant of any local, state or federal regulations within the past two years related to radioactive material transportation. The carrier may satisfy this requirement by submitting copies of the most recent federal or state motor carrier safety or hazardous material audit and inspection reports that include descriptions of those violations, if any;

(f) ODOT Operating Authority Identification Number, U.S. Department of Transportation Number, and U.S. Environmental Protection Agency Identification Number, when appropriate; and

(g) Proof of insurance including minimum levels of coverage and policy expiration date or verification of self-insurance.

(5) ODOT shall issue a regular permit if the applicant's record of violations of federal and state motor carrier safety and hazardous material requirements indicate that its practices have not and will not create an undue risk to public health, safety, or the environment.

(6) ODOT shall issue a conditional permit, which requires pre-trip notification to arrange for inspection, to any carrier who has a "conditional" safety fitness rating pursuant to the authority of Title 49 CFR 385.1 in effect as of the date of this rule.

(7) ODOT shall not issue an Oregon Radioactive Material Transport permit if the carrier has an "unsatisfactory" safety fitness rating pursuant to the authority of Title 49 CFR 385.1 in effect as of the date of this rule.

(8) For all shipments requiring an Oregon Radioactive Material Transport Permit, the carrier shall have a copy of the permit in the vehicle during shipment.

(9) Any person who has been denied a permit under this rule may submit to the Department of Energy a written request for a contested case proceeding. In the request, the person shall describe the issues to be contested, state the facts believed to be at issue, and include the person's mailing address. The Council shall conduct the proceeding under the provisions of OAR 345-015-0012 to 345-015-0085. After the hearing in the contested case proceeding, the Council, in its final order, shall grant or deny the permit.

(10) Once issued, permits remain valid for one year from the date of issuance unless revoked or suspended under section (11).

(11) ODOT or the Department of Energy may revoke or suspend permits for failure to comply with the conditions named on the permit or violations of the motor carrier safety requirements or hazardous or radioactive materials requirements.

(12) For reinstatement of a permit revoked or suspended under section (11) of this rule, the carrier shall submit a new application and evidence that the carrier has taken remedial actions to prevent recurrence of the violation(s).

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603, 469.605, 469.607 and 469.615.

345-060-0005

Notification for Inspection

(1) For shipments of irradiated reactor fuel, the shipper shall submit notification pursuant to Nuclear Regulatory Commission rules found in 10 CFR 71.97 and 10 CFR 73.37(f) in effect as of the date of this rule to: Secretary, Energy Facility Siting Council, 625 Marion St., NE., Salem, Oregon 97301-3737, Telephone: (503) 378-4040.

(2) The carrier shall submit notice to the Oregon Department of Transportation and make arrangements for inspection for all spent nuclear reactor fuel shipments, Highway Route Controlled Quantity Shipments and shipments that require notice and inspection under a conditional Oregon Radioactive Material Transport Permit. The carrier shall submit notice for inspection as follows:

(a) As soon as practicable but no later than 48 hours before time of shipment in Oregon;

(b) When, as a result of conditions beyond the control of the carrier, the carrier cannot comply with the 48-hour minimum notification, then the carrier shall give notice immediately by telephone or in any event not later than on the next working day and shall explain why the carrier could not comply with the 48-hour requirement;

(c) When an inspection has been scheduled, the carrier shall give additional notice if the shipper or carrier cancels the shipment or if the carrier will arrive at the inspection location early or late by two or more hours;

(d) The carrier shall make all notice for inspection and schedule changes in writing or by telephone between 8 a.m. and 5 p.m. (Pacific time) to ODOT MCTD, 550 Capitol Street NE Salem, Oregon 97301, Telephone: (503) 378-5916;

(e) In a notice for inspection, the carrier shall include the following information:

(A) The carrier's name, address, telephone number and ODOT MCTC Field Number;

(B) The shipper's and receiver's names, addresses and telephone numbers;

(C) A description of the material that shall include proper shipping name, hazard class, hazardous material identification number and total quantity by weight or volume and number of curies;

(D) A description of the route and approximate schedule; and

(E) A description of the transport vehicle(s) and name(s) of driver(s).

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603, 469.605 and 469.607

345-060-0006

Fees

(1) Except as provided in section (2) through (5) of this rule, the carrier shall submit a \$70 fee to the Oregon Department of Energy, 625 Marion St., N.E., Salem, Oregon 97301-3737 for each placarded shipment. The Department invoices motor carriers each three months for shipments recorded at Oregon Ports of Entry in the previous quarter. The Department may establish with carriers special invoice procedures for shipments that do not regularly pass through an Oregon Port of Entry.

(2) For placarded shipments of well-logging material, radiographic material and radiopharmaceuticals, the carrier shall submit an annual fee of \$500 or \$70 per shipment, whichever is less.

