

Attachment 1



Oregon

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To: Energy Facility Siting Council

From: Thomas L. Jackman, Rules Coordinator, ODOE Energy Facility Siting Division;
Mark Reese, Nuclear Emergency and Radioactive Material Transportation
Program Coordinator, ODOE Nuclear Safety and Emergency Preparedness
Division; and Matt Henrickson, ODOE Radioactive Waste Remediation
Specialist, ODOE Nuclear Safety and Emergency Preparedness Division

Date: May 15, 2026

Subject: Agenda Item E (Action Item): Notice of Proposed Rulemaking for Radioactive
Material Transport Fees Rulemaking, for the May 15, 2026 EFSC Meeting

Attachments: Attachment 1: Draft Proposed Rules
Attachment 2: Response Comment Record and RAC Comments

BACKGROUND

In the late 1970's and early 1980's, large numbers of radioactive material shipments by commercial truck occurred on Oregon roadways without oversight and knowledge of what was being transported on state roadways. Further, there was no dedicated source of funding associated with these shipments that could be used exclusively by first responders along routes to train and equip fire fighters, law enforcement or hospital personnel who may have to respond to an incident arising from an accident involving one of these trucks.

In 1981 the Oregon Legislature passed statutes to regulate the transport of radioactive material on Oregon roadways. This legislative action also required formal permitting for radioactive material shipments, registration and that training for emergency responders occurs using fees collected from permitting.

Oregon Administrative Rules 345, Division 60 are associated with safe transportation of radioactive material. The rules require that transporters of certain radioactive material acquire a permit to do so, which includes a fee. The permits are issued by the Oregon Department of Transportation, and the fees are collected by ODOE. ODOE then uses the fee revenue to train first responders and other emergency response personnel on issues of radiation and transportation safety. This is primarily accomplished by ODOE staff and contracts with experts at Oregon Health Authority and Oregon State University. Trainings are held regularly in Corvallis and in eastern Oregon (most recently, a training was held in Ontario in April).

Current fees, set at \$70 per shipment in 1983, are no longer adequate to fund the associated training programs. Estimates show that there are only enough reserves to continue operations 3 to 5 years, at which point the program will be facing a funding deficit. With costs increasing, it is timely to assess potential changes.

Additionally, current rules exclude permit and fee requirements for shipments via train. However, shipments of radioactive material by train also pose a risk of accident that would require response by appropriately trained emergency response personnel. This was discussed at Rulemaking Advisory Committee (RAC) meetings. ODOE staff recommended that train shipments of radioactive material should be included in updated fee requirements. However, by federal requirements, staff recommend that train shipments are not required to secure a permit from the Oregon Department of Transportation prior to transportation; rather, that the fee be collected after shipping. This is similar to a process used by the Oregon Department of Environmental Quality related to shipments of oil via rail.

During RAC conversations, commenters noted that there is currently no differentiation in rule between shipments of solid material or shipments of liquid material, particularly in large quantities. ODOE staff agree that it is inherently riskier to ship large quantities of liquid radioactive material compared to solid, should an accident occur. However, ODOE staff have estimated the updated proposed fee to include sufficient funding to cover training needs into the future, and if we see large quantities of liquid radioactive material coming through Oregon, could adjust training in the future to cover that material.

SCOPE OF RULEMAKING

Staff recommends evaluating the structure and fees imposed by the Division 60 rules including the appropriate fees needed to fund the programs they were designed to fund and under what circumstances those fees should apply.

