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# OREGON

# STATE INFORMATION HANDBOOK

## FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

December 31, 1980

PREPARED FOR

U.S. DEPARTMENT OF ENERGY

OAK RIDGE OPERATIONS OFFICE

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BY

POLITECH CORPORATION
2550 M Street, N.W.
Suite 300
WASHINGTON, D. C. 20037

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# INTRODUCTION

Pursuant to the First War Powers Act of 1941 and the Atomic Energy Acts of 1946 and 1954, as amended, the Corps of Engineers' Manhattan Engineer District (MED) and its successor, the Atomic Energy Commission (AEC), conducted during the 1940's and 1950's a program involving research, development, processing, and production of uranium and thorium. This program also included the storage of radioactive ores and processing residues, e.g. mill tailings. Virtually all of this work was performed by private contractors for the Government on land that was either federally, privately, or institutionally owned. Due to the urgency and magnitude of the early nuclear materials programs and the limited knowledge available regarding the radioactive characteristics of uranium ore and residual material from its processing, many of these sites became contaminated with radioactivity as a result of work done for the Government. At the conclusion of MED/AEC activities, contaminated sites were decontaminated in accordance with existing guidelines for contamination and exposure levels. Since that time, the guidelines for radioactivity contamination have become much more stringent.

In early 1974, the AEC initiated a survey program to identify all formerly utilized sites involved with nuclear materials and to determine their radiological status. All divisions and field offices of the AEC were required to search their files to identify any such former Government-owned or leased sites and facilities that had been used in the research or production activities of the MED and the AEC. In addition, the files were searched for records identifying the radiological conditions at the termination of the MED/AEC activities and the current radiological condition of the sites. This effort identified many sites for which pertinent information was lacking or was insuffient to determine their radiological conditions.

On January 19, 1975, the AEC was abolished and its programmatic responsibilities transferred to the Energy Research and Development Administration (ERDA) which continued the activities of the survey program. Contacts were made with former and current owners and site visits were conducted under the direction of ERDA field offices to determine the need for radiological surveys. Subsequent survey results were published in radiological survey reports that analyzed the significance of the findings with respect to the potential risks to the public health.

Pursuant to the Department of Energy Organization Act of 1977, the functions and authority of ERDA were transferred to the Department Of Energy (DOE). In the DOE, the Assistant Secretary

for the Environment (ASEV) was assigned the responsibility for the site-survey program. The results of several site surveys clearly indicated that some remedial action would be needed, not only on the former sites, but also on adjacent or remote properties that had become contaminated from the original processing site. Due to the importance of this effort, the ASEV initiated the Formerly Utilized Sites Remedial Action Program (FUSRAP) and drafted a generic plan to identify all formerly utilized sites and to resolve any site radiological problems. The objectives of the FUSRAP are to:

- o Identify former MED/AEC sites;
- o Characterize their radiological conditions;
- o Decontaminate sites as required and pursuant to authorization and appropriation by Congress;
- o Develop acceptable disposal and stabilization sites in consultation with the affected states;
- o Certify the acceptability of the sites for future use.

Using the generic plan as a guide, in mid-1979 responsibility for the FUSRAP activities was divided between the ASEV and the Assistant Secretary for Energy Technology (now Assistant Secretary for Nuclear Energy [ASNE]). The ASEV is responsible for identifying the sites, characterizing the radiological conditions, determining the need for remedial action at the sites, and ultimately for certifying the post-remedial action radiological condition of the FUSRAP sites. The ASNE is responsible for implementing the required remedial actions, including suitable disposal or stabilization of residual material. The Oak Ridge Operations Office has been delegated with the responsibility for field implementation and program management of the ASNE FUSRAP responsibilities. The Environmental Protection Agency (EPA) is responsible for the promulgation of health and environmental standards which will apply to all residual radioactive materials at the formerly utilized sites. As of this time, 31 sites in 13 states have been identified that require or may require some form of remedial action.

This volume is one of a series produced under contract with the DOE, by POLITECH CORPORATION to develop a legislative and regulatory data base to assist the FUSRAP management in addressing the institutional and socioeconomic issues involved in carrying out the Formerly Utilized Sites Remedial Action Program. This Information Handbook series contains information about all relevant government agencies at the Federal and state levels, the pertinent programs they administer, each affected state legislature, and

current Federal and state legislative and regulatory initiatives. This volume is a compilation of information about the State of Oregon. It contains:

- o A description of the state executive branch structure;
- o A summary of relevant state statutes and regulations;
- o A description of the structure of the state legislature, identification of the officers and committee chairmen, and a summary of recent relevant legislative action;
- o The full text of relevant statutes and regulations.

The loose-leaf format used in these volumes will allow the material to be updated periodicially as the Remedial Action Program progresses.

SECTION 1

## EXECUTIVE BRANCH

The various departments and agencies within Oregon's executive branch have been grouped by program similarity into eight catagories: economic development and consumer services, education, environment and natural resources, human resources, public safety, transportation, administrative and support services, and other programs. The majority of the state agencies within these program areas are headed by policy-making boards or commissions which are appointed by the Governor. Also in existence are many committees, commissions, councils and boards, which are comprised of citizens and which serve in an advisory capacity.

The following is a description of those executive agencies and departments that may be relevant to the Formerly Utilized Sites Remedial Action Program. Oregon is an NRC Agreement State and most authority within the executive branch governing the installation, usage, handling, transportation and storage of sources of radiation has been concentrated within the Department of Energy and the Energy Facility Siting Council. Other executive departments and agencies which may be pertinent to the Formerly Utilized Sites Remedial Action Program have also been included in this section. The structure of the executive branch is depicted in figure 1-1. Figure 1-2 illustrates the structure of Oregon's natural resource programs.

### Office of the Governor

The Governor is the chief executive and administrative officer of the state. Presently, the Governor of Oregon is Victor G. Atiyeh, a Republican from Portland. Prior to becoming Governor, he served as a State Representative for Washington County from 1959 through 1964 and as a State Senator for Washington County from 1965 through 1978. While serving in the Senate, Governor Atiyeh was Senate Republican Leader for three legislative sessions. In addition to holding public office, Governor Atiyeh has held numerous honorary positions, among them: delegate to the Republican National Convention in 1968, 1972 and 1976, member of the Republican Platform Committee, past President of the Boy Scouts Columbia-Pacific Council, and past member of the National Explorer Board.

The Governor is elected to a four-year term and is limited to serving eight years in any twelve-year period. Among the numerous duties of the Governor are to develop and recommend a budget to the State Legislature, to coordinate the activities of the various state agencies, to initiate planning for future state activities, to serve as a focal point for the coordination of federal and local governments, and to act as Commander-in-Chief of the state's military forces. The Governor is empowered to call special sessions of the Legislature, to veto single appropriation items on legislative bills, and to appoint numerous agency heads, boards, commissions and other officials.

Among the Governor's staff are assistants for communications, executive appointments, internal administration and affirmative action. The Governor is advised on executive agency business by three assistants, each of whom is responsible for one of the following: economic-oriented business, natural resource-oriented business, and human resource-oriented business.

The Govenor's address and his principal staff members are:

Governor Victor G. Atiyeh
254 State Capital
Salem, Oregon 97310
(503) 378-3310

Executive Assistant - Lee Johnson (378-3101)
Administrative Assistant for
Communications - Denny Miles (378-3121)
Special Assistant to the Governor - Shirley Woodrow (378-3123)
Executive Secretary to the Governor - Glenna Hayden (378-3111)
Federal Liaison and Assistant to the Governor for energy, natural resources, and environmental quality - Pat Amedeo (378-3109)
State and Local Government Liaison and Assistant to the Governor for transportation and economic development - Jim Russell (378-5690)
Legal Assistant and Assistant to the Governor for health and education - Bob Oliver (378-3138)

DEPARTMENT OF ENERGY

The Department of Energy was created in 1975 by the Oregon Legislative Assembly. It is divided into four sections, Administration, Energy Conservation and Alternative Resource Development, Energy Planning, and Siting and Regulation. The Department currently operates under ORS 469.010 and ORS 469.120. Among the duties of the Department of Energy are:

- To function as a state repository for the compilation of data on energy resources;
- To inform and educate the public about energy problems and ways in which the public can conserve energy resources;
- To collect, compile and analyze energy statistics, data and information;
- To perform research or to contract with other public or private agencies to perform research or other services related to energy resources; and
- To provide annually to the Governor and the Legislative Assembly a comprehensive report, including a summary on the energy forecasts of both private utilities and the department itself;

- To administer federal and state energy conservation, allocation, research and development programs;

- To serve as a clearinghouse for energy research where all agencies may send information on energy related research;

- To maintain an inventory of all energy related research projects conducted in Oregon and the results thereof;

- To issue an annual forecast on the energy situation as it affects Oregon;

- To provide staff support for the Energy Facility Siting Council and the Energy Policy Review Committee.

The Director of the Department of Energy is responsible for supervising and facilitating work on siting applications as directed by the Energy Facility Siting Council. At present, the Director is Mr. Lynn Frank, 111 Labor and Industries Building, Salem, Oregon 97310 (503-378-4128).

Energy Facility Siting Council

The Energy Facility Siting Council was established by the Oregon Legislative Assembly in 1975 and operates under ORS 469.300, ORS 469.570 and ORS 469.992. The Council consists of seven members appointed by the Governor to four-year terms. The Energy Facility Siting Council works in cooperation with federal authorities to establish a comprehensive system for siting, monitoring and regulating the location, construction and operation of all electric power generating plants, nuclear installations, pipelines, transmission lines and solar collecting facilities. The council meets as often as it requires, at a time and place designated by the Council. Among the duties of the Energy Facility Siting Council are:

- To conduct and prepare studies, investigations, research and programs relating to all aspects of site selection;

- To establish standards and promulgate rules that applicants for site certificates must meet;

- To conduct public hearings on the proposed location of all sites; and

- To encourage voluntary cooperation by the people, municipalities, counties, industries and agriculture in establishing standards for site selection.

The Council may be contacted at 111 Labor and Industries Building, Salem, Oregon 97310 (503-378-6469). At present, there is one

vacancy on the Council. The members of the Energy Facility Siting Council are:

| | |
|---|---|
| Chairman | Bro. Raphael Wilson, C.S.C. |
| Members | Allen R. Nistad<br>Alfred Hampson<br>Marian Frank<br>Harvey H. Risewick, Jr.<br>P.W. Schneider |

DEPARTMENT OF HUMAN RESOURCES

The Department of Human Resources was created in 1971. Its primary purpose is to coordinate the activities of the state's principal social service agencies. The Department has been broken down into seven divisions: Adult and Family Services, Children's Services, Mental Health, Corrections, Employment, Vocational Rehabilitation, and Health. At present, the Director of the Department of Human Resources is Leo T. Hegstrom, 318 Public Service Building, Salem, Oregon 97310 (503-378-3033). Figure 1-3 illustrates the structure of the Department of Human Resources.

Division of Health

Within the Department of Human Resources is the Division of Health, which was formerly the State Board of Health. The Division was created in 1971 and is authorized under ORS 184.830. The Division is responsible for the administration of health and health-related affairs as provided by law. It also provides supportive services for county and regional health departments. There are six subdivisions of the Division of Health: the Office of Disease Monitoring and Control, the Office of Community Health Services, the Office of Protective Health Services, the Office of Administrative Services, the Office of the Medical Examiner, and the Office of Health Facilities Services. The Office of Disease Monitoring and Control is the agency within the Health Division which licenses and regulates radiation-producing equipment and materials, and monitors environmental radiation levels. The Radiation Control Section of the Office has jurisdiction over most radiation sources used in scientific, medical, commercial and industrial endeavors. The Manager of the Radiation Control Section is Marshall W. Parrott (503-229-5797). The Administrator of the Division of Health is Kristine Gebbie, 1400 S.W. Fifth Avenue, Portland, Oregon 97201 (503-229-5032).

Radiation Advisory Committee

The Radiation Advisory Committee consists of eight members appointed by the Assistant Director of the Division of Health. The Committee advises the Division of Health on matters relating to radiological health and radiation protection. It also

reviews regulations and standards for the safe use, handling, disposal and control of all radiation sources within the state. The Committee may be contacted at P.O. Box 231, Portland, Oregon 97207 (503-229-5797). The members of the Radiation Advisory Committee are:

Charles T. Freeling
Arthur Johnson
Donald Kimeldorf, Ph.D.
J. Wayne Loomis, M.D.
Fred Sorenson, D.M.D.
Donald A. Turcke, M.D.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Created in 1969, the Department of Environmental Quality operates under ORS 468. The Department, which consists of approximately three-hundred scientists, engineers, technicians, administrators, clerks and environmental specialists, attempts to encourage voluntary cooperation by all persons and agencies in minimizing pollution of Oregon's air, water, and land resources. Among the duties of the Department of Environmental Quality are:

- To develop comprehensive plans and programs for pollution control and solid waste disposal;
- To establish standards for quality and purity of air and water, maximum noise emission, minimum treatment and control of wastes, and operation of waste disposal facilities for liquid, gaseous and solid wastes;
- To enforce pollution-related statutes; and
- To examine and approve plans and issue permits for the discharge of wastewater and air contaminants, solid waste disposal sites and subsurface sewage disposal facilities.

The Director of the Department of Environmental Quality is William Young, 522 S.W. Fifth Avenue, Portland, Oregon 97207 (503-229-5696).

Environmental Quality Commission

The Environmental Quality Commission consists of five members appointed by the Governor. It is responsible for overseeing the operation of and providing policy direction to the Department of Environmental Quality. The Commission also appoints the Director of the Department of Environmental Quality. The Commission is located at 522 S.W. Fifth Avenue, P.O. Box 1760, Portland, Oregon 97207 (503-229-5696).

The five members of the Environmental Quality Commission are:

| | |
|---|---|
| Chairman | Joe B. Richards |
| Members | Ronald Somers<br>Albert Densmor<br>Fred J. Burgess<br>Mary J. Bishop |

Public Utility Commission

The Public Utility Commission is divided into three program areas: the Utility Program, the Motor Carrier Program, and the Rail/Air Program. The Public Utility Commissioner regulates all privately owned natural gas, electric, water and telephone utilities in Oregon. He also regulates both freight and passenger carriers within the state. All transporters of hazardous waste must obtain a hazardous waste identification number from the Commissioner. The Public Utility Commissioner is Charles Davis, Labor and Industries Building, Salem, Oregon 97310 (503-378-6611).

Land Conservation and Development Commission

Created in 1973, the Land Conservation and Development Commission consists of seven unsalaried members appointed by the Governor with the consent of the Senate. The Commission is responsible for coordinating comprehensive planning throughout the state, providing for orderly growth and development, promoting wise management and use of Oregon's resources, developing standards for comprehensive planning, and coordinating state and federal agencies to ensure that planning is implemented through city and county comprehensive plans. The Commission is located at 1175 N.E. Court Street, Salem, Oregon 97310 (503-378-4926). The members of the Land Conservation and Development Commission are:

| | |
|---|---|
| Chairman | Lorin Jacobs |
| Vice Chairman | Ann Squire |
| Members | John Brown<br>Shirely Ekker<br>John R. Foust, Jr.<br>Randy Smith<br>Jon Dowers |

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

The Department of Land Conservation and Development serves as the administrative arm of the Land Conservation and Development Commission. The Director, who is hired by the Commission, is.

responsible for the administration of the Department and the implementation of the Commission's policies and the Governor's directives. Currently, the Director of the Department of Land Conservation and Development is W.J. Kvarsten, 1175 N.E. Court Street, Salem, Oregon 97301 (503-378-4926).

State Land Board

The State Land Board is a constitutionally-created board which serves as a policy-making and review body for the Division of State Lands. The Board also appoints the Director of the Division. The Governor serves as the Chairman of the State Land Board. The State Land Board may be contacted at 1445 State Street, Salem, Oregon 97310 (503-378-3805).

Division of State Lands

The Division of State Lands was created in 1967. Its duties include the management of all assets of Oregon's Common School Trust Fund, the leasing of state-owned land for exploration and production of oil, gas, hard minerals, and geothermal energy, and the maintenance of a mineral registry of state-owned lands. The Director of the Division of State Lands is William S. Cox, 1145 State Street, Salem, Oregon 97310 (503-378-3805).