(3) No additional fee will be charged for shipments for which:

(a) The cargo is transferred from a previous vehicle for which a fee has been assessed, or

(b) The vehicle has a number of stops before unloading the radioactive cargo for which a fee has been assessed.

(4) Radioactive material carriers may petition for an alternative fee schedule. The secretary of the Council may grant such a request based on evaluation of whether:

(a) The carrier demonstrates that the applicable fee schedule severely impacts the cost of the product;

(b) Other payments or services to the Department support applicable safety programs of the State of Oregon;

(c) The shipment of the material involves a single radioactive source and frequent movement between sites where the source is used; or

(d) The carrier is a public university or research organization using the material for public benefit.

(5) The carrier shall pay a \$100 fee for each shipment traveling under a temporary permit, unless the carrier applies for a permit from the Oregon Department of Transportation within two weeks after the carrier first gives notice of the need for a permit.

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603, 469.605, 469.607 and 469.611

345-060-0007

Inspections

The State of Oregon or its agents may inspect shipments under these rules for compliance with applicable rules and regulations. The State shall inspect all irradiated reactor fuel (defined in 10 CFR 73.37 in effect as of the date of this rule) and highway route controlled quantity shipments (defined in 49 CFR 173.403 in effect as of the date of this rule). The state may choose to waive inspection if the shipment is carrying a valid Commercial Vehicle Safety Alliance inspection sticker from another state. The state may inspect samplings of other shipments. The State may inspect highway shipments made under conditional permits described in OAR 345-060-0004(6). The State shall make arrangements for inspection when the carrier gives notice for inspection, as described in OAR 345-060-0005.

Stat. Authority: ORS 469.470, ORS 469.605, ORS 469.607

Stat. Implemented: ORS 469.603 to ORS 469.615

345-060-0015

Vehicles, Operator, Equipment

The carrier shall maintain all aspects of vehicles, operators and equipment in accordance with Oregon Administrative Rules Chapter 740, Division 100. These Oregon Department of Transportation rules reference the requirements of 49 CFR 390 through 397 in effect as of the date of this rule.

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603, 469.605, 469.607

345-060-0025

Packaging, Placarding, Labeling and Documentation

The shipper shall maintain all packaging, placarding, labeling shipment documentation and all other aspects of transporting any radioactive material in accordance with 10 CFR 71 and 73, and 49 CFR 171 through 179 in effect as of the date of this rule.

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.607

345-060-0030

Reporting and Emergency Response

The carrier of any radioactive material shall immediately notify local emergency response authorities and the Oregon Emergency Response System (within Oregon call 1-800-452-0311, outside Oregon call 1-503-378-6377) of any of the following:

- (1) Vehicle accidents regardless of whether radioactive material has been damaged or dispersed;
- (2) Loss of any radioactive material;
- (3) Tampering with or obstruction of any shipments.

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603 to ORS 469.615

345-060-0040

Highway Routes

In Oregon, the carrier shall route all shipments of spent nuclear reactor fuel in accordance with 10 CFR 73.37 in effect as of the date of this rule and all placarded highway shipments of radioactive materials in accordance with 49 CFR 397.101 and 49 CFR 397.103 in effect as of the date of this rule.

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603 to ORS 469.615

345-060-0045

Financial Assurances

(1) If required by the Price-Anderson Act (42 USC Section 2210, in effect as of the date of this rule), the carrier or shipper shall maintain insurance on shipments of spent nuclear reactor fuel.

(2) Carriers of radioactive materials shall comply with applicable federal and Oregon insurance requirements (see Oregon Administrative Rules, Chapter 740, Division 40, Oregon Department of Transportation rules and Title 49 CFR, Part 387, in effect as of the date of this rule).

(3) Carriers of radioactive material shall indemnify the State of Oregon and its political subdivisions and agents for any claims arising from the release of radioactive material during transportation and pay for the cost of response to an accident.

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603, 469.605, 469.607 and 469.615

345-060-0050

Weather and Road Conditions

The carrier shall avoid movement of motor vehicles during a road condition advisory of the Oregon State Highway Division unless vehicles have the required chains or traction tires specified in OAR Chapter 734, Division 17.

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603 to ORS 469.615

345-060-0055

Enforcement

(1) The Director of the Oregon Department of Energy may issue an order to halt the transport of radioactive material if he or she believes there is a clear and immediate danger to public health or safety. The Director may serve the order without prior hearing or notice.

(2) In accordance with Division 29 of this chapter, the Department of Energy may issue a notice of violation and may assess a civil penalty for violations of the rules of this division or applicable provisions of ORS Chapter 469.

Stat. Authority: ORS 469.470, ORS 469.607

Stat. Implemented: ORS 469.603 to ORS 469.615