RAC FORMATION AND MEMBERSHIP

A RAC was formed in 2025 for the purpose of this Rulemaking. Members included the following participants:

- Oregon Department of Energy
- Oregon Department of Transportation (Hazardous rail and truck material inspectors from Commerce and Compliance)
- Oregon Health Authority - Radiation Protection Services Division
- Oregon State Fire Marshall
- Oregon Department of Environmental Quality
- Oregon State University - Radiation Science Center
- Umatilla County Emergency Management
- Lane County Emergency Management
- Oregon Emergency Management
- CAST Transport
- HITTMAN Transport
- Oregon Trucking Association

- Columbia River Keepers
- Burlington Northern Railroad Company
- Union Pacific Railroad Company

RAC MEETINGS AND TOPICS

May 28, 2025	• Introduction of the need for the RAC
September 29, 2025	• Introductions of RAC members and goal of this RAC • Welcome and introductions of staff and RAC members
October 24, 2025	• Review of rulemaking process • Recap of first meeting and address RAC requested responses • RAC discussion of key issues to resolve or move rules forward • Public comment opportunity • Discussion of next steps

RAC COMMENTS

Members of the RAC understood the need for the change and overall supported this endeavor to correct an almost forty-year gap in adjustments of the fee schedule due to inflation and other economic factors.

The rail carrier members of the RAC did not support rail shipment fees being included in the rule. However, most of the RAC did support inclusion of rail for parity with truck shipments.

The RAC did support the use of permit fees collected to continue to be used for training of public safety agencies along both rail and truck transportation routes in Oregon.

A comment response matrix is included as Attachment 2, and all comments received are included in EFSC packet material.

RECOMMENDATIONS FOR NEW FEE SCHEDULE

Staff recommend that the current annual permit fee of \$70 per truck shipment, or \$500 per year maximum for placarded shipments of well logging material, radiographic materials, and radiopharmaceuticals increase to \$125 per truck shipment and \$750 per year maximum for placarded shipments of well logging material, radiographic materials, and radiopharmaceuticals. Additionally, add a provision to address rail shipments through the state at the same rates.

Further, Highway Route Controlled Quantity shipments of radioactive material, often referred to as HRCQ, as well as the Hanford site shipments that are expected to be on Oregon roads

eventually of High-Level Radioactive Waste, and possibly spent nuclear fuel, should be included in the update at \$1,250 per shipment road and rail.

As previously stated, the RAC recommended the inclusion of rail carriers into the updated fee schedule. One reason that rail should be included now is the anticipated Hanford shipments of tank waste beginning in the 2030s that will likely travel through Oregon. First responder training for rail emergency incidents will need to occur along rail routes in our state. Training will need to cover response to both truck and rail accidents to ensure preparedness and equity.

To address inflation the new fee schedule should be reviewed by EFSC at least every four years to ensure that it adequately funds the first responder training program.

STAFF RECOMMENDATION

Staff recommends that Council direct staff to file the Notice of Proposed rulemaking with the draft rules in Attachment 1 to update the Radioactive Material Transport Fees.

Attachment 1: Draft Proposed Rules
Spring 2026

Department of Energy

Energy Facility Siting Council - Chapter 345

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, **railcar, railroad car, or other rolling stock** 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.

Statutory/Other Authority: ORS 469.470, 469.605 & 469.607

Statutes/Other Implemented: ORS 469.603 - 469.615

History:

EFSC 1-2007, f. & cert. ef. 5-15-07

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 1-1995, f. & cert. ef. 5-15-95

EFSC 1-1991, f. & cert. ef. 3-12-91

EFSC 5-1986, f. & ef. 9-5-86

Reverted to EFSC 3-1982, f. & ef. 3-8-82

EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83

EFSC 3-1982, f. & ef. 3-8-82
NTEC 7, f. 2-20-74, ef. 3-11-74

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.

Statutory/Other Authority: ORS 469.470, 469.605 & 469.607

Statutes/Other Implemented: ORS 469.603 - 469.615

History:

EFSC 1-2007, f. & cert. ef. 5-15-07
EFSC 2-1999, f. & cert. ef. 4-14-99
EFSC 1-1991, f. & cert. ef. 3-12-91
EFSC 5-1986, f. & ef. 9-5-86
Reverted to EFSC 3-1982, f. & ef. 3-8-82
EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83
EFSC 3-1982, f. & ef. 3-8-82
NTEC 7, f. 2-20-74, ef. 3-11-74

345-060-0004

Permits

Carriage by rail is not subject to 345-060-0004

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

(2) A carrier shall submit a permit application annually to ODOT ~~MCTD~~ ~~CCD~~, 455 Airport Road SE, BLDG A Salem, Or 97301 ~~3930 Fairview Industrial Dr SE, Salem, OR 97302~~. 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 ~~motor~~ 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).