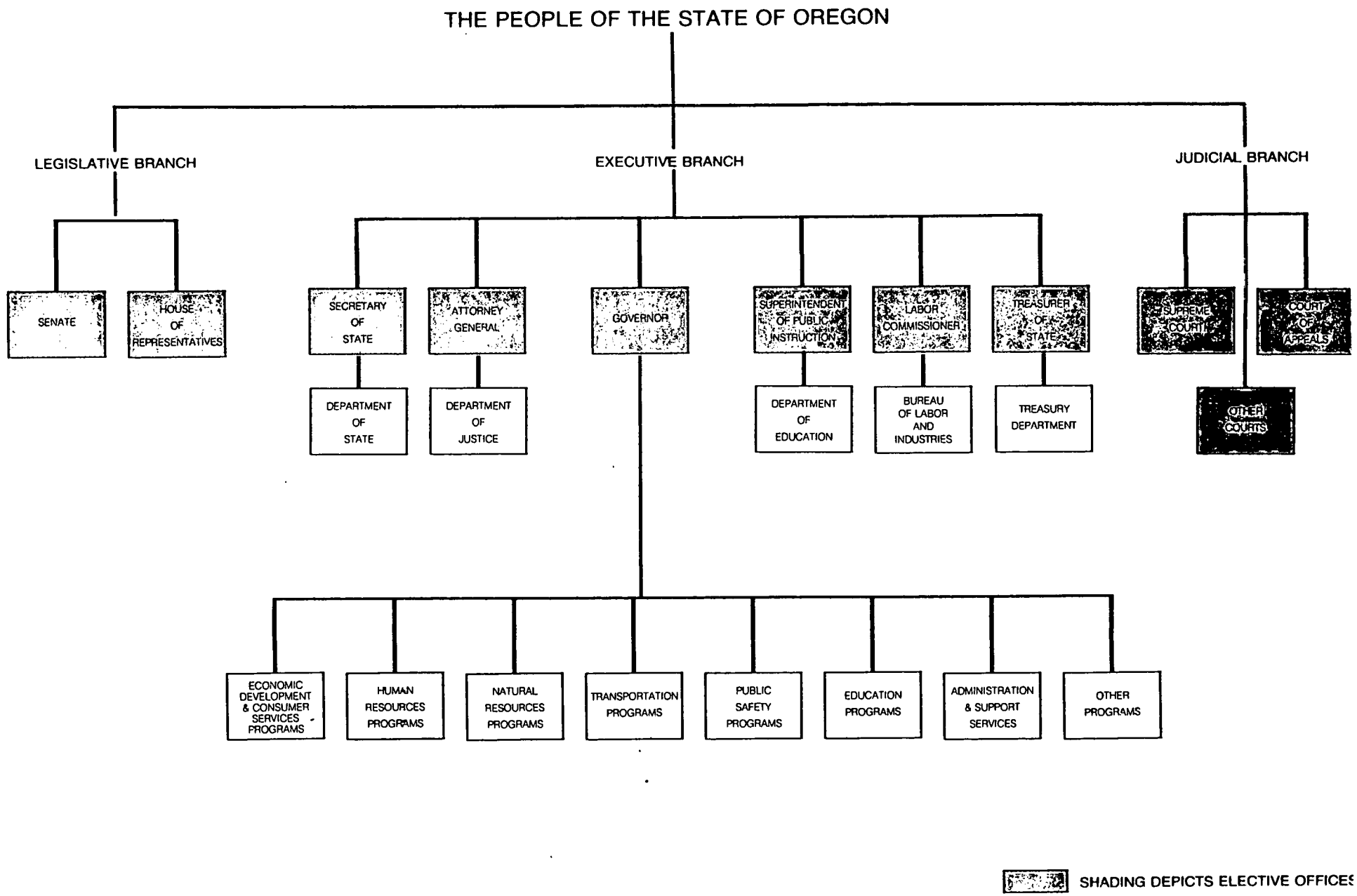


Figure 1-1*

*This figure was taken from "Organization of Oregon State Government", prepared by the Oregon Executive Department

# NATURAL RESOURCES PROGRAMS

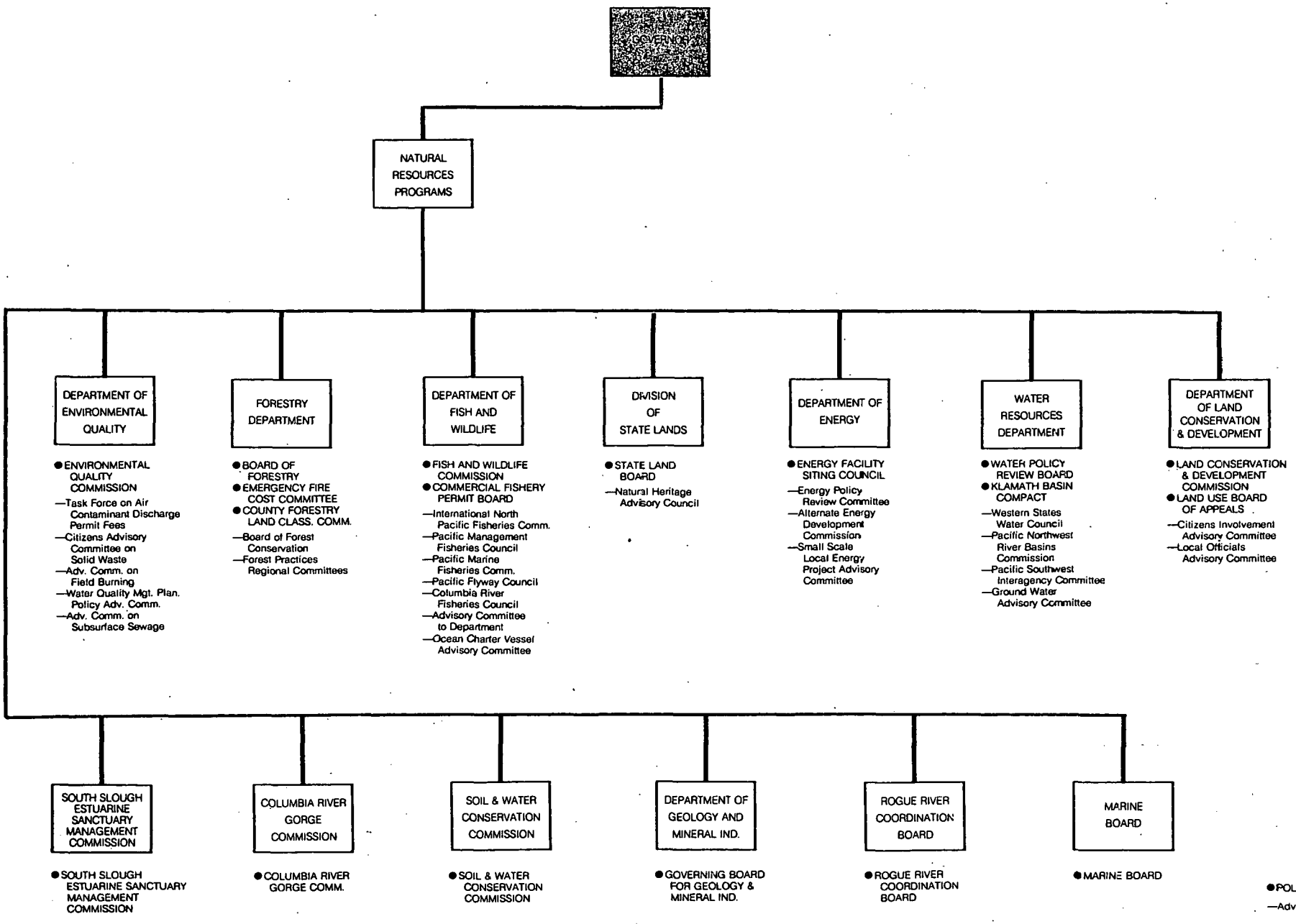


Figure 1-2*
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*This figure was taken from "Organization of Oregon State Government", prepared by the Oregon Executive Department

# HUMAN RESOURCES PROGRAMS

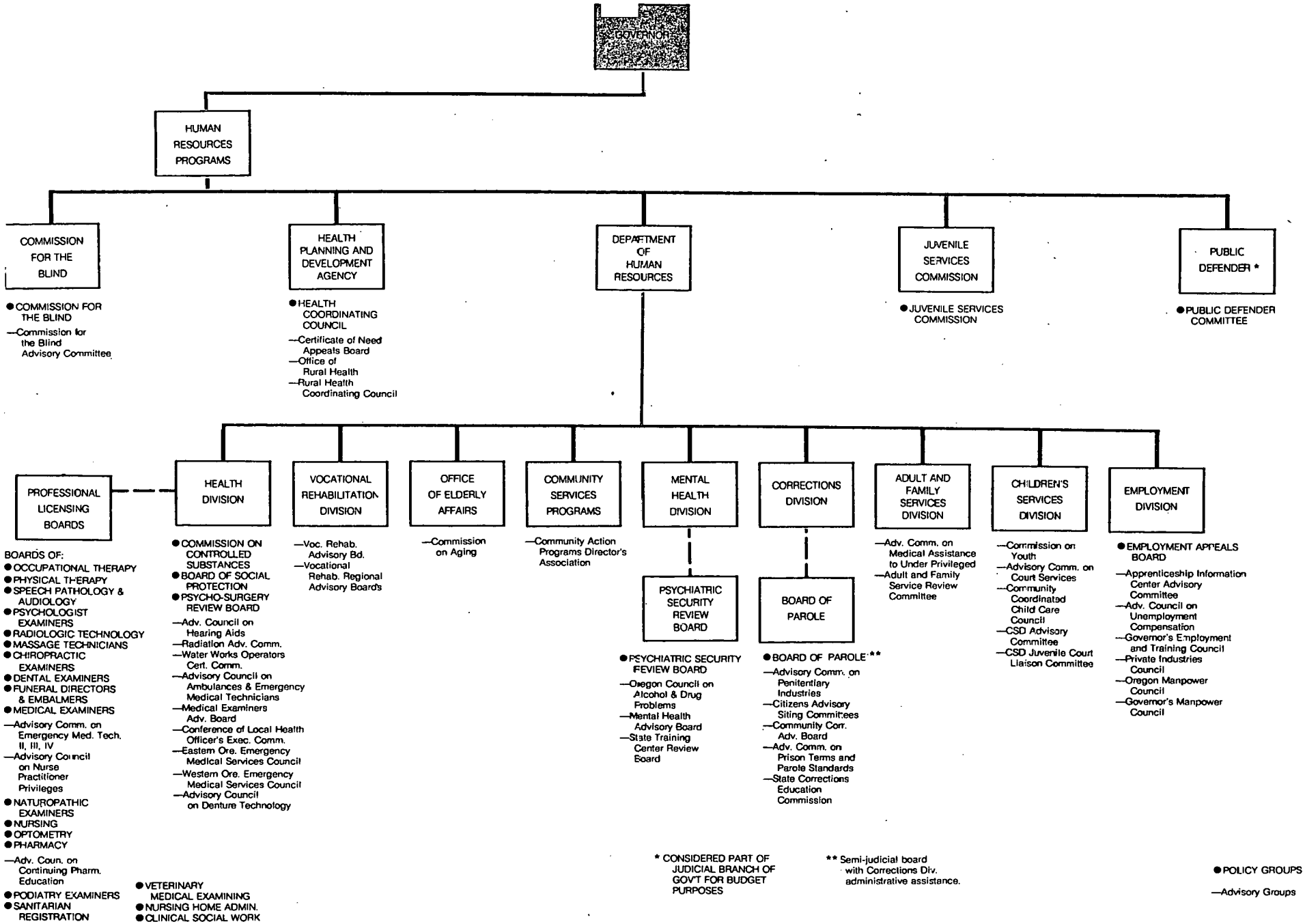



Figure 1-3* (12/31/80)
1-10

*This figure was taken from "Organization of Oregon State Government", prepared by the Oregon Executive Department

SECTION 2

## RELEVANT STATUTES AND REGULATIONS

The purpose of this section is to summarize Oregon statutes and regulations which may be relevant to the Formerly Utilized Sites Remedial Action Program. The full text of all statutes and regulations cited in this section is included in the Appendix to this handbook.

### (Chapter 469) Oregon Revised Statutes

Chapter 469 of the Oregon Revised Statutes outlines the procedure for the siting of radioactive waste disposal facilities. It states that the Energy Facility Siting Council may not issue a site certificate "for a waste disposal facility for uranium mill tailings, mill wastes and mill by-product material or for radioactive waste or radioactively contaminated containers or receptacles used in the transportation, storage, use or application of radioactive material, unless, accompanying its decision," the Council determines that:

- The proposed site is suitable for the type and amount of waste for which it is intended;
- The protection of Oregon's environment and the health, safety and welfare of the people of Oregon necessitate the disposal of such waste;
- No other economically feasible alternative for the disposal of such waste exists;
- The disposal of waste at the site will be compatible with the regulatory programs of the Federal Government; and
- The disposal of such waste will be coordinated with the regulatory programs of adjacent states for the disposal of such waste. (Section 469.375)

Chapter 469 also states that any person may appear personally or by counsel to present testimony on applications for site certification. Furthermore, any person authorized to intervene in the hearing on a site certificate may appeal the Council's approval or denial of a site certificate in the manner outlined in Section 469.400. (Section 469.380)

### (Chapter 459) Oregon Revised Statutes

Chapter 459 of the Oregon Revised Statutes states that no person may store hazardous waste within the state of Oregon except at a licensed waste treatment, collection or disposal site. Furthermore, no one may operate a hazardous waste treatment, collection or disposal site without first obtaining a license. (Section 459.505)

## (Chapter 453) Oregon Revised Statutes

Chapter 453 of the Oregon Revised Statutes established the Health Division of the Department of Human Resources as the state radiation control authority. The duties of the Health Division, as outlined in Chapter 453, are:

- To develop programs for the evaluation of the hazards associated with the use of radiation sources, and
- To protect occupational and public health and safety against radiation hazards. (Section 453.635)

Chapter 453 also established the Radiation Advisory Committee. The Committee consists of eight persons, appointed by the Assistant director of the Division of Health, who are qualified to advise the Health Division on matters relating to radiological health and radiation protection. (Section 453.645)

It states that no person may receive, aquire, own, possess, use, manufacture, produce or transfer any radiation source without a license or registration or both. (Section 463.655)

According to Chapter 453, when it appears that a radiation source is presenting an imminent and substantial endangerment to the health or safety of persons, the Assistant Director of Health may issue an order requiring the person or persons responsible for the radiation source to take immediate action to eliminate any endangerment. If any person fails to comply with such an order, the circuit court in which the radiation source is located may compel compliance with the order as if it were an order of the court. (Section 453.750)

## Energy Facility Siting Council

Operating under the authority of ORS 469.300 through 469.570 and ORS 469.992, the Energy Facility Siting Council has promulgated rules pertaining to the disposal and transportation of radioactive waste material. Those rules are contained in Chapter 345 of the Oregon Administrative Rules. This section summarizes Chapter 345, Division 50, "Radioactive Waste Materials."

### (Section 345-50-006) Disposal Prohibited

No radioactive material may be stored or disposed of for a period of more than seven days at any site except that at which the material was used or generated or at a thermal power plant, providing that the material was generated by that plant.

(Section 345-50-020) Exempt Quantities

Any radioactive material which contains radioactive substances which do not exceed the quantities established in Table 2 of Division 50 is exempt from the provisions of Section 345-50-006.

(Section 345-50-025) Exempt Concentrations

Radioactive material which does not exceed the concentrations specified in Table 1 of Division 50 is exempt from the provisions of Section 345-50-006.

(Section 345-50-030) Specific Exemptions

The following materials are exempt from the provisions of Section 345-50-006:

- Radioactive material incorporated into consumer products;
- Radium-bearing material containing less than five picocuries of radium-226 per gram of solid;
- Radium-bearing material containing total radium-226 activity of less than ten microcuries; and
- Thorium-bearing material containing a total radium-228 activity of less than 100 microcuries, providing that radium-228 is present with the parent thorium-232.

(Section 345-50-035) Pathway Exemption

Naturally occurring radioactive material is exempt from the provisions of Section 345-50-006. However, it must be shown that the accumulation per year will not result in an exposure exceeding 500 millirems of external gamma radiation per year, nor will it result in the release of effluents into the air and water at an annual rate which results in concentrations exceeding those listed in Table 3 of Division 50.

Public Utility Commissioner

The Public Utility Commissioner adopted rules in August, 1979 pertaining to the transportation of hazardous waste materials. Those rules are contained in Chapter 860 of the Oregon Administrative Rules.

(Section 860-36-061) Transporter Identification

Hazardous waste identification numbers must be issued by the Public Utilities Commissioner to transporters of hazardous waste materials. That identification number must be displayed on the manifest, hazardous materials incident report, transport vehicle, and all correspondence with the Public Utilities Commissioner relating to the transportation of such waste.

(Section 860-36-062) Identification and Placarding

Any vehicle which transports an excess of 2,000 pounds of hazardous waste must have painted on its side, or displayed by attached decals, placards or signs, the name and business address of the transporter. Such decals, placards and signs must contain letters and figures which are in sharp contrast with the background. They must also be legible from fifty feet away. All vehicles transporting hazardous waste identified in 49 CFR 172.101 must be placarded in accordance with 49 CFR 172.500 through 49 CFR 172.558.

(Section 860-36-063) Waste Management

Transporters of hazardous waste material:

- Must not accept hazardous waste packaged in containers unless the containers are labeled with the generator's name and identification number;
- Must not accept containers which are, or appear to be, damaged;
- Must replace any lost or illegible marks, labels or generator information immediately;
- Must familiarize himself with the hazards associated with the material being transported and the procedures to be followed in the event of an emergency;
- Must tightly cover any material which might emit gases or dust; and
- Must reasonably secure all hazardous waste containers against movement.

# SECTION 3

# LEGISLATURE

The Legislative Assembly of Oregon consists of a Senate, which has thirty members, and a House of Representatives, which has sixty members. Each citizen is represented by one Senator and one Representative. Representatives serve in the Legislative Assembly for two-year terms. Senators are elected to four-year terms, with half the Senate elected every two years. The Legislative Assembly convenes on the second Monday in January of odd-numbered years. The next session will convene on January 12, 1981. Session length is not governed by law, but the traditional length is six months. Senators receive an annual salary of $11,000, Representatives an annual salary of $9,000.

The Legislative Assembly has many duties. It enacts laws, provides an arena for discussion, confirms gubernatorial appointments to certain offices, reviews the administrative rules of the executive agencies, reviews and revises the Governor's proposed budget, and enacts tax legislation to provide revenue for the operation of the state.

Figure 3-1 illustrates how a bill becomes a law in the state of Oregon. Table 3-1 provides a listing of the various Oregon legislative information services.

## Legislative Emergency Board

The Legislative Emergency Board is a fifteen-member committee which operates during the interim between legislative sessions. The Board, where an emergency exists, may allocate to any state agency, out of funds appropriated to the Board, additional money beyond what was appropriated by the Legislative Assembly. The Board can authorize an agency to expend dedicated funds of amounts in excess of the amount budgeted for the agency. The Legislative Emergency Board consists of:

- The President of the Senate;
- The Speaker of the House of Representatives;
- The Senate Co-Chairman of the Joint Ways and Means Committee;
- The House Co-Chairman of the Joint Ways and Means Committee;
- Five additional Senators; and
- Five additional Representatives.

## SENATE

### Membership

The membership of the Oregon Senate consists of twenty-three Democrats and seven Republicans. A roster of Senate members for the 60th Legislative Session is contained on pages 3-7 and 3-8.

