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To: Energy Facility Siting Council
From: Tom Jackman, Rules Coordinator
Date: January 30, 2026
Subject: Agenda Item I (Action Item): Five-year review of Radioactive Materials Enforcement for the February 13, 2026 EFSC Meeting

STAFF RECOMMENDATION

Staff recommends maintaining OAR chapter 345, division 029 without modification. The rules continue to support statutory compliance and public safety objectives and provide an appropriate enforcement framework should future violations occur.

BACKGROUND

The Council adopted amendments to OAR chapter 345, division 029 in February 2021 to establish a separate and more appropriate enforcement framework for violations involving the transport and disposal of radioactive materials and wastes. This rulemaking was prompted by the need for Council to issue a Notice of Violation issued to Chemical Waste Management Northwest in 2020 and the vagueness of the existing enforcement rules came to light.

Prior to adoption, the enforcement rules were primarily designed for siting and site certificate compliance and did not fully account for the distinct statutory authority, risk profile, and regulated parties associated with radioactive materials. The new rules were intended to improve prevention, detection, and timely correction of violations and to ensure adequate protection of public health, safety, and the environment.

According to Max Woods, the Assistant Director for Nuclear Safety and Emergency Preparedness Division, in the five years since these new rules were adopted, the Council has not needed to issue a new Notice of Violation for the transport or disposal of radioactive materials and wastes.

REQUIRED FINDINGS

Whether the Rule Has Achieved Its Intended Purpose

Although no civil penalties or enforcement actions have been assessed under the revised rules since adoption, the rules have achieved their intended purpose by establishing a clear, structured, and credible enforcement framework. The absence of violations or penalties suggests that regulated entities are complying with applicable requirements or that the rules have had a deterrent effect, which is consistent with the Council's preventive objectives.

Whether the Rule Is Still Needed

The risks associated with improper transportation or disposal of radioactive materials remain significant, and the statutory prohibitions and permitting requirements remain in effect. The rules continue to provide necessary procedures and enforcement tools should a violation occur and ensure the Department and Director are prepared to respond promptly and effectively.

Whether the Rule Can Be Repealed, Amended, or Left Unchanged

The rules should be left unchanged. The rules remain consistent with statutory authority, have not created implementation issues, and continue to serve a valid preventive and enforcement function. Because the rules have not been applied, there is no evidence that amendments are necessary at this time.

Whether the Rule Has Had Unintended Effects

No unintended effects have been identified. The rules have not resulted in unanticipated fiscal, administrative, or regulatory impacts. Any potential compliance costs remain tied to preventing or correcting violations, which is consistent with the purpose of the rules.

Whether the Rule Is Harmonized With Other Applicable Rules

The rules are harmonized with other provisions of OAR chapter 345, relevant provisions of ORS chapter 469, and comparable enforcement frameworks used by other state agencies, including the Department of Environmental Quality. No conflicts or redundancies have been identified.

Fiscal and Economic Impact Since Adoption

The fiscal and economic impacts anticipated at the time of adoption remain accurate. Because no enforcement actions or penalties have been imposed, the rules have resulted in no direct fiscal or economic impacts on the Department, regulated entities, or the public.