(13) Upon entering the State of Oregon with a shipment made under this permit, the driver must either stop at the nearest Oregon Port of Entry and provide specific shipment information in writing by filling out an "Oregon Radioactive Materials Shipment Report" form or provide the same information in electronic format as described below. The Shipment Report is available at all Oregon Ports-of-Entry at all times, open or closed. Information to be provided includes name of carrier; name of shipper; vehicle license plate number; driver's name; RAM permit number; commodity description and UN identification

number; whether the shipment is Highway Route Control; shipment origin; and shipment destination. Carriers who elect to submit the information electronically in lieu of stopping at an Oregon Port-of-Entry, must submit the form provided on the ODOT website within 48 hours of entering the state.

(14) Failure to fill out an “Oregon Radioactive Materials Shipment Report” or omitting required information may subject the carrier to civil penalties as described in division 29 of this chapter.

(15) With prior approval of the Department, carriers that do not pass through an Oregon Port of Entry must self-report each individual shipment on a monthly basis, directly to the Department.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603, 469.605, 469.607 & 469.615

History:

[EFSC 7-2020, minor correction filed 11/05/2020, effective 11/05/2020](#)

EFSC 1-2013, f. & cert. ef. 1-28-13

EFSC 1-2007, f. & cert. ef. 5-15-07

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 3-1995, f. & cert. ef. 11-16-95

EFSC 1-1995, f. & cert. ef. 5-15-95

EFSC 1-1991, f. & cert. ef. 3-12-91, Sec. (5)-(10) Renumbered to 345-060-0006(1)-(5)

EFSC 5-1986, f. & cert. ef. 9-5-86

EFSC 3-1983, f. & cert. ef. 11-4-83

EFSC 2-1983(Temp), f. 6-22-83, cert. ef. 7-1-83

EFSC 3-1982, f. & cert. ef. 3-8-82

[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, 550 Capitol St., NE, Salem, Oregon 97301, Telephone: (503) 378-8328.

(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, 3930 Fairview Industrial Drive SE; Salem, Oregon 97302, Fax: (503) 378-7481;
- (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).

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603, 469.605 & 469.607

History:

[EFSC 6-2019, minor correction filed 05/28/2019, effective 05/28/2019](#)

EFSC 1-2007, f. & cert. ef. 5-15-07

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 3-1995, f. & cert. ef. 11-16-95

EFSC 1-1991, f. & cert. ef. 3-12-91

EFSC 5-1986, f. & ef. 9-5-86

Reverted to EFSC 3-1982, f. & ef. 3-8-82

EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83

EFSC 3-1982, f. & ef. 3-8-82

NTEC 7, f. 2-20-74, ef. 3-11-74

345-060-0006

Fees

(1) Except as provided in section (2) through (56) of this rule, the carrier shall submit a \$70-125 fee to the Oregon Department of Energy, 550 Capitol St. NE, Salem, Oregon 97301 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 invoices rail carriers each 3 months for self-reported shipments or shipments reported to ODOT Rail Division in accordance with OAR 741-510-0025. The Department may establish with carriers special invoice procedures for shipments that do not regularly pass through an Oregon Port of Entry.

(a) Any carrier required to pay the fees assessed pursuant to this section is authorized to pass along such fees to the shipping party. No portion of the fees shall be reduced or transferred to another vehicle.

(b) Notwithstanding any other rules, rail carriers in compliance with OAR 345-060-0006 are considered in compliance with OAR 345-060-0004.