### Leadership

The presiding officer in the Senate is the President, who is elected by the members of the Senate. The President presides over the daily sessions of the Senate, coordinates the Senate's administrative operations, appoints members and chairmen of the various committees, and refers legislation to the appropriate committee. In the absence of the President, the President Pro Tem presides over the Senate. The two Senators who share the office of Assistant Majority Leader also share the office of Majority Whip. Presently, the officers of the Senate are:

President: Jason D. Boe (D-Reedsport)
President Pro Tem: Dick Groener (D-Milwaukie)
Majority Leader: Fred W. Heard (D-Klamath Falls)
Assistant Majority Leader: Edward N. Fadeley (D-Eugene)
John Powell (D-Halsey)
Majority Whip: Edward N. Fadeley (D-Eugene)
John Powell (D-Halsey)
Minority Leader: Robert F. Smith (R-Burns)

### Committee Structure

There are sixteen Senate Standing Committees in the Legislative Assembly. Most consideration and revision of bills is done by the committees. Committees may also amend or kill bills. Committee chairmen and members are assigned by the President of the Senate. The Oregon Constitution and state law require that committee meetings be open to the public and that prior notice be given of all committee meetings. A list of those Senate Standing Committees which may be relevant to the Formerly Utilized Sites Remedial Action Program and their members is contained on pages 3-9 and 3-10.

### Senator from Albany

Albany, where the Albany Metallurgical Research Center is located, is in Senatorial District 19. The Senator from that district is John Powell. Senator Powell is Assistant Majority Leader and Majority Whip of the Senate. He is Chairman of the Revenue and School Finance Committee and serves on the following committees: Agriculture and Natural Resources, Environment and Energy, and State and Federal Affairs/Rules. Senator Powell may be contacted at P.O. Box 286, Halsey, Oregon 97348 (503-369-2552).

## HOUSE OF REPRESENTATIVES

### Membership

The Oregon House of Representatives is comprised of sixty members, thirty-three Democrats and twenty-six Republicans. At present, there is one vacancy in the House. A roster of House members for the 60th Legislative Session is contained on pages 3-11 through 3-13.

### Leadership

The presiding officer in the House of Representatives is the Speaker, who is elected by the members of the House. The Speaker presides over the daily sessions of the House, administers its daily operations, appoints committee members and chairmen, and assigns legislation to the appropriate committee. In the absence of the Speaker, the Speaker Pro Tem presides over the House. The officers of the House of Representatives are:

Speaker: Hardy Myers (D-Portland)
Speaker Pro Tem: Curt Wolfer (D-Silverton)
Majority Leader: Grattan Kerans (D-Eugene)
Assistant Majority Leader: Clayton Kline (D-Medford)
Minority Leader: Paul Hanneman (R-Cloverdale)

### Committee Structure

There are eighteen House Standing Committees in the Legislative Assembly. Most consideration and revision of bills is done by the committees. Committees may also amend or kill bills. Committee members and chairmen are assigned by the Speaker of the House. The Oregon Constitution and state law require that committee meetings be open to the public and that prior notice be given of all committee meetings. All interested persons may testify at committee meetings. A list of those House Standing Committees which may be relevant to the Formerly Utilized Sites Remedial Action Program is included on pages 3-14 and 3-15.

### Representative from Albany

Albany, where the Albany Metallurgical Research Center is located, is in Representative District 36. The Representative from that District is Mae Yih. Representative Yih, a Democrat, is Chairman of the House Committee on Education and serves on the Human Resources Committee. Representative Yih may be contacted at Route 2, Box 274-L, Albany, Oregon 97321 (503-327-2666).

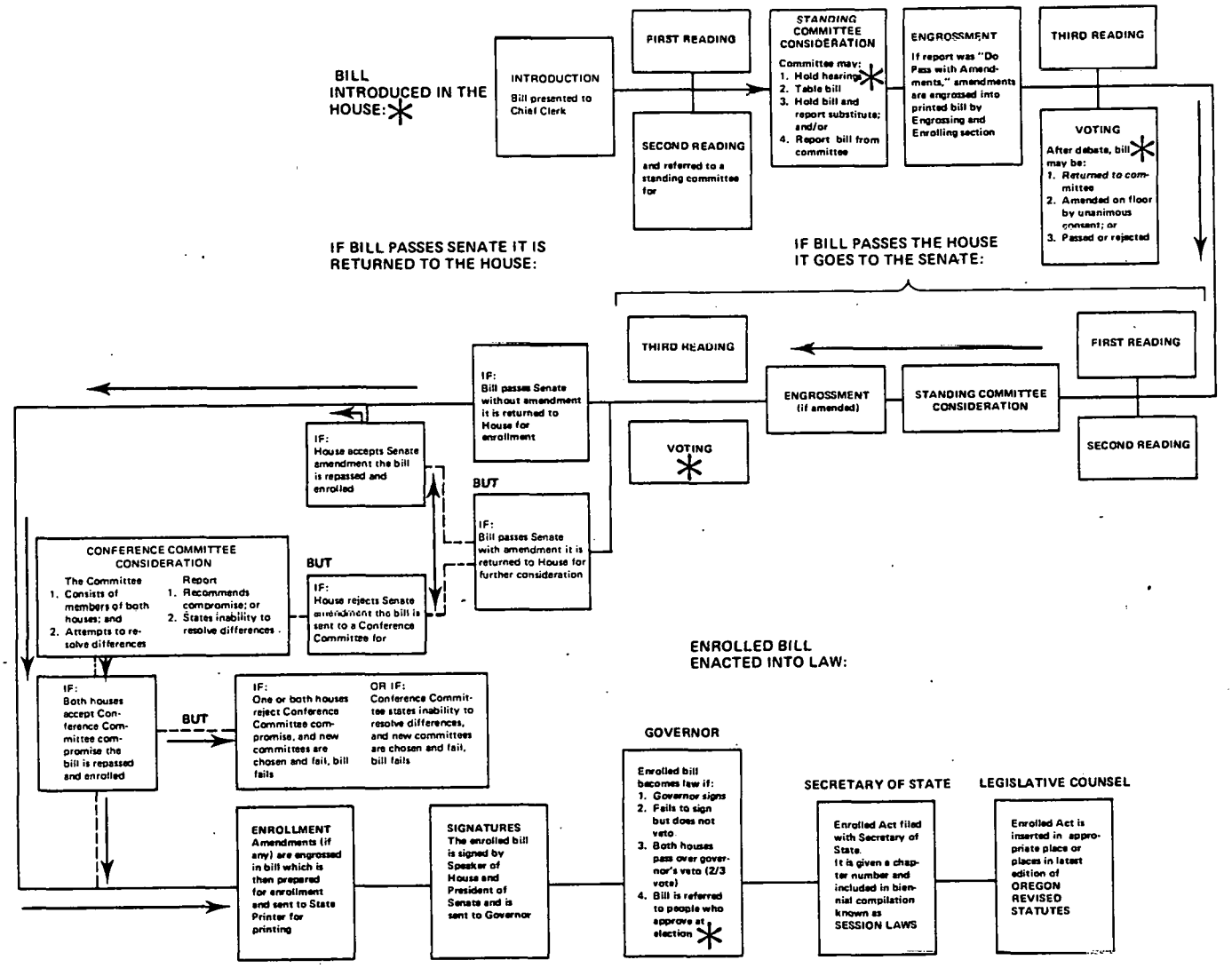
## PENDING LEGISLATION

The 61st Legislative Assembly will convene on January 12, 1981. Bills are currently being prefiled and may be filed through the twenty-ninth day of the session. However, pending legislation will not be available for public inspection until it has been introduced before the Legislative Assembly.

TABLE 3-1
LEGISLATIVE INFORMATION SERVICES

| Type of Information | Source | Phone Number |
|---|---|---|
| General Information | Central Exchange | (503)378-3131 |
| Information pertaining to the previous years legislative activity and laws | Legislative Information | 452-0290 |
| Information on pending legislation | Legislative Information | 452-0290 |
| Information on bills pending before the Governor | Governor's Office | 378-3100 |
| To obtain copies of bills | Distribution Center | 378-8891 |
| To obtain copies of laws | Distribution Center | 378-8891 |

FIGURE 3-1
HOW A BILL BECOMES A LAW**




* Indicates points at which citizens can become directly involved or exert influence on decision making through letters to legislators

**This figure was taken from "Government in Oregon" by the Oregon Department of Education

ROSTER OF SENATORS
60th LEGISLATURE

This roster provides the Senator's names, political affiliation, hometown, and business or home phone number (area code 503).

| Name | Political Affiliation and Hometown | |
|---|---|---|
| Boe, Jason D. | D, Reedsport | 271-2474 |
| Brown, Walter F. | D, Lake Oswego | 636-7160 |
| Bullock, Richard | D, Portland | 246-0072 |
| Burbidge, Keith A. | D, Salem | 393-7360 |
| Cook, Vern | D, Gresham | 665-8143 |
| Day, L.B. | R, Salem | 581-2127 |
| Fadeley, Edward | D, Eugene | 343-6908 |
| Gardner, James | D, Portland | 236-4540 |
| Groener, Richard | D, Milwaukie | 657-4475 |
| Hallock, Ted | D, Portland | 224-1711 |
| Hanlon, Charles | D, Cornelius | 647-2305 |
| Hannon, Lenn L. | R, Ashland | 482-5210 |
| Hartung, Tom | R, Portland | 645-2114 |
| Heard, Fred W. | D, Klamath Falls | 882-6157 |
| Isham, Dell | D, Lincoln City | 994-3446 |
| Jernstedt, Kenneth | R, Hood River | 386-1393 |
| Kafoury, Stephen | D, Portland | 281-1630 |
| Kulongoski, Theodore | D, Junction City | 998-3279 |
| McCoy, William | D, Portland | 286-8159 |
| Meeker, Anthony | R, Amity | 835-8481 |
| Potts, E.D. | D, Grants Pass | 476-7319 |
| Powell, John | D, Halsey | 369-2552 |

| | | |
|---|---|---|
| Ragsdale, Mike | R, Portland | 649-5001 |
| Ripper, Jack D. | D, North Bend | 759-3241 |
| Roberts, Frank | D, Portland | 252-1223 |
| Smith, Robert F. | R, Burns | 573-6772 |
| Thorne, Michael | D, Pendleton | 276-7473 |
| Trow, Clifford | D, Corvallis | 752-5395 |
| Wingard, George | R, Eugene | 344-4478 |
| Wyers, Jan | D, Portland | 246-8975 |

## RELEVANT SENATE COMMITTEES

### Agriculture and Natural Resources

| | |
|---|---|
| Charles J. Hanlon, Chairman | (D, Cornelius) |
| Tom Hartung, Vice Chairman | (R, Portland) |
| Walter F. Brown | (D, Lake Oswego) |
| Ted Kulongoski | (D, Junction City) |
| John Powell | (D, Halsey) |
| Michael Ragsdale | (R, Portland) |
| Michael Thorne | (D, Pendleton) |

### Environment and Energy

| | |
|---|---|
| Edward N. Fadeley, Chairman | (D, Eugene) |
| L.B. Day, Vice Chairman | (R, Salem) |
| Richard Groener | (D, Milwaukie) |
| Ted Hallock | (D, Portland) |
| Charles J. Hanlon | (D, Cornelius) |
| Kenneth Jernstedt | (R, Hood River) |
| Theodore Kulongski | (D, Junction City) |
| John Powell | (D, Halsey) |
| Jack D. Ripper | (D, North Bend) |

### Health and Welfare

| | |
|---|---|
| William McCoy, Chairman | (D, Portland) |
| James Gardner, Vice Chairman | (D, Portland) |
| Vernon Cook | (D, Gresham) |
| Tom Hartung | (R, Portland) |
| Fred W. Heard | (D, Klamath Falls) |
| Frank Roberts | (D, Portland) |
| Clifford W. Trow | (D, Corvallis) |

### Local Government

| | |
|---|---|
| Frank Roberts, Chairman | (D, Portland) |
| Michael Ragsdale, Vice Chairman | (R, Portland) |
| Richard Bullock | (D, Portland) |
| L.B. Day | (R, Salem) |
| Dell Isham | (D, Lincoln City) |
| William McCoy | (D, Portland) |
| Jack D. Ripper | (D, North Bend) |

### State and Federal Affairs/Rules

| | |
|---|---|
| E.D. Potts, Chairman | (D, Grants Pass) |
| Fred W. Heard, Vice Chairman | (D, Klamath Falls) |
| Keith A. Burbidge | (D, Salem) |
| Kenneth Jernstedt | (R, Hood River) |
| John Powell | (D, Halsey) |
| Robert F. Smith | (R, Burns) |

State and Federal Affairs/Rules (Cont.)

| | |
|---|---|
| Michael Thorne | (D, Pendleton) |
| Jan Wyers | (D, Portland) |

Transportation

| | |
|---|---|
| Dell Isham, Chairman | (D, Lincoln City) |
| Robert F. Smith, Vice Chairman | (R, Burns) |
| L.B. Day | (R, Salem) |
| Lenn L. Hannon | (D, Ashland) |
| Stephen Kafoury | (D, Portland) |

Ways and Means

| | |
|---|---|
| Jack D. Ripper, Chairman | (D, North Bend) |
| Keith A. Burbidge, Vice Chairman | (D, Salem) |
| Edward N. Fadeley | (D, Eugene) |
| Fred W. Heard | (D, Klamath Falls) |
| Anthony Meeker | (R, Amity) |
| E.D. Potts | (D, Grants Pass) |
| Michael Thorne | (D, Pendleton) |

ROSTER OF REPRESENTATIVES
60th LEGISLATURE

This roster provides the Representative's names, political affiliation, hometown, and business or home phone number (area code 503).

| Name | Political Affiliation and Hometown | |
|---|---|---|
| Achilles, Ted | R, West Linn | 363-0408 |
| Bauman, Rick | D, Portland | 775-2305 |
| Bellamy, Bill | R, Culver | 546-3322 |
| Brogoitti, Bob | R, La Grande | 963-2042 |
| Bugas, Ted | R, Astoria | 325-3556 |
| Burrows, Mary | R, Eugene | 343-6571 |
| Byers, Bud | D, Lebanon | 259-1382 |
| Campbell, Larry | R, Eugene | 484-2201 |
| Cease, Jane | D, Portland | 282-7931 |
| Cherry, Howard | D, Portland | 283-2429 |
| Chrest, Jim | D, Portland | 285-8220 |
| Cohen, Joyce | D, Lake Oswego | 636-2625 |
| Davis, Drew | D, Portland | 760-4172 |
| Duff, Jack | R, Adams | 276-2068 |
| Edwards, C.H. | R, Salem | 399-9800 |
| Fadeley, Nancie | D, Eugene | 343-6908 |
| Farmer, Annette | D, Portland | |
| Fawbush, Wayne | D, Hood River | 354-1706 |
| Ford, Mary Alice | R, Portland | 246-6360 |
| Frohnmayer, Dave | R, Eugene | 686-0434 |
| Gilmour, Jeff | D, Jefferson | 362-1196 |
| Grannell, Bill | D, North Bend | 759-3589 |
| Hanneman, Paul | R, Cloverdale | 965-6004 |

| | | |
|---|---|---|
| Johnson, Cecil | R, Grants Pass | 476-3964 |
| Johnson, Eldon | R, Medford | 772-2536 |
| Jones, Denny | R, Ontario | 889-8348 |
| Kafoury, Gretchen | D, Portland | 282-8288 |
| Katz, Vera | D, Portland | 228-1056 |
| Kennedy, Bob | R, Klamath Falls | |
| Kerans, Grattan | D, Eugene | 688-4108 |
| Kitzhaber, John | D, Roseburg | 672-1706 |
| Klein, Clayton | D, Medford | 664-3528 |
| Lindquist, Ed | D, Gladstone | 656-1213 |
| Lombard, Kip | R, Ashland | 482-9729 |
| Magruder, Caroline | D, Clatskanie | 728-2945 |
| Markham, Bill | R, Riddle | 874-2834 |
| Mason, Tom | D, Portland | 222-3710 |
| Monroe, Rod | D, Portland | 236-0401 |
| Myers, Hardy | D, Portland | 232-0991 |
| Otto, Glenn | D, Troutdale | 665-6291 |
| Pisha, Susan | D, Portland | 761-9191 |
| Priestley, Wally | D, Portland | 287-8205 |
| Riebel, Al | R, Salem | 399-1372 |
| Rijken, Max | D, Newport | 265-7373 |
| Rogers, Bill | R, Vida | 896-3749 |
| Rutherford, Bill | R, McMinnville | 472-9080 |
| Ryles, Nancy | R, Portland | 646-3061 |
| Schoon, John | R, Rickreall | 835-5301 |
| Simpson, Josephine | R, Portland | 636-4786 |
| Simpson, Max | D, Baker | 894-2236 |

| | | |
|---|---|---|
| Smith, Norm | R, Tigard | 244-7960 |
| Starr, George | D, Portland | 252-1514 |
| Stevenson, Ed | D, Coquille | 396-2008 |
| Throop, Tom | D, Bend | 382-8075 |
| Van Vliet, Tony | R, Corvallis | 752-0012 |
| Whallon, Glen | D, Milwaukie | 654-3320 |
| Wolfer, Curt | D, Silverton | 873-8487 |
| Yih, Mae | D, Albany | 327-2666 |
| Young, Al | D, Hillsboro | |
| Zajonc, Donna | R, Salem | 399-1740 |

## RELEVANT HOUSE COMMITTEES

### Agriculture and Natural Resources

| | |
|---|---|
| Bud Byers, Chairman | (D, Lebanon) |
| Cecil Johnson, Vice Chairman | (R, Grants Pass) |
| Ted Bugas | (R, Astoria) |
| Jack Duff | (R, Adams) |
| Denny Jones | (R, Ontario) |
| Grattan Kerans | (D, Eugene) |
| Caroline Magruder | (D, Clatskanie) |
| Hardy Myers | (D, Portland) |
| Ed Stevenson | (D, Coquille) |

### Environment and Energy

| | |
|---|---|
| Nancie Fadeley, Chairwomen | (D, Eugene) |
| Norm Smith, Vice Chairman | (R, Tigard) |
| Rick Bauman | (D, Portland) |
| Bill Bellamy | (R, Culver) |
| Wayne Fawbush | (D, Hood River) |
| John Schoon | (R, Rickreall) |
| Tom Throop | (D, Bend) |