(2) For placarded shipments of well-logging material, radiographic material and radiopharmaceuticals, the carrier shall submit an annual fee of \$500-750 or \$70-125 per shipment, whichever is less.

(3) For shipments of spent nuclear fuel, highway route-controlled quantity, or high-level radioactive waste, \$1250 per truck or railcar.

(34) 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 per 345-060-0006, or

(b) The vehicle has a number of stops before unloading the radioactive cargo for which a fee per 345-060-0006 has been assessed.

(45) 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.

(56) The carrier shall pay a \$~~100~~250 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.

(7) Notwithstanding any other provision in these rules, The Council shall, on a quadrennial basis, review the fee of this part and update as necessary to reflect the cumulative change in cost of services.

(a) The fee adjustment shall be calculated on or before January 15 of 2028 and every fourth year thereafter.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603, 469.605, 469.607 & 469.611

History:

[EFSC 8-2020, minor correction filed 11/05/2020, effective 11/05/2020](#)

EFSC 1-2007, f. & cert. ef. 5-15-07

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 3-1995, f. & cert. ef. 11-16-95

EFSC 1-1991, f. & cert. ef. 3-12-91, Renumbered from 345-060-0004(5)-(10)

EFSC 5-1986, f. & cert. ef. 9-5-86

EFSC 3-1983, f. & cert. ef. 11-4-83

EFSC 2-1983(Temp), f. 6-22-83, cert. ef. 7-1-83

EFSC 3-1982, f. & cert. ef. 3-8-82

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 current Commercial Vehicle Safety Alliance inspection sticker. 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 345-060-0005.

Statutory/Other Authority: ORS 469.470, 469.605 & 469.607

Statutes/Other Implemented: ORS 469.603 - 469.615

History:

EFSC 1-2013, f. & cert. ef. 1-28-13

EFSC 1-2007, f. & cert. ef. 5-15-07

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 1-1991, f. & cert. ef. 3-12-91

EFSC 5-1986, f. & ef. 9-5-86

Reverted to EFSC 3-1982, f. & ef. 3-8-82

EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83

EFSC 3-1982, f. & ef. 3-8-82

NTEC 7, f. 2-20-74, ef. 3-11-74

345-060-0015

Vehicles, Operator, Equipment

(1) The carrier shall maintain all aspects of vehicles, operators and equipment in accordance with OAR 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.

(2) Rail carriers shall maintain all aspects of vehicles, operators, and equipment in accordance to applicable Federal Railroad Administration regulations, including but not limited to 49 CFR Parts 200-299.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603, 469.605 & 469.607

History:

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 3-1995, f. & cert. ef. 11-16-95

EFSC 1-1991, f. & cert. ef. 3-12-91

Reverted to EFSC 3-1982, f. & ef. 3-8-82

EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83

EFSC 3-1982, f. & ef. 3-8-82

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.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.607

History:

EFSC 1-2013, f. & cert. ef. 1-28-13

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 1-1991, f. & cert. ef. 3-12-91

EFSC 5-1986, f. & ef. 9-5-86

Reverted to EFSC 3-1982, f. & ef. 3-8-82

EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83

EFSC 3-1982, f. & ef. 3-8-82

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.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603 - 469.615

History:

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 1-1995, f. & cert. ef. 5-15-95

EFSC 1-1991, f. & cert. ef. 3-12-91

EFSC 5-1986, f. & ef. 9-5-86

Reverted to EFSC 3-1982, f. & ef. 3-8-82

EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83

EFSC 3-1982, f. & ef. 3-8-82

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.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603 - 469.615

History:

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 1-1991, f. & cert. ef. 3-12-91

EFSC 5-1986, f. & ef. 9-5-86

Reverted to EFSC 3-1982, f. & ef. 3-8-82

EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83

EFSC 3-1982, f. & ef. 3-8-82

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) **Motor Car**riers 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) Rail carriers of radioactive materials shall comply with applicable Federal Railroad Administration regulations, including but not limited to 49 CFR Parts 200-299, and Oregon insurance and financial assurance requirements .

(34) 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.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603, 469.605, 469.607 & 469.615

History:

EFSC 1-2007, f. & cert. ef. 5-15-07

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 3-1995, f. & cert. ef. 11-16-95

EFSC 1-1991, f. & cert. ef. 3-12-91

EFSC 5-1986, f. & ef. 9-5-86

Reverted to EFSC 3-1982, f. & ef. 3-8-82

EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83

EFSC 3-1982, f. & ef. 3-8-82

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 734, division 17.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603 - 469.615

History:

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 1-1991, f. & cert. ef. 3-12-91

EFSC 5-1986, f. & ef. 9-5-86

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.

Statutory/Other Authority: ORS 469.470 & 469.607

Statutes/Other Implemented: ORS 469.603 - 469.615

History:

EFSC 1-2007, f. & cert. ef. 5-15-07

EFSC 2-1999, f. & cert. ef. 4-14-99

EFSC 1-1995, f. & cert. ef. 5-15-95

EFSC 1-1991, f. & cert. ef. 3-12-91

Attachment 2: Responses to Comments and RAC comment letters

REVIEW COMMENT RECORD (RCR)			Document(s) Reviewed: OR Radioactive Transportation Rulemaking	Page 2 of 6 Date (Response Due) 4/30/2026
Document(s) Reviewer (Name) Tom Sicilia, Matt Hendrickson, Max Woods, Mark Reese			Date (Reviewed) 4/30/2026	
Item	Commenter	Section	Comments	Comment Resolution
1.	CRK	0001(2)	Comment: The OAR definitions should include the language above and the specific values and instructions that the state supports and are in effect now, not just a reference to the law coupled with broad in effect language. Recent federal executive orders have sought to decimate radiation exposure standards, could this impact federal definitions of radioactivity standards and values? Recent federal upheaval supports making the OAR definitions as clear as possible to maintain the health and safety standards supported by Oregon.	Response: Rejected outside of scope.
2.	CRK	0001(2)	Comment: Additionally, the definitions section should include a definition of solid and liquid radioactive waste. The definitions under Class 7 (radioactive material), make it really challenging to differentiate between solid and liquid radioactive waste. However, transportation of the two different physical forms, has tangible differences in risks to people and the environment and requires different emergency responses, which in turn cost more. The definitions section should define what Oregon would classify as liquid versus solid radioactive waste.	The comment is correct in that it is difficult to differentiate between solid and liquid in Class 7 and that liquid response is more costly. However, adding new definitions not supported by existing rules at Federal and State level may face challenges not only in implementation, but may be challenged as not alignment with interstate Commerce. ODOE supports a standard fee for radioactive material, regardless of liquid or solid.
3.	CRK	0003(1)	Comment: Columbia Riverkeeper strongly supports the inclusion of rail shippers; they should not be exempted from this rule. In other instances, ODOE has charged a fee on rail carriers for oil transportation and the case law makes a strong case for why this type of fee is not preempted by federal law.	Accepted, though please note that it is DEQ, not ODOE, that administers the oil transportation fee and safety program.
4.	OTA	0003(1)	Comment: I think this is an interesting point. I am in support of trains paying the fee, however, didn't even think about transport by water. I think this should be explored as well.	Rejected: While the Federal Government and Oregon have agencies that regulate transport by water at this time ODOE is unaware of any applicable shipments of radioactive material via water, aside from certain federal shipments of security-controlled material. Those shipments - while they do travel on the Oregon side of the Columbia River- never stop at an Oregon port. Administration of this concept seems challenging.
5.	AAR	0003(1)	Comment: These changes include the addition of railroads to the regulated transporters of radioactive materials. For the reasons explained below, to the extent the proposed regulation and permitting/fee requirements apply to railroad shipments, they are preempted by federal law [...] For the reasons courts have repeatedly explained, a regulation seeking to require the permitting and associated fees associated with the transport of radioactive materials directly relates to both railroad operations and rail property and is preempted under ICCTA.	Partially accepted. ODOE agrees that railroads are not subject to permitting requirements; however, we believe railroads can be subject to the fees. There are examples from other states where this is the case.