### Human Resources

| | |
|---|---|
| Gretchen Kafoury, Chairwomen | (D, Portland) |
| Al Riebel, Vice Chairman | (R, Salem) |
| Mary Alice Ford | (R, Portland) |
| Eldon Johnson | (R, Medford) |
| John Kitzhaber | (D, Roseburg) |
| Susan Pisha | (D, Portland) |
| Mae Yih | (D, Albany) |

### Intergovernmental Affairs

| | |
|---|---|
| Glenn Otto, Chairman | (D, Troutdale) |
| Rick Bauman | (D, Portland) |
| Jane Cease | (D, Portland) |
| Nancie Fadeley | (D, Eugene) |
| Cecil Johnson | (R, Grants Pass) |
| Josephine Simpson | (R, Portland) |

### Transportation

| | |
|---|---|
| Glen Whallon, Chairman | (D, Milwaukie) |
| Denny Jones, Vice Chairman | (R, Ontario) |
| Bob Brogoitti | (R, La Grande) |
| Jane Cease | (D, Portland) |
| C.H. Edwards | (R, Salem) |
| Grattan Kerans | (D, Eugene) |
| Rod Monroe | (D, Portland) |

Ways and Means

| | |
|---|---|
| Jeff Gilmour, Chairman | (D, Jefferson) |
| Vera Katz, Vice Chairman | (D, Portland) |
| Howard Cherry | (D, Portland) |
| Paul Hanneman | (R, Cloverdale) |
| Ed Lindquist | (D, Gladstone) |
| Max Simpson | (D, Baker) |
| Tony Van Vliet | (R, Corvallis) |

APPENDIX

## CONTENTS OF APPENDIX

The Appendix to this handbook contains the complete text of all statutes and regulations cited in this handbook. The contents of the Appendix, in the order contained, are:

(Chapter 469) Oregon Revised Statutes

(Chapter 459) Oregon Revised Statutes

(Chapter 453) Oregon Revised Statutes

Energy Facility Siting Council Regulations

Public Utility Commissioner Regulations

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# Chapter 469

## 1979 REPLACEMENT PART

# Energy Conservation


POLICY

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469.040 Director; duties; appointment
469.050 Limitations on employment of past director; sanctions
469.060 Report to Governor and Legislative Assembly; energy pricing structures research
469.070 Energy forecast; contents; energy forecast by industry
469.080 Energy resource information; subpena power; depositions; limitations on obtaining information; protection from abuse
469.090 Confidentiality of information submitted under ORS 469.080
469.095 Department of Energy to certify producers of gasohol for tax exemption purposes
469.100 Agency consideration of legislative policy; report to Energy Policy Review Committee
469.110 Dealings with Federal Government; intervention by department in agency action
469.120 Energy Department Account; appropriation; record of moneys
469.130 Energy Policy Review Committee; appointment; term; vacancy; duties; compensation; recommendations to Legislative Assembly
469.150 Energy suppliers to provide conservation services and information

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469.160 Definitions for ORS 469.160 to 469.180
469.165 Rules; federal standards
469.170 Application for tax credit for alternative energy devices in dwellings; eligibility; contents; waiving of application
469.175 Certification of alternative energy devices; appeal; tax relief; transfer
469.180 Revocation of certificate; forfeiture of tax credits; collection

RENEWABLE ENERGY RESOURCES

469.185 Definitions for ORS 469.185 to 469.225
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469.195 Priority given to certain projects; criteria
469.200 Annual limits to costs of facilities in granting tax credits
469.205 Application for renewable energy resource facility tax credit; eligibility; contents; waiving of application
469.210 Submission of plans and specifications; preliminary certification; request for hearing upon denial
469.215 Final certification; eligibility; application; content; appeal
469.220 Certificate required for tax credits; certification not to exceed five years
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REGULATION OF ENERGY FACILITIES

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469.320 Site certificate required; exceptions
469.330 Notice of intent to file application for site certificate; public notice
469.340 Geothermal resources for geothermal electric power plant; site application
469.350 Application for site certificate; comment and recommendation
469.360 Study of site applications; costs; payment by applicant
469.370 Hearings on site application; approval or rejection by council
469.375 Required findings for radioactive waste disposal facility certificate
469.380 Conduct of hearings
469.390 Waiting period for issuance of certificate; waiver
469.400 Judicial review vested in Supreme Court; appeal; execution of site certificates; contents
469.410 Energy facility site certificate applications filed or under construction prior to July 2, 1975; conditions of site certificate
469.420 Fees; exemptions; assessment of certain utilities and suppliers
469.430 Site inspections
469.440 Grounds for revocation or suspension of certificates

(Administration)

469.450 Energy Facility Siting Council; appointment; confirmation; term; restrictions
469.460 Officers; meetings; compensation and expenses
469.470 Powers and duties
469.480 County advisory groups; special advisory groups; compensation and expenses

(Rules; Standards)

469.490 Adoption of rules
469.500 Adoption of safety standards
469.510 Considerations in adoption of siting, construction and operation rules

469.520 Cooperation of state governmental bodies; adoption of rules by state agencies on energy facility development

(Plant Operations; Radioactive Wastes)

469.525 Radioactive waste disposal facilities prohibited; certain activities allowed
469.530 Regulation of transport of radioactive material; duties of certificate holders and transporters; review and approval of security programs
469.533 Department of Energy rules required for health protection and evacuation procedures in nuclear emergency
469.536 Public utility to disseminate information under ORS 469.533
469.540 Reductions or curtailment of operations for violation of safety standards; notice; time period for repairs
469.550 Order for halt of plant operations or activities with radioactive material; notice
469.553 Uranium mill or mill tailings disposal facility site certification required; council procedure for application review; fees
469.556 Rules governing uranium-related activities
469.559 Cooperative agreements authorized between council and federal officials and agencies; rules; powers of Governor

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469.570 Court orders for enforcement

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(Single Family Residence)

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(Public Buildings)

469.730 Declaration of purpose
469.735 Definitions for ORS 469.730 to 469.745
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469.745 Voluntary compliance program

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## CROSS REFERENCES

Administrative procedures governing state agencies, 183.310 to 183.500
Energy Conservation Board, 456.730 to 456.742
Energy conservation information and service for utility customers, 757.056
Environmentally hazardous wastes, 459.410
Joint operating agencies for electrical power, 262.005 to 262.115
Oregon Electric Equity Act of 1977, 1977 c. 888
People's Utility Districts, Ch. 261
Public meetings law exemption, 192.690

469.030

Veteran loans for alternative energy devices, 407.048
Weatherization standards for homes, veteran loans, 407.055

469.160 to 469.180

Income tax credit for alternative energy device, 316.116, 316.140
Income tax credit for geothermal heating system, 316.086

469.730 to 469.745

Public building lighting standards, 456.742 to 456.749

## POLICY

**469.010 Legislative findings.** The Legislative Assembly finds and declares that:

(1) Continued growth in demand for nonrenewable energy forms poses a serious and immediate, as well as future, problem. It is essential that future generations not be left a legacy of vanished or depleted resources, resulting in massive environmental, social and financial impact.

(2) It is the goal of Oregon to promote the efficient use of energy resources and to develop permanently sustainable energy resources. The need exists for comprehensive state leadership in energy production, distribution and utilization. It is, therefore, the policy of Oregon:

(a) That development and use of a diverse array of permanently sustainable energy resources be encouraged utilizing to the highest degree possible the private sector of our free enterprise system.

(b) That through state government example and other effective communications, energy conservation and elimination of wasteful and uneconomical uses of energy and materials be promoted. This conservation must include, but not be limited to, resource recovery and materials recycling.

(c) That the basic human needs of every citizen, present and future, shall be given priority in the allocation of energy resources, commensurate with perpetuation of a free and productive economy with special attention to the preservation and enhancement of environmental quality.

(d) That state government assist every citizen and industry in adjusting to a diminished availability of energy.

(e) That energy-efficient modes of transportation for people and goods shall be encouraged, while energy-inefficient modes of transportation shall be discouraged.

(f) That cost-effectiveness be considered in state agency decision-making relating to energy sources, facilities or conservation, and that cost-effectiveness be considered in all agency decision-making relating to energy facilities.

(g) That state government shall provide a source of impartial and objective information in order that this energy policy may be enhanced. [1975 c.606 §1; 1979 c.723 §1]

Note: Chapter 329, Oregon Laws 1979, provides:

Sec. 1. As used in this Act, unless the context requires otherwise:

(1) "Commission" means the Alternate Energy Development Commission created under section 2 of this Act.

(2) "Department" means the Department of Energy created under ORS 469.030.

Sec. 2. (1) There is hereby established an Alternate Energy Development Commission consisting of nine members to prepare a comprehensive alternate resources plan for the State of Oregon.

(2) Members of the commission shall be appointed by and serve at the pleasure of the Governor, but membership shall include one member from each of the six task forces described in section 3 of this Act, and three citizens broadly representing those interested in development of alternate energy resources.

(3) Commission members shall be entitled to compensation and expenses as provided in ORS 292.495.

Sec. 3. (1) There are hereby established task forces in each of the following areas:

(a) Solar;

(b) Wind;

(c) Geothermal;

(d) Forest and agricultural residue and other solid waste;

(e) Water power; and

(f) Gasohol.

(2) Members of each task force shall be appointed by and serve at the pleasure of the Director of the Department of Energy. Membership of each task force shall include the technological expertise necessary to prepare a plan for the particular resource that is the subject of the task force.

(3) Members of the task forces appointed under subsection (2) of this section shall receive no compensation but may receive their actual and necessary travel and other expenses incurred in the performance of their official duties.

Sec. 4. (1) The task forces created in section 3 of this Act shall present resource specific alternate energy development plans together with the comments of the Energy Policy Review Committee concerning those plans to the Alternate Energy Development Commission on or before June 30, 1980.

(2) The commission shall present a comprehensive alternate energy development plan to the Governor and the Legislative Assembly on or before January 15, 1981. The plan shall include, where appropriate, specific items of legislation proposed to be enacted by the Legislative Assembly.

Sec. 5. This Act is repealed June 30, 1981.

## DEPARTMENT OF ENERGY

**469.020 Definitions for ORS 176.810, 469.010 to 469.225, 469.990, 469.992, 757.710 and 757.720.** As used in ORS 176.810, 469.010 to 469.225, 469.990, 469.992, 757.710 and 757.720, unless the context requires otherwise:

(1) "Agency" includes a department or other agency of state government, city, county, municipal corporation, political subdivision, port, people's utility district, joint operating agency and electric cooperative.

(2) "Coal supplier" means any person engaged in the wholesale distribution in this state of coal intended for use in this state for an energy facility.

(3) "Cost-effective" means that an energy resource, facility or conservation measure during its life cycle results in delivered power costs to the ultimate consumer no greater than the comparable incremental cost of the least cost alternative new energy resource, facility or conservation measure. Cost comparison under this definition shall include but not be limited to:

(a) Cost escalations and future availability of fuels;

(b) Waste disposal and decommissioning costs;

(c) Transmission and distribution costs;

(d) Geographic, climatic and other differences in the state; and

(e) Environmental impact.

(4) "Council" means the Energy Facility Siting Council established under ORS 469.450.

(5) "Department" means the Department of Energy created under ORS 469.030.

(6) "Director" means the Director of the Department of Energy.

(7) "Energy facility" means any of the following:

(a) An electric power generating plant with a nominal electric generating capacity of more than 25,000 kilowatts, including but not limited to a thermal power plant or hydropower plant.

(b) A nuclear installation as defined in ORS 469.300.

(c) A high voltage transmission line of more than 10 miles in length with a capacity in excess of 230,000 volts, to be constructed in more than one political subdivision in this state; but excluding lines proposed for construction entirely within 500 feet of an existing corridor occupied by high voltage transmission lines with a capacity in excess of 230,000 volts.

(d) A solar collecting facility using more than 100 acres of land, or providing more than 25,000 kilowatts of power.

(e) A pipeline that is:

(A) Six inches or greater in diameter, and five miles or longer in length, used for the transportation of crude petroleum or a derivative thereof, liquified natural gas, a geothermal energy form or other fossil energy resource.

(B) Sixteen inches or greater in diameter, and five miles or longer in length, used for the transportation of natural or synthetic gas.

(8) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, people's utility district, or any other entity, public or private, however organized.

(9) "Petroleum supplier" means a petroleum refiner in this state, or any person engaged in the wholesale distribution of more than 5 million gallons of crude petroleum or derivative thereof or 2 million gallons of propane annually in this state.

(10) "Related or supporting facilities" means any structure adjacent to and associated with an energy facility, including associated transmission lines, reservoirs, intake structure, road and rail access, pipeline basins, office or public buildings, and commercial and industrial structures proposed to be built in connection with the energy facility.

(11) "Site" means a proposed location of an energy facility, and its related or supporting facilities.

(12) "Thermal power plant" has the meaning given that term by ORS 469.300.

(13) "Utility" includes:

(a) An individual, a regulated electrical company, a people's utility district, a joint operating agency, an electric cooperative, municipality or any combination thereof, engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy;

(b) A person or public agency generating electric energy from an energy facility for its own consumption; and

(c) A person engaged in this state in the transmission or distribution of natural or synthetic gas. [1975 c.606 §2; 1977 c.794 §1; 1979 c.723 §2]

**469.030 Department of Energy; creation; duties.** (1) There is created the Department of Energy.

(2) The department shall:

(a) Be the central repository within the state government for the collection of data on energy resources;

(b) Endeavor to utilize all public and private sources to inform and educate the public about energy problems and ways in which the public can conserve energy resources;

(c) Engage in research, but whenever possible, contract with appropriate public or private agencies and dispense funds for research projects and other services related to energy resources, except that the department shall endeavor to avoid duplication of research whether completed or in progress;

(d) Qualify for, accept and disburse or utilize any private or federal moneys or services available for the administration of ORS 176.810, 192.500, 192.690, 469.010 to 469.580, 469.533, 469.990, 757.710 and 757.720;

(e) Administer federal and state energy allocation and conservation programs and energy research and development programs and apply for and receive available funds therefor;

(f) Be a clearinghouse for energy research to which all agencies shall send information on all energy related research;

(g) Prepare contingent energy programs to include all forms of energy not otherwise provided pursuant to ORS 757.710 and 757.720;

(h) Maintain an inventory of energy research projects in Oregon and the results thereof; and

(i) Collect, compile and analyze energy statistics, data and information. [1975 c.606 §4]

Note: Chapter 722, Oregon Laws 1979, provides:

Sec. 1. The Department of Energy shall compile existing data on the possible health hazards resulting from overhead high voltage transmission lines and shall prepare a report for submission to the 1981 Legislative Assembly concerning any possible dangers to the citizens of the State of Oregon from overhead high voltage lines.

Sec. 2. (1) The Department of Energy may solicit contributions for the conduct of the study required by section 1 of this Act through public service announcements. The department may apply for and receive federal funds and qualify for, accept and utilize any private or public funds made available to it for the study.

(2) If the Director of the Department of Energy determines that sufficient funds will not be forthcoming from the sources identified in subsection (1) of this section for the department to conduct the study required by section 1 of this Act, the director may request authorization from the Emergency Board to pay for the study with moneys previously appropriated to the department.

(3) If funds acquired from other sources are not adequate, and if the Emergency Board does not authorize the Director of the Department of Energy to expend funds appropriated to the department for the study required by section 1 of this Act, the department is not required to make the study.

Sec. 3. Moneys received by the Department of Energy under subsection (1) of section 2 of this Act are appropriated to the department for the study required by section 1 of this Act.

**469.040 Director; duties; appointment.** (1) The department shall be under the supervision of the director who shall:

(a) Supervise the day-to-day functions of the department;

(b) Supervise and facilitate the work and research on energy facility siting applications at the direction of the Energy Facility Siting Council;

(c) Hire, assign, reassign and coordinate personnel of the department and prescribe their duties and fix their compensation, subject to the State Merit System Law; and

(d) Adopt rules and issue orders to carry out his duties and those of the department in accordance with ORS 183.310 to 183.500 and the policy stated in ORS 469.010.

(2) The director shall be appointed by the Governor subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570. The director shall serve at the pleasure of the Governor. [1975 c.606 §5]

**469.050 Limitations on employment of past director; sanctions.** (1) A person who has been director shall not, within two years after he ceases to be the director, be an employe of:

(a) An owner or operator of an energy facility;

(b) An applicant for a site certificate; or

(c) Any person who engages in the sale or manufacture of any energy resource or of any

major component of an energy facility in Oregon.

(2) Employment of any individual in violation of paragraph (a) or (b) of subsection (1) of this section shall be grounds for the revocation of any license issued by this state or any agency thereof and held by the person that employs such individual. [1975 c.606 §§6, 7]

**469.060 Report to Governor and Legislative Assembly; energy pricing structures research.** (1) Beginning January 1, 1977, and every year thereafter, the department shall transmit to the Governor and the Legislative Assembly a comprehensive report including comments on the energy forecasts of the utilities and on the department's independent analysis and evaluation. The report shall be designed to identify emerging trends related to energy supply, need and conservation and public health and safety factors, to estimate the level of state-wide energy need for each year in the forthcoming 5-year period and for the 10th and 20th year following issuance of the report.

(2) Notwithstanding paragraph (c) of subsection (2) of ORS 469.030, the department shall conduct research into all energy pricing structures, relating price to consumption and considering the interchangeability of the various energy forms. In conducting the research, the department shall consider matters including, but not limited to, price elasticity, cross elasticity of demand and energy rate structures, as well as the rate structure studies of the Public Utility Commissioner. This research shall be submitted annually to the Legislative Assembly and the Governor as a part of the report described in subsection (1) of this section. [1975 c.606 §8]

**469.070 Energy forecast; contents; energy forecast by industry.** (1) The department shall annually issue a forecast on the energy situation as it affects Oregon. The forecast shall include, but not be limited to, an estimate of:

(a) Energy demand and the resources available to meet that demand; and

(b) Impacts of conservation and new technology, increased efficiency of present energy facilities, additions to present facilities, and construction of new facilities, on the availability of energy to Oregon.

(2) The forecast shall include summary forecasts for:

(a) Each of the first five years immediately following issuance of the forecast; and

(b) The 10th and 20th year following the issuance of the forecast.

(3) The forecast shall identify all major components of demand and any anticipated increase in demand, including but not limited to population, commercial, agricultural and industrial growth.

(4) (a) Except as provided in paragraph (b) of this subsection, by May 1 of each year, utilities, petroleum suppliers and coal suppliers shall submit to the department an energy forecast in a manner to be prescribed by the director. Any person required to submit an energy forecast under this subsection may file a single forecast on behalf of more than one operation owned or otherwise controlled by him.

(b) Any petroleum supplier who is a wholesale distributor and who is solely supplied by one or more persons who are also required to submit a forecast under this subsection shall be exempt from the requirements of this subsection upon written proof of such source of supply to the director.

(5) The department, by July 1 of each year, shall issue a statement setting forth the methodology and assumptions it intends to employ in preparing the forthcoming forecast, any changes in the forecast issued on the preceding January 1, and an outline of the contents of the annual report to be published by the department on the following January 1, and not later than the 45th day thereafter, commence public hearings thereon.

(6) All state agencies, energy suppliers, owners of energy facilities, and other persons whom the director believes have an interest in the subject or who have applied to the director therefor, shall be supplied a copy of the statement issued by the department on July 1 of each year. The director may charge a reasonable fee for a copy of this statement not to exceed the cost thereof.

(7) After the public hearings required by subsection (5) of this section, but not later than January 1 following the issuance of its statement, the department shall issue the forecast required by subsection (1) of this section.

(8) The forecast shall be included within the report provided for in subsection (1) of ORS 469.060. [1975 c.606 §9; 1977 c.794 §3]

**469.080 Energy resource information; subpena power; depositions; limitations on obtaining information; protection from abuse.** (1) The director may obtain all necessary information from producers, suppliers and consumers of energy resources within Oregon, and from political subdivisions in this state, as necessary to carry out ORS 176.810, 192.500, 192.690, 469.010 to 469.580, 469.533, 469.990, 469.992, 757.710 and 757.720. Such information may include, but not be limited to:

(a) Sales volume;

(b) Forecasts of energy resource requirements;

(c) Inventory of energy resources; and

(d) Local distribution patterns of information under paragraphs (a) to (c) of this subsection.

(2) In obtaining information under subsection (1) of this section, the director with the written consent of the Governor may subpena witnesses, material and relevant books, papers, accounts, records and memoranda, administer oaths, and may cause the depositions of persons residing within or without Oregon to be taken in the manner prescribed for depositions in civil actions in circuit courts, to obtain information relevant to energy resources.

(3) In obtaining information under this section the director:

(a) Shall avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state or local regulatory authority that is available to the director for such study; and

(b) Shall cause reporting procedures, including forms, to conform to existing requirements of federal, state and local regulatory authorities.

(4) Any person who is served with a subpena to give testimony orally or in writing or to produce books, papers, correspondence, memoranda, agreements or the documents or records as provided in ORS 176.810, 192.500, 192.690, 469.010 to 469.580, 469.533, 469.990, 469.992, 757.710 and 757.720, may apply to any circuit court in Oregon for protection against abuse or hardship in the manner provided in ORCP 36 C. [1975 c.606 §18; 1977 c.358 §9; 1977 c.794 §4a; 1979 c.284 §154]

**469.090 Confidentiality of information submitted under ORS 469.080.** (1) Information furnished under ORS 469.080 shall be confidential and maintained as such, if so requested by the person providing the information, if the information meets one of the following requirements:

(a) The information is proprietary in nature; or

(b) The information consists of geological and geophysical information and data, including maps, concerning oil, gas or geothermal resource wells.

(2) Nothing in this section prohibits the use of confidential information to prepare statistics or other general data for publication, so presented as to prevent identification of particular persons. [1975 c.606 §19]

**469.095 Department of Energy to certify producers of gasohol for tax exemption purposes.** The department shall provide the certifications required by ORS 307.705, 316.145 and 317.098. As soon as is practicable, the department shall adopt the procedures and rules it considers necessary to provide such certifications. [1979 c.561 §9]

Note: 469.095 was enacted into law by the Legislative Assembly and was added to and made a part of ORS chapter 469 but was not added to and made a part of any specific series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

**469.100 Agency consideration of legislative policy; report to Energy Policy Review Committee.** (1) All agencies shall consider the policy stated in ORS 469.010 in adopting or modifying their rules and policies.

(2) All agencies shall review their rules and policies to determine their consistency with the policy stated in ORS 469.010.

(3) (a) On July 1, 1976, and annually thereafter, each state agency shall submit to the Energy Policy Review Committee created under ORS 469.130 a report that identifies the rules and policies of the agency that are consistent and inconsistent with the policy stated in ORS 469.010 and that indicates the reasons for the inconsistencies. The report shall be submitted in such form as the committee may require.

(b) As used in this subsection, "state agency" means any state board, commission, department, or division thereof, or officer authorized by law to make rules or to issue orders, except those in the legislative and judicial branches. [1975 c.606 §3]

**469.110 Dealings with Federal Government; intervention by department in agency action.** (1) As to any matter involving the Federal Government, its departments or agencies, which is within the scope of the power and duties of the department, the department may represent its interest or, upon request, may represent the interest of any county, city, state agency, special district or owner or operator of any energy facility.

(2) The department may intervene in any proceeding undertaken by an agency for the purpose of expressing its views as to the effect of an agency action, upon state energy resources and state energy policy. [1975 c.606 §12]

**469.120 Energy Department Account; appropriation; record of moneys.** (1) The Energy Department Account is established.

(2) All funds received by the department pursuant to law shall be paid into the State Treasury and credited to the Energy Department Account. All moneys in the account are continuously appropriated to the department for payment of expenses of the department.

(3) The department shall keep a record of all moneys deposited in the Energy Department Account. The record shall indicate by special cumulative accounts the source from which moneys are derived and the individual activity against which each withdrawal is charged. [1975 c.606 §13]

**469.130 Energy Policy Review Committee; appointment; term; vacancy; duties; compensation; recommendations to Legislative Assembly.** (1) There is created the Energy Policy Review Committee. The committee shall be composed of nine members appointed in the following manner:

(a) The Governor shall appoint three public members, except that the Governor shall not appoint employes of the Executive Department or members of the Legislative Assembly.

(b) The President of the Senate shall appoint three members of the Senate, including at least one member recommended by the Minority Leader. If the President of the Senate is a member, he may designate from time to time an alternate from among the members of the Senate to exercise his powers as a member of the committee except that the alternate shall not preside if the President is chairperson.

(c) The Speaker of the House of Representatives shall appoint three members of the House, including at least one member recommended by the Minority Leader. If the Speaker of the House of Representatives is a member, he may designate from time to time an alternate from among the members of the House to exercise his powers as a member of the committee except that the alternate shall not preside if the Speaker is chairperson.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection, the term of office of each member is two years. Before the expiration of the term of any public member, the Governor shall appoint a successor whose term begins on July 1 next following.

(b) The term of office of a legislative member expires upon the convening of the Legislative Assembly in regular session next following the commencement of the member's term. Before the expiration of the term of any legislative member, the appointing authority shall appoint a successor.

(c) No member shall serve more than two terms.

(d) A vacancy shall be filled by the appointing authority in the manner provided for the original appointment.

(3) The committee shall:

(a) Represent to the director public concerns on contingency or curtailment planning;

(b) Review for the director conservation programs and recommend public information policy thereon;

(c) Advise the director on areas of needed research and development;

(d) Comment upon the statement and the forecast prepared pursuant to ORS 469.070;

(e) Review statutes and rules of agencies for consistency with the policy set forth in ORS 469.010, review reports submitted to it pursuant to paragraph (a) of subsection (3) of ORS 469.100; and

(f) Before January 1 of each odd-numbered year, submit a report containing the results of its review, including any proposed legislation, and recommended policy changes to the Legislative Assembly.

(4) Committee members shall be entitled to compensation and expenses as provided in ORS 292.495.

(5) (a) The committee shall select one of its members as chairman and another member as vice chairman for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of

the committee shall act as the chairman of the committee in the absence of the chairman.

(b) The committee shall meet at least quarterly at the time and place determined by the chairman.

(6) The committee shall recommend to the Legislative Assembly changes in the state's energy policy and other energy-related legislation. [1975 c.606 §47; 1977 c.794 §5; 1977 c.891 §10]

469.140 [1975 c.606 §48; repealed by 1977 c.794 §6]

**469.150 Energy suppliers to provide conservation services and information.** (1) As used in this section "energy conservation services" means services provided by energy suppliers to educate and inform customers and the public about energy conservation. Such services include but are not limited to providing answers to questions concerning energy saving devices and providing inspections and making suggestions concerning the construction and siting of buildings and residences.

(2) Energy suppliers other than public utilities as defined in ORS 757.005, that produce, transmit, deliver or furnish heat, light or power shall establish energy conservation services and shall provide energy conservation information to customers and to the public. The services shall be performed in accordance with such guidelines as the director may by rule prescribe.

(3) As used in this section "energy supplier" means a publicly owned utility or fuel oil dealer which supplies electricity or fuel oil for the space heating of dwellings. [1977 c.887 §13]

## ALTERNATIVE ENERGY DEVICES

**469.160 Definitions for ORS 469.160 to 469.180.** As used in ORS 469.160 to 469.180:

(1) "Alternative energy device" means any system, mechanism or series of mechanisms which uses solar radiation, water, wind or geothermal resource as a source for space heating, water heating, cooling, electrical energy or any combination thereof for one or more dwellings which source meets or exceeds 10 percent of the total energy requirements for the dwelling or dwellings. "Alternative energy device" includes any system which uses solar radiation for domestic water heating and which meets or exceeds 50 percent of the energy requirements for domestic water heating in the dwelling or dwellings.

(2) "Dwelling" means real or personal property ordinarily inhabited as a principal or secondary residence and located within this state, and includes an individual unit within multiple unit residential housing. [1977 c.196 §2; 1979 c.670 §3]

Note: Section 7 chapter 670, Oregon Laws 1979, provides:

Sec. 7. (1) The amendments to ORS 307.175 by section 1 of this Act first apply to assessment years beginning on or after January 1, 1980.

(2) The amendments to ORS 316.116, 469.160, 469.170, 469.175 and 469.180 by sections 2 to 6 of this Act first apply to alternative energy devices constructed, installed and operated in tax years beginning on or after January 1, 1979.

**469.165 Rules; federal standards.** (1) For the purposes of carrying out the provisions of ORS 469.160 to 469.180, the Department of Energy shall adopt rules prescribing minimum performance criteria for alternative energy devices for dwellings.

(2) The department, in adopting rules under this section for solar heating and cooling systems, shall take into consideration applicable standards of federal performance criteria prescribed pursuant to the provisions of section 5506, title 42, United States Code (Solar Heating and Cooling Act of 1974). [1977 c.196 §3]

**469.170 Application for tax credit for alternative energy devices in dwellings; eligibility; contents; waiving of application.** (1) Any person may apply to the department for certification under ORS 469.175 of an alternative energy device if that person intends to pay all or a portion of the costs of an alternative energy device for a dwelling or dwellings.

(2) Applications for certification shall be made in writing on a form provided by the department and shall contain:

(a) A statement that the applicant intends to pay all or a portion of the costs of an alternative energy device for a dwelling or dwellings;

(b) A description of the alternative energy device, including but not limited to, the materials incorporated therein, equipment and mechanism made a part thereof and the operational procedure thereof;

(c) The actual amount the applicant intends to invest in the alternative energy device;

(d) The actual total cost of the alternative energy device;

(e) The names and addresses of all other persons investing in the alternative energy device; and

(f) For existing dwellings, energy consumption records for the preceding 12-month period.

(3) The director may require such further information as the director considers necessary prior to issuance of a certificate.

(4) The director may waive the requirement that an application described in this section be filed before a person invests in an alternative energy device for a dwelling or dwellings, if the director finds the requirement of prior filing inappropriate because special circumstances render the requirement unreasonable, and if the director finds that an alternative energy device would otherwise qualify for certification under ORS 469.160 to 469.180. [1977 c.196 §4; 1979 c.670 §4]

Note: See note under 469.160.

**469.175 Certification of alternative energy devices; appeal; tax relief; transfer.** (1) Within 30 days of the receipt of an application for certification filed pursuant to ORS 469.170, the director may require the submission of plans and specifications and, after examination thereof, may request corrections and revisions of the plans and specifications necessary to bring the alternative energy device into compliance with the standards of performance criteria adopted by the department pursuant to ORS 469.165.

(2) The director shall act on an application for certification before the 120th day after filing of the application under ORS 469.170. The action of the director shall include certification of the actual cost and the applicant's portion of the cost of the alternative energy device. Under extraordinary circumstances, an additional 30-day period may be allowed for the director to act on an application in which case the director shall so notify the applicant. Such notice shall include a finding setting forth the extraordinary circumstances.

(3) If the director rejects an application for certification, or certifies a lesser actual cost or portion of the cost of the alternative energy device than was claimed in the application, the director shall cause written notice of the action, together with a statement of the findings and reasons therefor, to be sent by registered or certified mail to the applicant. Failure of the director to act constitutes approval of the application.

(4) If the application is rejected for any reason, including the information furnished by the applicant as to the cost of the alternative energy device, or if the applicant is dissatisfied with the certification of actual cost, then, within 60 days of the date of mailing of the notice under subsection (3) of this section, the applicant may appeal the rejection pursuant to the provisions of ORS 183.310 to 183.500 governing contested cases.

(5) If the director approves an application for certification of an alternative device, the director shall certify such device.

(6) A certificate issued under this section shall be effective for purposes of tax relief in accordance with ORS 316.116.

(7) A certificate for an approved alternative energy device may be transferred by an applicant who does not qualify for tax relief under ORS 316.116, to the first purchaser of a dwelling who intends to use it as a principal or secondary residence. [1977 c.196 §5; 1979 c.670 §5]

Note: See note under 469.160.

**469.180 Revocation of certificate; forfeiture of tax credits; collection.** (1) Pursuant to the procedures for a contested case under ORS 183.310 to 183.500, the director may order the revocation of the certificate issued under ORS 469.175 if the director finds that:

(a) The certification was obtained by fraud or misrepresentation; or

(b) The alternative energy device for which a certificate has been issued has not been installed or operated in substantial compliance with the plans, specifications or procedures specified in the certificate.

(2) As soon as the order of revocation under this section becomes final, the director shall give notice thereof to the Department of Revenue.

(3) If the certification of an alternative energy device is ordered revoked pursuant to paragraph (a) of subsection (1) of this section, all prior tax relief provided to the holder of the certificate by virtue of such certificate shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the certificate holder as a result of the tax credit relief under ORS 316.116. No additional assessment of such taxes shall be neces-

sary and no statute of limitation shall preclude the collection of such taxes.

(4) If the certification of an alternative energy device is ordered revoked pursuant to paragraph (b) of subsection (1) of this section, the certificate holder shall be denied any further tax credit relief under ORS 316.116. [1977 c.196 §6; 1979 c.670 §6]

Note: See note under 469.160.

## RENEWABLE ENERGY RESOURCES

**469.185 Definitions for ORS 469.185 to 469.225.** As used in ORS 469.185 to 469.225:

(1) "Cost" means the capital costs and expenses necessarily incurred in the acquisition, erection, construction and installation of an energy conservation facility.

(2) "Energy conservation facility" or "facility" means any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or installed by any person in connection with the conduct of a trade or business and actually used in the processing or utilization of renewable energy resources to:

(a) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

(b) Provide the initial use of energy where electricity, petroleum or natural gas would have been used;

(c) Generate electricity to replace an existing source of electricity or to provide a new source of electricity for use in the trade or business; or

(d) Perform a process that obtains energy resources from material that would otherwise be solid waste as defined in ORS 459.005.

(3) "Person" means any individual or legal entity except an entity whose principal business activity is directly or indirectly the production, transportation or distribution of electricity, petroleum or natural gas for wholesale or retail use.

(4) "Renewable energy resource" includes, but is not limited to straw, forest slash, wood waste or other wastes from farm or forest land, industrial or municipal waste, solar energy, wind power, water power or geothermal energy. [1979 c.512 §3]

**469.190 Policy.** In the interest of the public health, safety and welfare, it is the policy of the State of Oregon to encourage the conservation of electricity, petroleum and natural gas by providing tax relief for Oregon facilities that conserve energy resources or meet energy requirements through the use of renewable resources. [1979 c.512 §2]

**469.195 Priority given to certain projects; criteria.** In determining the eligibility of energy conservation facilities for tax credits, preference shall be given to those projects which:

(1) Are not routinely used in a commercial or industrial trade or business;

(2) Have the potential, if developed at other suitable locations, for making a significant contribution to meeting the energy needs of the state; or

(3) Are not reasonably expected, in the absence of the tax credit granted under ORS 316.140 to 316.142, 317.104 and 469.185 to 469.225, to be cost effective within five years of erection, construction or installation. [1979 c.512 §4]

**469.200 Annual limits to costs of facilities in granting tax credits.** (1) The total of all costs of energy conservation facilities certified by the director for tax credits in any calendar year shall not exceed $30 million. If the applications exceed the $30 million limit, the director, in his discretion, shall determine the dollar amount certified for any facility and the priority between applications for certification based upon the criteria contained in ORS 469.185 to 469.225.

(2) Not less than $5 million of the $30 million annual certification limit shall be allocated to facilities having a certified cost of $100,000 or less for any facility.