REVIEW COMMENT RECORD (RCR)	Document(s) Reviewed:		Page 3 of 6
	OR Radioactive Transportation Rulemaking		Date (Response Due) 4/30/2026

Item	Commenter	Section	Comments	Comment Resolution
6.	AAR	0003(1)	Comment: A state permitting requirement for specific commodities interferes with and frustrates a railroad's ability to comply with its common carrier obligation. In addition, the regulation ability of the ODOE to deny or suspend a permit can result in a shipment being delayed in transportation if tendered to the railroad while a permit request is pending. The discretion of the ODOE to deny a permit is a direct regulation of rail transportation and conflicts with both the common carrier obligation and federal law.	Accepted: The Railroads are subject to reasonable fees, but not the permitting conditions within the ruleset. Change made to rules moving railroads out of the permit section and solely subject to the fee section.
7.	AAR	0003(1)	Comment: AAR has endeavored to provide a useful overview of federal preemption law for consideration as Oregon considers the finalization of its changes to Division 60. We respectfully request that railroads be removed from the category of regulated transporters. The federal government is the sole regulator of the rail industry and state regulation of railroads of this nature is preempted by federal law. I invite you to reach out with any questions or if you would like to further discuss this issue.	Partially accepted. ODOE agrees that railroads are not subject to permitting requirements; however, we believe railroads can be subject to reasonable fees. There are examples from other states where this is the case.
8.	CRK	0003(2)	Comment: shouldn't this also include Tribal Nation carriers and vehicles?	Accepted: This exemption is a mirror of US DOT 49 CFR 171.1(d)(5). Tribal vehicles operated by the tribe carrying tribal materials within tribal lands would be similarly exempt.
9.	CRK	0003(2)	Comment: Could an example be provided that would fit the exemption outlined in section (2)?	Generally covered by Office of Secure Transportation (National Nuclear Security Administration or Department of Defense)
10.	CRK	0003(3)	Comment: Section (3) includes the statement, " 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." Legally, the state is allowed to promulgate laws that are more protective than federal laws, does Oregon want to be consistent with the federal government or more protective? Again, it seems like recent federal upheaval, which has included strong deregulation, would incentivize Oregon to ensure that its laws remain as protective as intended.	Rejected: Out of Scope. ODOE believes our program creates safe shipping conditions by using fee money to support first responder safety training. Packaging requirements for radioactive materials are set by federal standards.
11.	CRK	0003(3)	Comment: In regards to section (3), has ODOE issued an emergency permit in the past and under what circumstances?	We are not aware of any emergency permits issued by ODOE or ODOT to date.
12.	CRK	0003(4)(c)	Comment: Columbia Riverkeeper recommends that carriers should be required to provide precise information, why does the current rule state that this is not required? Could ODOE provide an example of when precise information was not available? As written, this rule requires self reporting, as opposed to carriers needing to show that precise information is not available. Knowing this information seems vital to emergency services responses if there were to be an accident.	Rejected: The response information included with shipping documents is currently sufficient for immediate response actions. This includes Bills of Lading, Dangerous Goods Declarations, and Train Consists.