(3) With respect to the balance of the annual certification limit, the maximum cost certified for any facility shall not exceed $10 million. However, if the applications certified in any calendar year do not total $25 million, the director, in his discretion, may increase the certified costs above the $10 million maximum for previously certified facilities. Such increases shall be allocated according to the director's determination of how the previously certified facilities meet the criteria of ORS 469.185 to 469.225. The increased allocation

to previously certified facilities under this subsection shall not include any of the $5 million reserved under subsection (2) of this section. [1979 c.512 §5]

**469.205 Application for renewable energy resource facility tax credit; eligibility; contents; waiving of application.** (1) Prior to erection, construction or installation of a proposed facility any person may apply to the department for preliminary certification under ORS 469.210 if:

(a) The erection, construction or installation of the facility is to be commenced on or after October 3, 1979, and before December 31, 1983;

(b) The facility complies with the standards or rules adopted by the director; and

(c) The applicant is the owner or contract purchaser of a trade or business that plans to utilize an energy conservation facility in connection with Oregon property or a person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes the facility in connection with Oregon property.

(2) Applications for preliminary certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the applicant is using or would have used an energy source that uses electricity, petroleum or natural gas and that the applicant:

(A) Intends to convert from that energy source to a renewable energy resource;

(B) Plans to construct a facility that will use a renewable energy resource or solid waste instead of electricity, petroleum or natural gas; or

(C) Plans to use a renewable energy resource in the generation of electricity that will replace an existing or proposed use of an existing source of electricity.

(b) A detailed description of the proposed facility and its operation and information showing that the facility will operate as represented in the application.

(c) Information on the amount by which consumption of electricity, petroleum or natural gas by the applicant will be reduced as the result of using the facility.

(d) The projected cost of the facility.

(e) Any other information the director deems necessary to determine whether the proposed facility is in accordance with the provisions of ORS 469.185 to 469.225, and any applicable rules or standards adopted by the director.

(3) The director may waive the filing of the preliminary application if he finds the filing inappropriate because special circumstances render the filing unreasonable, and if he finds such facility would otherwise qualify for tax credit certification pursuant to ORS 469.185 to 469.225. [1979 c.512 §6]

**469.210 Submission of plans and specifications; preliminary certification; request for hearing upon denial.** (1) The director may require the submission of plans and specifications and, after examination thereof, may request corrections and revisions of the plans and specifications.

(2) If the director determines that the proposed acquisition, erection, construction or installation is technically feasible and should operate in accordance with the representations made by the applicant, and is in accordance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the director, the director shall issue a preliminary certificate approving the acquisition, erection, construction or installation of the facility. If the director determines that the acquisition, erection, construction or installation does not comply with the provisions of ORS 469.185 to 469.225 and applicable rules and standards, the director shall issue an order denying certification.

(3) If within 120 days of the receipt of an application for preliminary certification, the director fails to issue a preliminary certificate of approval or an order denying certification, the preliminary certificate shall be considered to have been denied.

(4) Within 60 days from the date of mailing of the order under subsection (2) of this section or from a denial under subsection (3) of this section, any person whose preliminary application has been denied may request a hearing. The request shall be in writing, shall state the grounds for hearing and shall be mailed to the director. The hearing shall be conducted in accordance with the provisions of ORS 183.310 to 183.500 applicable to contested cases. [1979 c.512 §7]

**469.215 Final certification; eligibility; application; content; appeal.** (1) No certification shall be issued by the director under this section unless the facility was acquired,

erected, constructed or installed under a preliminary certificate of approval issued under ORS 469.210, except where the filing of a preliminary application has been waived under ORS 469.205, and in accordance with the applicable provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the director.

(2) Any person may apply to the department for final certification of a facility:

(a) Unless filing has been waived, after having obtained preliminary certification for the facility under ORS 469.210; and

(b) After completion of erection, construction or installation of the proposed facility.

(3) Applications shall be made in writing on a form prepared by the department and shall contain:

(a) Unless filing has been waived, a statement that the conditions of the preliminary certification have been complied with;

(b) The actual cost of the facility certified to by a certified public accountant who is not an employe of the applicant;

(c) A statement that the facility is in operation or, if not in operation, that the applicant has made every reasonable effort to make the facility operable; and

(d) Any other information determined by the director to be necessary prior to issuance of a final certificate, including inspection of the facility by the department.

(4) The director shall act on an application for certification before the 60th day after the filing of the application under this section. The action of the director shall include certification of the actual cost of the facility. However, in no event shall the director certify an amount for tax credit purposes which is more than 10 percent in excess of the amount approved in the preliminary certificate issued for the facility.

(5) If the director rejects an application for final certification, or certifies a lesser actual cost of the facility than was claimed in the application, the director shall send to the applicant written notice of the action, together with a statement of the findings and reasons therefor, by certified mail, before the 60th day after the filing of the application. Failure of the director to act constitutes rejection of the application.

(6) If the application is rejected for any reason, or if the applicant is dissatisfied with the certification of cost, then, within 60 days of the date of mailing of the notice under subsection (5) of this section or from a denial under subsection (5) of this section, the applicant may request a hearing to appeal the rejection under the provisions of ORS 183.310 to 183.500 governing contested cases.

(7) Upon approval of an application for final certification of a facility, the director shall certify the facility. Each certificate shall bear a separate serial number for each device. Where one or more devices constitute an operational unit, the director may certify the operational unit under one certificate. [1979 c.512 §8]

**469.220 Certificate required for tax credits; certification not to exceed five years.** A certificate issued under ORS 469.215 is required for purposes of obtaining tax credits in accordance with ORS 316.140 and 317.104. Such certification shall be granted for a period not to exceed five years. The five-year period shall begin with the tax year of the applicant during which a certified facility is placed into operation, or the year the facility is certified under ORS 469.215, at the election of the applicant. [1979 c.512 §9]

**469.225 Revocation of certificate; forfeiture of tax credits; collection.** (1) Under the procedures for a contested case under ORS 183.310 to 183.500, the director may order the revocation of the certificate issued under ORS 469.215 if the director finds that:

(a) The certification was obtained by fraud or misrepresentation; or

(b) The holder of the certificate has failed substantially to construct or to make every reasonable effort to operate the facility in compliance with the plans, specifications and procedures in such certificate.

(2) As soon as the order of revocation under this section becomes final, the director shall notify the Department of Revenue of such order.

(3) If the certificate is ordered revoked pursuant to paragraph (a) of subsection (1) of this section, all prior tax credits provided to the holder of the certificate by virtue of such certificate shall be forfeited and upon notification under subsection (2) of this section the Department of Revenue immediately shall proceed to collect those taxes not paid by the certificate holder as a result of the tax credits provided to the holder under ORS 316.140 or 317.104. The Department of Revenue shall

have the benefit of all laws of this state pertaining to the collection of income and excise taxes. No assessment of such taxes shall be necessary and no statute of limitation shall preclude the collection of such taxes.

(4) If the certificate is ordered revoked pursuant to paragraph (b) of subsection (1) of this section, the certificate holder shall be denied any further relief under ORS 316.140 or 317.104 in connection with such facility from and after the date that the order of revocation becomes final. [1979 c.512 §10]

## REGULATION OF ENERGY FACILITIES
### (General Provisions)

**469.300 Definitions for ORS 469.300 to 469.570 and 469.992.** As used in ORS 469.300 to 469.570 and 469.992, unless the context requires otherwise:

(1) "Applicant" means any person who makes application for a site certificate in the manner provided in ORS 469.300 to 469.570 and 469.992.

(2) "Application" means a request for approval of a particular site or sites for the construction and operation of an energy facility or the construction and operation of an additional energy facility upon a site for which a certificate has already been issued, filed in accordance with the procedures established pursuant to ORS 469.300 to 469.570 and 469.992.

(3) "Associated transmission lines" means new transmission lines constructed to connect a thermal power plant to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

(4) "Combustion turbine power plant" means a thermal power plant consisting of one or more fuel-fired combustion turbines and any associated waste heat combined cycle generators.

(5) "Construction" means onsite work and construction, the cost of which exceeds $250,000, excluding exploratory work.

(6) "Council" means the Energy Facility Siting Council established under ORS 469.450.

(7) "Department" means the Department of Energy created under ORS 469.030.

(8) "Director" means the Director of the Department of Energy.

(9) "Electric utility" means individuals, regulated electrical companies, people's utility districts, joint operating agencies, electric cooperatives, municipalities or any combination thereof, engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy. "Electric utility" includes any person or public agency generating electric energy from an energy facility for its own consumption.

(10) "Energy facility" means any of the following:

(a) An electric power generating plant with a nominal electric generating capacity of more than 25,000 kilowatts, including but not limited to thermal power, hydropower, geothermal power, or combustion turbine power plant.

(b) A nuclear installation as defined in this section.

(c) A high voltage transmission line of more than 10 miles in length with a capacity in excess of 230,000 volts, to be constructed in more than one political subdivision in this state; but excluding lines proposed for construction entirely within 500 feet of an existing corridor occupied by high voltage transmission lines with a capacity in excess of 230,000 volts.

(d) A solar collecting facility using more than 100 acres of land, or providing more than 25,000 kilowatts of power.

(e) A pipeline that is:

(A) Six inches or greater in diameter, and five miles or longer in length, used for the transportation of crude petroleum or a derivative thereof, liquified natural gas, a geothermal energy form or other fossil energy resource.

(B) Sixteen inches or greater in diameter, and five miles or longer in length, used for the transportation of natural or synthetic gas.

(11) "Nuclear installation" means any power reactor; nuclear fuel fabrication plant; nuclear fuel reprocessing plant; waste disposal facility for radioactive waste; and any facility handling that quantity of fissionable materials sufficient to form a critical mass. "Nuclear installation" does not include any such facilities which are part of a thermal power plant.

(12) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service com-

pany, political subdivision, municipal corporation, government agency, people's utility district, or any other entity, public or private, however organized.

(13) (a) "Radioactive waste" means radioactive material which is discarded, unwanted or has no present lawful economic use, including mined or refined naturally occurring isotopes, accelerator produced isotopes and by-product material, source material or special nuclear material as those terms are defined in ORS 453.605. The term does not include those radioactive materials identified in OAR 345-50-020, 345-50-025 and 345-50-035, adopted by the council on December 12, 1978, as presenting no significant danger to the public health and safety.

(b) Notwithstanding paragraph (a) of this subsection, "radioactive waste" does not include uranium mine overburden or uranium mill tailings, mill wastes or mill by-product materials as those terms are defined in Title 42, United States Code, section 2014, on June 25, 1979.

(14) "Related or supporting facilities" means any structure adjacent to and associated with an energy facility, including associated transmission lines, reservoirs, intake structures, road and rail access, pipelines, barge basins, office or public buildings, and commercial and industrial structures proposed to be built in connection with the energy facility.

(15) "Site" means any proposed location of an energy facility and related or supporting facilities.

(16) "Site certificate" means the binding agreement between the State of Oregon and the applicant, authorizing the applicant to construct and operate an energy facility on an approved site, incorporating all conditions imposed by the state on the applicant and all warranties given by the applicant to the state.

(17) "Thermal power plant" means an electrical or any other facility using any source of thermal energy with a nominal electric generating capacity of more than 25,000 kilowatts, for generation and distribution of electricity, and associated transmission lines, including but not limited to a nuclear-fueled, geothermal-fueled or fossil-fueled power plant, but not including a portable power plant the principal use of which is to supply power in emergencies.

(18) "Transportation" means the transport within the borders of the State of Oregon of radioactive material destined for or derived from any thermal power plant or nuclear installation, or the delivery of such material to a carrier for transportation.

(19) "Utility" includes:

(a) An individual, a regulated electrical company, a people's utility district, a joint operating agency, an electric cooperative, municipality or any combination thereof, engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy;

(b) A person or public agency generating electric energy from an energy facility for its own consumption; and

(c) A person engaged in this state in the transmission or distribution of natural or synthetic gas.

(20) "Waste disposal facility" means a geographical site in or upon which radioactive waste is held or placed but does not include a site at which radioactive waste used or generated pursuant to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power plant used for the temporary storage of radioactive waste from that plant for which a site certificate has been issued pursuant to this chapter or a site used for temporary storage of radioactive waste from a reactor operated by a college, university or graduate center for research purposes and not connected to the Northwest Power Grid. [Formerly 453.305; 1977 c.796 §1; 1979 c.283 §1]

**469.310 Policy.** In the interests of the public health and the welfare of the people of this state, it is the declared public policy of this state that the siting, construction and operation of energy facilities shall be accomplished in a manner consistent with protection of the public health and safety and in compliance with the energy policy and air, water, solid waste, land use and other environmental protection policies of this state. It is, therefore, the purpose of ORS 469.300 to 469.570 and 469.992 to exercise the jurisdiction of the State of Oregon to the maximum extent permitted by the United States Constitution and to establish in cooperation with the Federal Government a comprehensive system for the siting, monitoring and regulating of the location, construction and operation of all energy facilities in this state. [Formerly 453.315]

(Siting)

**469.320 Site certificate required; exceptions.** (1) After July 2, 1975, no energy facility shall be constructed or expanded unless a site certificate has been issued for the site thereof in the manner provided in ORS 469.300 to 469.570 and 469.992, but no site certificate shall be required for an existing industrial or energy facility if the facility is merely modified to increase the electric capacity and not expanded. No energy facility shall operate except in conformity with the requirements of ORS 469.300 to 469.570 and 469.992.

(2) Notwithstanding subsection (1) of this section, no site certificate shall be required for construction or expansion of any interstate natural gas pipeline authorized by and subject to the continuing regulation of the Federal Power Commission or successor agency.

(3) Notwithstanding subsection (1) of this section, no site certificate shall be required for a facility which generates electricity from heat produced as a by-product of the normal industrial processes at an existing industrial facility. [Formerly 453.325; 1977 c.86 §1; 1979 c.730 §8]

**469.330 Notice of intent to file application for site certificate; public notice.** (1) Each applicant for a site certificate for a nuclear installation, or for a thermal power plant with a nominal electric generating capacity of more than 200,000 kilowatts except combustion turbine power plants and geothermal-fueled power plants, must file with the council a notice of intent to file an application for a site certificate. The notice of intent must describe the proposed site with sufficient detail to enable the council to identify the proposed site.

(2) The council shall cause public notice to be given whenever a notice of intent is filed and provide a description of the proposed site in sufficient detail to inform the public of its location.

(3) A new notice of intent shall not be required as a condition precedent to the filing of an application for a site certificate for a site which was previously recommended against by the council, vetoed by the Governor or withdrawn by the applicant. [Formerly 453.335; 1977 c.794 §9]

**469.340 Geothermal resources for geothermal electric power plant; site application.** Any person desiring to utilize geothermal resources from a completed geothermal well as described in ORS 522.185 in a geothermal power plant for the purpose of producing electric power shall file with the council a site application. [1975 c.552 §37; 1975 c.606 §26a]

**469.350 Application for site certificate; comment and recommendation.** (1) Applications for site certificates shall be made to the council on a form prescribed by the council and accompanied by the fee required by ORS 469.420. When a notice of intent is required by ORS 469.330 the application may be filed not sooner than 120 days after filing of the notice of intent.

(2) Proposed use of a site within an area designated by the council pursuant to ORS 469.470 as suitable for location of a particular type of energy facility does not preclude the necessity of the applicant obtaining a site certificate for the specific site.

(3) Copies of the notice of intent and of the application shall be sent for comment and recommendation within specified deadlines established by the council to the Department of Environmental Quality, the Water Policy Review Board, the State Fish and Wildlife Commission, the Health Division, the Water Resources Director, the State Geologist, the State Forestry Department, the Public Utility Commissioner of Oregon, the State Department of Agriculture, the Department of Transportation, the Department of Land Conservation and Development, the Economic Development Department and any city or county affected by the application. [Formerly 453.345; 1977 c.794 §10]

**469.360 Study of site applications; costs; payment by applicant.** The council shall study each site application and may commission an independent study of any aspect of the proposed energy facility. The full cost of the study shall be paid from the applicant's fee paid under subsection (2) of ORS 469.420. However, if costs of the study exceed the fee paid under ORS 469.420, the applicant must agree to pay any excess costs before they are incurred and must pay such costs after they are incurred. If the costs are less than the fee paid, the excess shall be refunded to the applicant. Expenses incurred for site studies, other than those incurred for studies authorized by this section, are the sole responsibility of the applicant. [Formerly 453.355]

**Note:** Chapter 510, Oregon Laws 1979, provides:

Sec. 1. The Department of Energy shall conduct a study of the incident which occurred at the Three Mile Island Nuclear Plant in the State of Pennsylvania on or about March 30, 1979, to ascertain what action, if any, should be taken by the State of Oregon to prevent or avoid similar problems from occurring in this state. The department shall also include in the study, an examination of the availability of long-term storage for radioactive wastes generated by nuclear-fueled thermal power plants and the costs of such long-term storage.

Sec. 2. The Department of Energy shall file its findings relating to the Three Mile Island incident and its recommendations regarding the same with the Energy Facility Siting Council no later than July 1, 1980. An appropriate extension of the foregoing time limit may be granted by the Energy Facility Siting Council for good cause shown.

Sec. 3. The findings and recommendations of the Department of Energy shall be made a part of all proceedings now pending before the Energy Facility Siting Council for site certificates for nuclear installations and nuclear-fueled thermal power plants subject to the right of any participant in such proceeding to rebut such findings and recommendations by cross-examination or other testimony. The council as part of any final order on any pending or subsequent application for a site certificate for a nuclear installation or nuclear-fueled thermal power plant shall make as a part of its findings a determination that there will be an available and adequate repository for the terminal storage of radioactive waste generated by nuclear-fueled thermal power plants and that the economic cost of such terminal storage is known and reasonable.

Sec. 4. The provisions of section 3 of this Act do not apply to any nuclear-fueled thermal power plant for which a site certificate was granted before the effective date of this Act [July 21, 1979].

Sec. 5. Notwithstanding the provisions of subsection (3) of ORS 469.370, no pending or subsequent application for a site certificate for a nuclear installation or a nuclear-fueled power plant shall be approved by the Energy Facility Siting Council before November 15, 1980, and until the provisions of sections 1 to 3 of this Act have been satisfied. Nothing in this section shall prevent the Energy Facility Siting Council from making appropriate findings on other issues before it pending receipt of the study required under section 1 of this Act.

Sec. 6. The cost of the study required under section 1 of this Act shall be paid from the fee required of the applicant under subsection (2) of ORS 469.420.

Sec. 7. Sections 1 to 6 of this Act are repealed on July 1, 1981.

**469.370 Hearings on site application; approval or rejection by council.** (1) The council shall hold public hearings in the affected area and elsewhere, as it deems necessary, on the application for a site certificate. At the conclusion of its hearings the council shall either approve or reject the application. The council must make its decision by the affirmative vote of at least four members, approving or rejecting any application for a certificate.

(2) Rejection or approval of an application, together with any conditions that may be attached to the certificate, shall be subject to judicial review as provided in subsection (1) of ORS 469.400.

(3) The council shall either approve or reject an application for a site certificate:

(a) Within 24 months after filing an application for a nuclear installation, or for a thermal power plant, other than that described in paragraph (b) of this subsection, with a name plate rating of more than 200,000 kilowatts;

(b) Within nine months after filing of an application for a site certificate for a combustion turbine power plant, a geothermal-fueled power plant or an underground storage facility for natural gas;

(c) Within six months after filing an application for a site certificate for an energy facility, if the application is:

(A) To expand an existing industrial facility to include an energy facility;

(B) To expand an existing energy facility to achieve a nominal electric generating capacity of between 25,000 and 50,000 kilowatts;

(C) To add generating capacity to an existing dam; or

(d) Within 12 months after filing an application for a site certificate for any other energy facility. [Formerly 453.365; 1977 c.296 §14; 1977 c.794 §11; 1977 c.895 §1]

Note: Sections 3 to 6, chapter 723, Oregon Laws 1979, provide:

Sec. 3. The provisions of this Act shall not apply for any energy facility site certificate application under consideration under ORS 469.300 to 469.570 on the effective date of this Act [July 24, 1979].

Sec. 4. The Department of Energy and the Energy Facility Siting Council shall insure the compatibility of their rules and regulations with the policies expressed in ORS 469.010.

Sec. 5. The Department of Energy shall, in cooperation with units of local government, make available to units of local government information pertaining to procedures for considering cost-effectiveness under the provisions of this Act.

Sec. 6. Sections 3 to 5 of this Act are repealed on July 1, 1983.

**469.375 Required findings for radioactive waste disposal facility certificate.** The council shall not issue a site certifi-

cate for a waste disposal facility for uranium mill tailings, mill wastes and mill by-product material or for radioactive waste or radioactively contaminated containers or receptacles used in the transportation, storage, use or application of radioactive material, unless, accompanying its decision, it finds:

(1) The site is suitable for disposal of such wastes, and the amount thereof, intended for disposal at the site;

(2) It is necessary to dispose of such wastes, and the amount thereof, at the site in Oregon to protect the environment, and the health, safety and welfare of the people of the state from such wastes;

(3) There is no available, economically feasible alternative for disposal of such wastes, and the amount thereof, inside or outside of the state;

(4) The disposal of such wastes, and the amount thereof, at the site will be compatible with the regulatory programs of the Federal Government for disposal of such wastes; and

(5) The disposal of such wastes, and the amount thereof, at the site will be coordinated with the regulatory programs of adjacent states for disposal of such wastes. [Formerly 459.625; 1979 c.283 §3]

**469.380 Conduct of hearings.** (1) Any person may appear personally or by counsel to present testimony in any hearing before the council on any application for a site certificate.

(2) The council may, by proper order, permit any person to become a party in support of or in opposition to the application by intervention who appears to have an interest in the results of the hearing or who represents a public interest in such results. However, the request for intervention must be made before the final taking of evidence in the hearing.

(3) Any person authorized to intervene in the hearing on a site certificate may appeal the council's approval or rejection in the manner prescribed in subsection (1) of ORS 469.400. Such approval or rejection shall be deemed a final order for purposes of such appeal. [Formerly 453.375; 1977 c.794 §12; 1977 c.895 §2]

**469.390 Waiting period for issuance of certificate; waiver.** Except as provided in section 4, chapter 609, Oregon Laws 1971, and ORS 469.410, no site certificate shall be issued under ORS 469.300 to 469.570 and 469.992 until the entire review time prescribed by ORS 469.370 has been utilized, except that the council may waive the time requirement if, pursuant to ORS 469.470, area studies of the entire state for that type of energy facility have been completed or have been determined to be unnecessary. [Formerly 453.385]

**469.400 Judicial review vested in Supreme Court; appeal; execution of site certificates; contents.** (1) Jurisdiction for judicial review of the council's approval or rejection of an application for a site certificate is conferred upon the Supreme Court. Proceedings for review shall be instituted by filing a petition in the Supreme Court. The petition shall be filed within 60 days only following the date the approval or rejection is served. If the council does not otherwise act, a petition for rehearing or reconsideration shall be deemed denied the 60th day following the date the petition was filed, and in such cases, petition for judicial review shall be filed within 60 days only following such date. Date of service shall be the date on which the council delivered or mailed its approval or rejection in accordance with ORS 183.470. Upon approval and after expiration of the appeal period provided in this subsection, the site certificate with any conditions prescribed by the council shall be executed by the chairman of the council and by the applicant, except that the filing of the petition for review stays the construction of the energy facility until final decision by the Supreme Court. No bond or other undertaking shall be required to stay such construction. Except as otherwise provided in this subsection, the review by the Supreme Court shall be as provided in ORS 183.482. The Supreme Court shall give priority on its docket to such a petition for review.

(2) The certificate shall authorize the applicant to construct and operate the proposed energy facility subject to the conditions set forth in such certificate.

(3) The site certificate shall contain conditions for the protection of the public health and safety and shall require both parties to abide by state law and rules of the council in effect on the date the site certificate is executed, except that upon a clear showing that there is danger to the public health and safety that requires stricter laws or rules, the state may, subject to ORS 469.500, require compliance with such stricter laws or rules.

(4) The site certificate shall contain the applicant's warranties as to its abilities required under subsection (3) of ORS 469.470, its provisions as to protection of the public health and safety and as to time of completion of construction.

(5) Subject to the conditions set forth therein, any certificate signed by the chairman of the council shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the proposed energy facility. Affected state agencies, counties, cities and political subdivisions shall issue the appropriate permits, licenses and certificates necessary to construction and operation of the facility, subject only to condition of the site certificate. Each state or local governmental agency that issues a permit, license or certificate shall continue to exercise enforcement authority over such permit, license or certificate.

(6) Where a site certificate authorizes the construction and operation of an energy facility within the boundaries of an incorporated city, the certificate shall be conditioned upon compliance with lawful ordinances in effect and enacted by the city on the date of filing of the notice of intent or the application, whichever is earlier. If a city subsequently adopts lawful ordinances that are stricter than any ordinance in effect on the date of filing of the notice of intent or the application, upon a clear showing that there is danger to the public health and safety the state may require compliance with such stricter ordinances. [Formerly 453.395; 1977 c.794 §13; 1977 c.895 §3]

**469.410 Energy facility site certificate applications filed or under construction prior to July 2, 1975; conditions of site certificate.** (1) Any applicant for a site certificate for an energy facility shall be deemed to have met all the requirements of ORS 176.810, 192.500, 192.690, 469.010 to 469.580, 469.533, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certificate shall be issued by the Governor for:

(a) Any transmission lines for which application has been filed with the Federal Government and the Public Utility Commissioner of Oregon prior to July 2, 1975; and

(b) Any energy facility under construction on July 2, 1975.

(2) Each applicant for a site certificate under this section shall pay the fees required by subsections (3) and (4) of ORS 469.420 and shall execute a site certificate in which the applicant agrees:

(a) To abide by the conditions of all licenses, permits and certificates required by the State of Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975; and

(b) On and after July 2, 1975, to abide by the rules of the director adopted pursuant to paragraph (d) of subsection (1) of ORS 469.040 and rules of the council adopted pursuant to ORS 469.300 to 469.570.

(3) Site certificates executed by the Governor under ORS 469.400 prior to July 2, 1975, or pursuant to the provisions of section 58, chapter 606, Oregon Laws 1975, shall bind successor agencies created hereunder in accordance with the terms of such site certificates. [1975 c.606 §24]

**469.420 Fees; exemptions; assessment of certain utilities and suppliers.** (1) Every person filing notice of intent to file for a site certificate shall submit a fee of $5,000 for each site so indicated. If the person subsequently becomes an applicant for a site certificate, the amount paid at the time notice of intent is filed shall be credited against the amount otherwise due under subsection (2) of this section.

(2) Every applicant for a site certificate shall submit to the department at the same time as the application for a site certificate is filed with the council, an amount equal to $0.05 per kilowatt of the maximum planned net electric capacity for a proposed electric generating plant, or addition thereto, or an amount equal to $1,000 for each $1 million of estimated capital investment in any other proposed energy facility or addition thereto. In no case shall the application fee be less than $15,000.

(3) Each holder of a certificate under ORS 469.300 to 469.570 and 469.992 shall pay a fee, due on the July 1 next following issuance of a site certificate and annually thereafter. For the fiscal year beginning July 1, 1977 and thereafter, the annual fee shall be determined as follows:

(a) For a nuclear-fueled electric power generating plant, $0.05 per kilowatt of the maximum net electric capacity authorized by the site certificate and for all other electric power generating plants, $0.025 per kilowatt of the maximum net electric capacity author-

ized by the site certificate. Once construction on the plant has begun the name plate rating of the plant shall be used in calculating the annual fee.

(b) For any other energy facility, $300 for each $1 million (or portion thereof) of estimated capital investment. Once the energy facility is in service, the booked original cost of such energy facility shall be used thereafter in calculating the annual fee.

(4) In addition to any other fees required by law, each electric utility, natural gas utility, and petroleum supplier shall pay to the department annually, commencing with the fiscal year beginning July 1, 1977, its share of an assessment to fund the activities of the department, determined by the director in the following manner:

(a) Upon approval of the department's budget authorization by a regular session of the Legislative Assembly, the director shall promptly enter an order establishing the amount of revenues required to be derived from an assessment pursuant to this subsection in order to fund the activities of the department for the first fiscal year of the forthcoming biennium. On or before June 1 of each even-numbered year, the director shall enter an order establishing the amount of revenues required to be derived from an assessment pursuant to this subsection in order to fund the activities of the department for the second fiscal year of the biennium which order shall take into account any revisions to the department's biennial budget made by the Emergency Board or by a special session of the Legislative Assembly subsequent to the most recently concluded regular session of the Legislative Assembly.

(b) Each order issued by the director pursuant to paragraph (a) of this subsection shall allocate the aggregate assessment set forth therein to electric utilities and natural gas utilities and petroleum suppliers subject to a fee assessment and identified in paragraph (g) of this subsection as distinct classes of energy resource suppliers, on the basis of their prorated share of total British thermal units of energy sold by them in Oregon in the most recently concluded calendar year. In making this allocation, the director shall exclude British thermal units of energy sold by petroleum suppliers which are subject to the requirements of section 3, Article IX of the Oregon Constitution, ORS 319.020 with reference to aircraft fuel and motor vehicle fuel, and ORS 319.530.

(c) Each order issued by the director pursuant to paragraph (a) of this subsection shall also assess the aggregate amounts allocated to electric utilities, natural gas utilities and petroleum suppliers as distinct classes of energy resource suppliers to individual electric utilities, natural gas utilities and petroleum suppliers within such classes, in accordance with the following ratios:

(A) The aggregate amount assessed to electric utilities as a class shall be assessed to individual electric utilities on the ratio that the annual kilowatt hour sales of each electric utility bears to the total annual kilowatt hour sales of all such electric utilities, as determined by the department for the most recently concluded calendar year;

(B) The aggregate amount assessed to natural gas utilities as a class shall be assessed to individual natural gas utilities on the ratio that the annual sales of therms of natural gas of each natural gas utility bears to the total annual sales of therms of natural gas of all such natural gas utilities, as determined by the department for the most recently concluded calendar year; and

(C) The aggregate amount assessed to petroleum suppliers as a class shall be assessed to individual petroleum suppliers on the ratio that Oregon sales of British thermal units of energy by each petroleum supplier bears to the total Oregon sales of British thermal units of energy by all petroleum suppliers, as determined by the department for the most recently concluded calendar year. In making this assessment, the director shall exclude all British thermal units of energy sold by petroleum suppliers which are subject to the requirements of section 3, Article IX of the Oregon Constitution, ORS 319.020 or 319.530.

(d) The director shall send each electric utility, natural gas utility and petroleum supplier subject to assessment pursuant to this subsection a copy of each order issued, by registered or certified mail.

(e) The amounts assessed to individual electric utilities, natural gas utilities and petroleum suppliers pursuant to paragraph (c) of this subsection shall be paid to the department as follows:

(A) Amounts assessed for the first fiscal year of a biennium shall be paid not later than 90 days following the close of the regular session of the Legislative Assembly; and

(B) Amounts assessed for the second fiscal year of a biennium shall be paid not later than July 1 of each even-numbered year.

(f) Not later than April 1 of each year, every petroleum supplier subject to the assessment imposed by this subsection shall submit to the director a verified statement setting forth the number of British thermal units of energy subject to assessment which it sold in Oregon during the most recently concluded calendar year. For the year 1977 only, such statements shall be submitted by petroleum suppliers not later than 60 days after October 4, 1977.

(g) As used in this subsection, "petroleum supplier" includes only those petroleum suppliers who are required to submit forecasts to the department pursuant to subsection (4) of ORS 469.070.

(h) In determining the amount of revenues which must be derived from electric utilities, natural gas utilities and petroleum suppliers by assessment pursuant to this subsection, the director shall take into account all other known or readily ascertainable sources of revenue to the department, including, but not limited to, fees imposed under this section and federal funds.

(i) Orders issued by the director pursuant to this section shall be subject to judicial review under ORS 183.484. The taking of judicial review shall not operate to stay the obligation of an electric utility, natural gas utility or petroleum supplier to pay amounts assessed to it on or before the statutory deadline.

(5) Except as a portion of the application fee may be refunded under ORS 469.360, funds received under this section are continuously appropriated to the department for payment of expenses incurred under ORS 176.810, 192.500, 192.690, 469.010 to 469.580, 469.533, 469.990, 757.710 and 757.720.

(6) Reactors operated by a college, university or graduate center for research purposes and electric utilities not connected to the Northwest Power Grid are exempt from the fee requirements of subsections (3) and (4) of this section. [Formerly 453.405; 1977 c.813 §1; 1979 c.234 §1]

**469.430 Site inspections.** The council has continuing authority over the site for which the site certificate is issued and may inspect, or direct the department to inspect, the site at any time. [Formerly 453.415]

**469.440 Grounds for revocation or suspension of certificates.** Pursuant to the procedures for contested cases in ORS 183.310 to 183.500, a certificate may be revoked or suspended:

(1) For any breach of a warranty; or

(2) For failure to maintain safety standards or to comply with the terms or conditions of the certificate; or

(3) For violation of the provisions of ORS 469.300 to 469.570 and 469.992 or rules adopted pursuant to ORS 469.300 to 469.570 and 469.992. [Formerly 453.425]

**(Administration)**

**469.450 Energy Facility Siting Council; appointment; confirmation; term; restrictions.** (1) There is established an Energy Facility Siting Council consisting of seven public members, who shall be appointed by the Governor, subject to confirmation by the Senate in the manner prescribed in ORS 171.560 and 171.570.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment but no member shall serve more than two full terms. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) No member of the council shall be an employe, director or retired employe or director of or a consultant to or have any pecuniary interest, other than an incidental interest which is disclosed and made a matter of public record at the time of the appointment to the council, in any corporation or utility operating or interested in establishing an energy facility in this state or in any manufacturer of related equipment.

(4) No member shall for two years after the expiration of his term accept employment with any owner or operator of any energy facility that is subject to ORS 469.300 to 469.570 and 469.992.

(5) Employment of a person in violation of this section shall be grounds for revocation of any license issued by this state or any agency

thereof and held by the owner or operator of the energy facility that employs such person. [Formerly 453.435]

**469.460 Officers; meetings; compensation and expenses.** (1) The council shall annually elect from among its members a chairman and vice chairman with such powers and duties as the council imposes in accordance with ORS 469.300 to 469.570 and 469.992. The council may meet as often as it requires at a time and place determined by the council. Five members constitute a quorum. The Governor or the chairman of the council may call a special meeting, to be held at any place in this state designated by the person calling the meeting, upon 24 hours' notice to each member and to the public.

(2) Council members shall be entitled to compensation and expenses as provided in ORS 292.495. [Formerly 453.445]

**469.470 Powers and duties.** The council shall:

(1) Conduct and prepare, independently or in cooperation with others, studies, investigations, research and programs relating to all aspects of site selection.

(2) After public hearings, designate areas within this state that are suitable or unsuitable for use as sites for the following types of energy facilities:

(a) Nuclear-fueled and fossil-fueled thermal power plants with nominal electric generating capacity of more than 200,000 kilowatts.

(b) Geothermal power plants.

(c) Each additional type of energy facility for which the council determines such designations are necessary.

(3) Establish standards and promulgate rules that applicants for site certificates must meet including, but not limited to, standards of financial ability and qualifications as to ability to construct and operate the energy facility to which the site certificate applies and prescribe the form.

(4) Conduct public hearings on the proposed location of any site after application is filed therefor.

(5) Encourage voluntary cooperation by the people, municipalities, counties, industries, agriculture, and other pursuits, in establishing standards for site selection.

(6) Advise, consult, and cooperate with other agencies of the state, political subdivisions, industries, other states, the Federal Government and affected groups, in furtherance of the purposes of ORS 469.300 to 469.570 and 469.992.

(7) Perform such other and further acts as may be necessary, proper or desirable to carry out effectively the duties, powers and responsibilities of the council described in ORS 469.300 to 469.570 and 469.992. [Formerly 453.455]

**469.480 County advisory groups; special advisory groups; compensation and expenses.** (1) The council shall designate the governing body of the city or county or counties as a special advisory group in any city or county or counties wherein a proposed site is located upon filing of a site application therefor.