REVIEW COMMENT RECORD (RCR)			Document(s) Reviewed: OR Radioactive Transportation Rulemaking	Page 4 of 6 <u>Date (Response Due)</u> 4/30/2026
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13.	CRK	0003(4)(e)	Comment: the rule should require any violations of law related to radioactive transport, not just those within the last two years. It should also cover radioactive and hazardous waste transport. This would allow for more informed risk assessments when issuing permits and provide more information for emergency preparedness. How many carriers in the past two years had violations related to radioactive transport?	Rejected: Out of Scope – These decisions would be ODOT's discretion/authority. We are not aware of any violations related to radioactive transport in the past two years.
14.	CRK	0003(15)	Comment: self reporting seems to defeat the purpose of this section. Carriers, including rail, should be required to report prior to transporting radioactive materials through Oregon. Reporting after the fact does not allow for proper identification of radioactive materials moving through the state, the rail and roads they will travel on, and the communities they will travel through. Having this information ahead of time would better prepare emergency responders and allow for better response time. With an online option, it doesn't seem too challenging to report ahead of time if not traveling through an Oregon port of entry. Since rail carriers do not enter through an Oregon port of entry it seems like the state could work with these carriers ahead of time instead of relying on self-reporting that may occur after transport has taken place	Rejected: Due to the nature of rail, they do stop when entering a State, may not require a permit, and may not be able to forecast the day of entry or exit of the State. ODOE agrees that shipment information is available before any transportation occurs. This portion is designed to mirror existing reporting to the Oregon Department of Transportation to ease reporting burden.
15.	AAR	0004?	Comment: The federal regulations that govern the transportation of hazardous materials, including radioactive materials, do not allow for the holding of a shipment pending a state inspection or permit. The federal Hazardous Materials Regulation requires rail carriers to forward shipments promptly and within 48-hours after acceptance at the origination or receipt at any yard. 49 C.F.R. § 174.14. A state law that conflicts with federal requirements is preempted and unenforceable. ¹ Moreover, the requirement for a copy of the permit to be with train crews is inconsistent with how shipping papers are maintained in the rail industry and the potential that a radioactive materials shipment would have to be held at an intermediate station unless and until the permit is transferred to a new train crew is both a direct regulation of rail transportation, which is preempted by ICCTA, and inconsistent with the Hazardous Materials Regulations.	Accepted: See 6.
16.	CRK	0005	Comment: Does the term "spent nuclear reactor fuel" need to be defined in the definitions? Would this term include tank waste, high level waste?	Rejected: ODOE expects that the following is sufficient: 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.

REVIEW COMMENT RECORD (RCR)			Document(s) Reviewed: OR Radioactive Transportation Rulemaking	Page 5 of 6 <u>Date (Response Due)</u> 4/30/2026
Item	Commenter	Section	Comments	Comment Resolution
17.	CRK	0005(2)(b)	Comment: should also require that carriers submit a written explanation of why they could not comply with the 48 hours notice, this would allow for more public transparency and a written record to determine if certain carriers have a pattern of noncompliance. tank waste, high level waste?	Rejected: Out of Scope.
18.	OTA	0006	Comment: If railroads were notified that they were going to be charged for the transport, it seems to me they could they plan for the charges at the time the shipment was manifested, or whatever method the railroad uses when they charge their customers.	Accepted: ODOE will continue to work with Railroads on implementation.
19.	CRK	0006(1)	Comment: should use a risk based model for addressing fees. Columbia Riverkeeper suggests requiring a \$125 fee for solid waste and \$175 for liquid waste shipments (however see comments below about the fee increase). The purpose of increasing fees on carriers of radioactive materials is to provide more funds for emergency responders and prepare for increased shipments coming out of the Hanford Nuclear Site, as well as other sources in the region, such as radioactive fracking waste.	Partially Rejected: Accepted in relation to Highway Route Controlled Quantities, Spent or Used Nuclear Fuel. ODOE has calculated to estimated fee to cover expected training needs.
20.	CRK	0006(1)	Comment: The fee increase proposed in Section (1) should be adjusted higher. It's Columbia Riverkeeper's understanding that the proposed fee is the minimum amount to keep things where they are at. However, ODOE stated to the RAC that currently ODOE does not have enough funds to provide service and training to emergency responders when it comes to radioactive transport issues. Therefore, with the 10x increase in shipments expected from one Hanford project alone, and the increase in TRU waste shipments to the Waste Isolation Pilot Plant from the site, it seems like the fee increase is already insufficient and therefore should be higher.	Partially Accepted: ODOE does expect greater transportation through the State, but we have estimated the fee increase to cover expected training needs in the future. ODOE supplements the fees with funding from other sources to complete training needs.
21.	OTA	0006(6)	Comment: If it is indexed for inflation at lease there is something tangible to tie the fee change to.	Accepted: the proposed mechanism would allow flexibility to forego increases if not warranted. Decision on fee increases would be made by EFSC on a regular review cycle.
22.	CRK	0006(6)(a)	Comment: should require more frequent cost adjustment to ensure that fees collected are reflecting increased costs in emergency responses. Generally, this section should include a fee increase for carriers who have caused an emergency response.	Rejected – ODOE is confident that the increase structure will allow the program to remain funded at appropriate levels. If there is a violation of rules, ODOE has the ability to enforce penalties, as warranted.
23.	CRK	0007	Comment: This section uses the term ""irradiated reactor fuel" (defined in 10 CFR 73.37 in effect as of the date of this rule,"" which is different than the term used in OAR 345-060-0005 , "spent nuclear fuel." Columbia Riverkeeper suggests using the same term in both sections and defining the consistent term in the definitions.	Rejected: 0005 is the inspection portion and mirrors NRC packaging requirements under 10 CFR 73.37. Irradiated reactor fuel is a broader definition than "spent nuclear fuel" ODOE is still evaluating how the definitions will be impacted by US DOE and NRC regulatory changes.

REVIEW COMMENT RECORD (RCR)			Document(s) Reviewed: OR Radioactive Transportation Rulemaking	Page 6 of 6 <u>Date (Response Due)</u> 4/30/2026
Item	Commenter	Section	Comments	Comment Resolution
24.	CRK	0030	Comment: This section should include a requirement that carriers must contact local Tribal emergency response authorities if they are on or within 20 miles of reservation land.	The OERS notification system (OEC3 after July 1, 2026) for emergencies would reach Tribal first responders if an accident was on or near reservation land. ODOE is confident of the efficacy of the OERS/OEC3 communication system and practices communications weekly.
25.	CRK	0045(4)	Comment: should include indemnification language for any Tribe on whose reservation an accident occurs on. It should also cover off-reservation accidents that result in damage or destruction of cultural resources covered under treaty-reserved rights.	Rejected: Out of Scope. Such damages would be more appropriately addressed through other avenues. ODOE does have the ability to levy violations, which could include fines.
26.	CRK	0050	Comment: Are there any related provisions to include for rail carriers?	Generally not. As owner and operator of the lines, the railroads have exact control on when/if the rail line is used.
27.	CRK	general	Comment: Columbia Riverkeeper is appreciative of the state of Oregon providing services and training to emergency responders in the case of an accident involving radioactive materials. We also support increases to this fee to ensure that services and training may continue and increase as necessary to meet the demands of increased shipments of radioactive material through the state. As a general comment, we also support a portion of these funds and/or services and training be provided to Tribal emergency responders as well.	Training is currently available to any government or response unit which could be called to respond to a transportation event. ODOE regularly works with CTUIR first responders and will increase training awareness and coordination with Tribal nations in the future.
28.	CRK	general	Comment: While generally supportive of this rule, Columbia Riverkeeper would like to mention recent studies which point to the disparate harm from ionizing radiation released into the environment to underscore that rules must ensure a higher level of protection. We encourage Oregon to consider this harm and urge the state to not exclude wealthy railroad companies from the rules when they are potentially moving material through communities that could cause great harm.	Comment noted.
29.	CRK	general	Comment: It's essential that the funds gathered through this current rule update provide for accurate services and training to address radioactive transport emergencies and keep people and the environment as safe as possible. (studies provided).	Thank you for the comment. We intend to continue using the collected fees for safety training for first responders.