(2) In addition to advisory groups required by subsection (1) of this section the council may establish such special advisory groups as are considered necessary. Such advisory groups shall include membership as determined by the council to represent interests and disciplines as needed to carry out the responsibility assigned to such advisory groups, which shall report findings, recommendations and decisions to the council.

(3) Subject to applicable laws regulating travel and other expenses of state officers and employes, members of any advisory committee appointed under subsection (1) of this section shall receive no compensation but may receive their actual and necessary travel and other expenses incurred in the performance of their official duties. [Formerly 453.475]

**(Rules; Standards)**

**469.490 Adoption of rules.** All rules adopted by the council pursuant to ORS 469.300 to 469.570 and 469.992 shall be adopted in the manner required by ORS 183.310 to 183.500. [Formerly 453.495]

**469.500 Adoption of safety standards.** (1) The council shall adopt safety standards promulgated as rules for the operation of all thermal power plants and nuclear installations. Such standards shall include but need not be limited to:

(a) Emission standards at the lowest practicable limits, taking into account the state of technology and the economics of improvements in relation to the benefits to public health and safety;

(b) All necessary safety devices and procedures; and

(c) The accumulation, storage, disposal and transportation of wastes including nuclear wastes.

(2) The council shall establish programs for monitoring the environmental and ecological effects of the construction and operation of thermal power plants and nuclear installations to assure continued compliance with the terms and conditions of the certificate and the safety standards adopted under subsection (1) of this section.

(3) The director shall perform the testing and sampling necessary for the monitoring program or require the operator of the plant to perform the necessary testing or sampling pursuant to standards established by the council. The council and director shall have access to operating logs, records and reprints of the certificate holder, including those required by federal agencies.

(4) The monitoring program may be conducted in cooperation with any federally operated program if the information available therefrom is acceptable to the council, but no federal program shall be substituted totally for monitoring supervised by the director.

(5) The monitoring program shall include monitoring of the transportation process for all radioactive material removed from any nuclear-fueled thermal power plant or nuclear installation. [Formerly 453.505]

**469.510 Considerations in adoption of siting, construction and operation rules.** In performing its duties and exercising its powers under ORS 469.300 to 469.570 and 469.992, the council shall set standards and promulgate rules for the siting, construction and operation of thermal plants and nuclear installations which shall take into account the following:

(1) The health, safety and welfare of the public.

(2) The effects of chemical, waste heat, moisture and radioactive discharge or other impact on the environment and associated natural resources and physical processes, including humans, air, water, fish and wildlife.

(3) Rules and regulations of the federal Nuclear Regulatory Commission, the Environmental Protection Agency, the Federal Department of Transportation and the Federal Energy Administration or their successors.

(4) Land and water use characteristics of any site, including but not limited to the aesthetics of the site and the environment and the impact on present and future use of adjacent areas.

(5) Present and future industrial, commercial and residential power needs by classes and amount for each class.

(6) Beneficial use of waste water developed by a thermal power plant.

(7) The regulations, if any, of cities or counties relating to the installations of thermal power plants or nuclear installations within their respective borders.

(8) Ability of the affected area to absorb the industrial and population growth resulting from operation of the facility. [Formerly 453.515; 1977 c.794 §15]

**469.520 Cooperation of state governmental bodies; adoption of rules by state agencies on energy facility development.** (1) Each state agency and political subdivision in this state that is concerned with energy facilities shall inform the department promptly of its activities and programs relating to energy and radiation.

(2) Each state agency proposing to adopt, amend or rescind a rule relating to energy facility development first shall file a copy of its proposal with the council, which may order such changes as it considers necessary to conform to state policy as stated in ORS 469.010 and 469.310.

(3) The effective date of a rule relating to energy facility development, or an amendment or rescission thereof, shall not be sooner than 10 days subsequent to the filing of a copy of such proposal with the council. [Formerly 453.525]

**(Plant Operations; Radioactive Wastes)**

**469.525 Radioactive waste disposal facilities prohibited; certain activities allowed.** (1) Notwithstanding any other provision of this chapter, no waste disposal facility for any radioactive waste shall be established, operated or licensed within this state.

(2) Prior to December 31, 1981, maintenance of radioactive waste deposited in Oregon prior to March 1, 1979, shall not constitute operation of a waste disposal facility.

(3) Maintenance of radioactive coal ash at the site of a thermal power plant for which a

site certificate has been issued pursuant to this chapter shall not constitute operation of a waste disposal facility so long as such coal ash is maintained in accordance with the terms of the site certificate as amended from time to time as necessary to protect the public health and safety. [Formerly 459.630; 1979 c.283 §2]

Note: Sections 4 and 5, chapter 283, Oregon Laws 1979, provide:

Sec. 4. (1) The Health Division shall contract for an independent study of public health hazards associated with storage of the waste described in subsection (13) of ORS 469.300 in this state. The division shall determine:

(a) Whether and to what extent such waste presents a hazard to the health and safety of the people of the State of Oregon; and

(b) What methods are available for disposal of such waste and the relative effectiveness, safety and cost of those methods.

(2) The Health Division shall report its findings to the Sixty-first Legislative Assembly.

Sec. 5. In addition to any other fees required by law, any person who, but for the provisions of subsection (2) of ORS 469.525, would be in violation of subsection (1) of ORS 469.525 shall pay to the Health Division, on or after July 1, 1979, a proportionate share of an assessment of all such persons sufficient to reimburse the division for the cost of the study required by section 4 of this Act.

**469.530 Regulation of transport of radioactive material; duties of certificate holders and transporters; review and approval of security programs.** (1) In cooperation with appropriate federal agencies, the council shall regulate the transportation process for all radioactive material derived from or destined for any thermal power plant or nuclear installation.

(2) The holder of a site certificate for any thermal power plant or nuclear installation and any transporter of radioactive materials derived from such plant or installation must keep the council and director informed on the procedures, routes and schedules for the transportation of such materials.

(3) The council and the director shall review and approve all security programs attendant to a nuclear-fueled thermal power plant, a nuclear installation and the transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or a nuclear installation. The council shall provide reasonable public notice of a meeting of the council held for purposes of such review and approval. [Formerly 453.535]

**469.533 Department of Energy rules required for health protection and evacuation procedures in nuclear emergency.** The Department of Energy in cooperation with the Health Division and the Emergency Services Division shall establish rules for the protection of health and procedures for the evacuation of people and communities who would be affected by radiation in the event of an accident or a catastrophe in the operation of a nuclear power plant or nuclear installation. [Formerly 453.765]

Note: Sections 4 to 8 and 11, chapter 726, Oregon Laws 1979, provide:

Sec. 4. Sections 5 to 8 of this Act are added to and made a part of ORS 469.300 to 469.570.

Sec. 5. Each county in this state that has a nuclear-fueled thermal power plant located within county boundaries and each county within this state that has any portion of its area located within 50 miles of a site within this state of a nuclear-fueled thermal power plant shall develop written procedures that are compatible with the rules adopted by the department under ORS 469.533. The department shall review the county procedures to determine whether they are compatible with the rules of the department.

Sec. 6. (1) The rules adopted under ORS 469.533 shall:

(a) Require counties to prepare evacuation plans for areas within 10 miles of a nuclear-fueled thermal power plant; and

(b) Provide for control of radiologically contaminated foodstuffs in areas within 50 miles of a nuclear-fueled thermal power plant.

(2) The rules may provide for distances different from those specified in subsection (1) of this section if they are supported by site-specific studies approved by the department.

Sec. 7. (1) In addition to any other fees required by law, each operator of a nuclear-fueled thermal power plant within this state shall pay to the department annually, commencing with the fiscal year beginning July 1, 1979, an assessment to fund the activities of the department and the counties in complying with sections 5 to 7 of this 1979 Act. The fee assessed under this section shall not exceed $100,000 per year for any one nuclear-fueled thermal power plant.

(2) The director shall reimburse the counties for expenses incurred by the counties in complying with the requirements of section 5 of this 1979 Act to the extent funds are available under subsection (1) of this section. The counties shall be reimbursed only for those expenses that are attributable to planning for the protection of the public health and safety in the event of an accident or a catastrophe in the operation of a nuclear-fueled thermal power plant as determined by the director. Reimbursement of the counties will be reduced by the amount of funds available for such planning from other state and federal fund sources.

(3) Funds received by the department under this section are continuously appropriated to the department for payment of expenses of the department and the counties associated with county emergency planning under sections 5 to 7 of this 1979 Act.

Sec. 8. (1) The department shall assign one inspector to the site of each nuclear-fueled thermal power plant. The director shall prepare a written statement of the inspector's responsibilities and authority.

(2) An inspector shall be present at the site of a nuclear-fueled thermal power plant at least 40 hours per week during any time the reactor core is in operation. The director may approve exceptions to this requirement. The inspector may be temporarily replaced by another qualified department employe.

Sec. 11. Sections 5 to 8 of this 1979 Act are repealed on July 1, 1983.

**469.536 Public utility to disseminate information under ORS 469.533.** A public utility which operates a nuclear power plant or nuclear installation shall disseminate to the governing bodies of cities and counties that may be affected information approved by the Department of Energy which explains rules or procedures adopted under ORS 469.533. [Formerly 453.770]

**469.540 Reductions or curtailment of operations for violation of safety standards; notice; time period for repairs.** (1) In instances where the director determines either from his monitoring or surveillance that there is danger of violation of a safety standard adopted under ORS 469.500 from the continued operation of a plant or installation, he may order temporary reductions or curtailment of operations until such time as proper safety precautions can be taken.

(2) An order of reduction or curtailment shall be entered only after notice to the thermal power plant or installation and only after a reasonable time, considering the extent of the danger, has been allowed for repairs or other alterations that would bring the plant or installation into conformity with applicable safety standards. [Formerly 453.545]

**469.550 Order for halt of plant operations or activities with radioactive material; notice.** (1) Whenever in the judgment of the director from the results of monitoring or surveillance of operation of any nuclear-fueled thermal power plant or nuclear installation or based upon information from the council there is cause to believe that there is clear and immediate danger to the public health and safety from continued operation of the plant or installation, the director shall, in cooperation with appropriate state and federal agencies, without hearing or prior notice, order the operation of the plant halted by service of the order on the plant superintendent or other person charged with the operation thereof. Within 24 hours after such order, the director must appear in the appropriate circuit court to petition for the relief afforded under ORS 469.570 and may commence proceedings for revocation of the site certificate if grounds therefor exist.

(2) Whenever, in the judgment of the director based upon his monitoring or surveillance, or based upon information from the council, there is cause to believe that there is clear and immediate danger to the public health and safety from the accumulation, storage, disposal or transportation of radioactive material located at, derived from or destined for a nuclear-fueled thermal power plant or a nuclear installation, the director shall in cooperation with appropriate state and federal agencies, without hearing or prior notice, order such accumulation, storage, disposal or transportation halted or immediately impose safety precautions by service of the order on the officer responsible for the accumulation, storage, disposal or transportation. Within 24 hours after such an order, the director must appear in the appropriate circuit court to petition for the relief afforded under ORS 469.570.

(3) The Governor, in the absence of the director, may issue orders and petition for judicial relief as provided in this section. [Formerly 453.555; 1977 c.794 §16]

**469.553 Uranium mill or mill tailings disposal facility site certification required; council procedure for application review; fees.** (1) Any person desiring to construct or operate a uranium mill or uranium mill tailings disposal facility after June 25, 1979, shall file with the Energy Facility Siting Council a site certificate application.

(2) The Energy Facility Siting Council shall review an application for a site certificate under this section using the procedure prescribed in ORS 469.350, 469.360, 469.370, 469.375, 469.380, 469.390 and 469.400, for energy facilities. The council is authorized to assess fees in accordance with ORS 469.420 in connection with site certificates applied for or issued under this section. [1979 c.283 §7]

**469.556 Rules governing uranium-related activities.** The Energy Facility Siting Council shall adopt rules governing the

location, construction and operation of uranium mills and uranium mill tailings disposal facilities and the treatment, storage and disposal of uranium mine overburden for the protection of the public health and safety and the environment. [1979 c.283 §8]

**469.559 Cooperative agreements authorized between council and federal officials and agencies; rules; powers of Governor.** (1) Notwithstanding the authority of the Health Division pursuant to ORS 453.605 to 453.745 to regulate radiation sources or the requirements of ORS 469.525, the Energy Facility Siting Council may enter into and carry out cooperative agreements with the Secretary of Energy pursuant to Title I and the Nuclear Regulatory Commission pursuant to Title II of the Uranium Mill Tailings Radiation Control Act of 1978, Public Law 95-604, and perform or cause to be performed any and all acts necessary to be performed by the state, including the acquisition by condemnation or otherwise, retention and disposition of land or interests therein, in order to implement that Act and rules, standards and guidelines adopted pursuant thereto. The Energy Facility Siting Council may adopt, amend or repeal rules in accordance with ORS 183.310 to 183.500 and may receive and disburse funds in connection with the implementation and administration of this section.

(2) The Governor may do any and all things necessary to implement the requirements of the federal Act referred to in subsection (1) of this section. [1979 c.283 §9]

**(Records)**

**469.560 Records; public inspection; confidential information.** (1) Except as provided in subsection (2) of this section and ORS 192.500, any information filed or submitted pursuant to ORS 469.300 to 469.570 and 469.992 shall be made available for public inspection and copying during regular office hours of the department at the expense of any person requesting copies.

(2) Any information, other than that relating to the public safety, relating to secret process, device, or method of manufacturing or production obtained in the course of inspection, investigation or activities under ORS 469.300 to 469.570 and 469.992 shall be kept confidential and shall not be made a part of public record of any hearing. [Formerly 453.565]

**(Enforcement)**

**469.570 Court orders for enforcement.** Without prior administrative proceedings, a circuit court may issue such restraining orders, and such temporary and permanent injunctive relief as is necessary to secure compliance with ORS 469.300 to 469.570 and 469.992 or with a site certificate issued pursuant to ORS 469.300 to 469.570 and 469.992. [Formerly 453.575]

**(Natural Gas Storage)**

**469.580 Use of underground reservoir for natural gas storage requires certificate.** Any person desiring to condemn or utilize an underground reservoir for the purpose of storage of natural gas pursuant to ORS 520.340, 520.350 and 772.610 to 772.625 shall file with the council a site certificate application. [1977 c.296 §13]

## ENERGY CONSERVATION PROGRAMS

**(Single Family Residence)**

**469.700 Energy efficiency ratings; public information; "single family residence" defined.** (1) On or before January 1, 1978, the Energy Conservation Board, after public hearing, shall adopt a recommended voluntary energy efficiency rating system for single family residences and provide the Department of Energy with a copy thereof.

(2) The rating system shall provide a single numerical value or other simple concise means to measure the energy efficiency of any single family residence, taking into account factors including, but not limited to, the heat loss characteristics of ceilings, walls, floors, windows, doors and heating ducts.

(3) Upon adoption of the rating system under subsections (1) and (2) of this section, the Department of Energy shall publicize the availability of the system, and encourage its voluntary use in real estate transactions.

(4) As used in subsections (1) to (3) of this section, "single family residence" means a structure designed as a residence for one family and sharing no common wall with another residence of any type. [1977 c.413 §§1, 2, 3]

(Public Buildings)

**469.730 Declaration of purpose.** It is the purpose of ORS 469.730 to 469.745 to promote voluntary measures to conserve energy in public buildings or groups of buildings constructed prior to January 1, 1978, through the adoption of energy conservation standards. [1977 c.853 §1]

**469.735 Definitions for ORS 469.730 to 469.745.** As used in ORS 469.730 to 469.745, unless the context requires otherwise:

(1) "Director" means the Director of Commerce.

(2) "Public building" means any publicly or privately owned building constructed prior to January 1, 1978, including the outdoor areas adjacent thereto, which:

(a) Is open to and frequented by the public; or

(b) Serves as a place of employment. [1977 c.853 §2]

**469.740 Energy conservation standards for public buildings; adoption by Director of Commerce; considerations.** Not later than January 1, 1978, in accordance with ORS 183.310 to 183.500 and after consultation with the Energy Conservation Board and the Department of Energy, the director shall adopt rules establishing energy conservation standards for public buildings. The standards shall provide means of measuring and reducing total energy consumption, shall establish a goal for 20 percent energy savings by 1980 and provide a flexible means for achieving that savings, and shall take into account:

(1) The climatic conditions of the areas in which particular buildings are located; and

(2) The three basic systems comprising any functioning building which are:

(a) Energized systems such as those required for heating, cooling, lighting, ventilation, conveyance and business equipment operation.

(b) Nonenergized systems such as floors, ceilings, walls, roof and windows.

(c) Human systems such as maintenance, operating and management personnel, tenants and other users. [1977 c.853 §3]

**469.745 Voluntary compliance program.** To provide the public with a guide for energy conservation, the Director of the Department of Energy shall adopt a program for voluntary compliance by the public with the standard adopted by the Director of Commerce under ORS 469.740. [1977 c.853 §4]

Note: Sections 1 to 5, 6b and 10, chapter 887, Oregon Laws 1977, as amended by chapter 164, Oregon Laws 1979, provide:

Sec. 1. This Act shall be known as the Oregon Energy Conservation Act of 1977.

Sec. 2. The Legislative Assembly finds and declares that:

(1) There is an urgent and continuing need for all Oregonians to conserve energy;

(2) Many of the homes in Oregon are in need of additional insulation and other weatherization measures to make them more energy efficient;

(3) Insulation and other weatherization measures in many cases can conserve energy and make it available for other uses at less cost than energy from new sources; and

(4) Expenditure by energy suppliers on conservation programs is in many cases a prudent and cost-effective means of gaining new supplies for energy consumers.

Sec. 3. As used in chapter 887, Oregon Laws 1977, unless the context requires otherwise:

(1) "Commercial lending institutions" means any bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association or federal credit union maintaining an office in this state.

(2) "Director" means the Director of the Department of Energy.

(3) "Dwelling" means real or personal property within the state inhabited as the principal residence of an owner or renter and which is occupied at the time weatherization services are requested. "Dwelling" includes a mobile home as defined in ORS 446.003, a floating home as defined in ORS 488.705 and multiple unit residential housing. "Dwelling" does not include a recreational vehicle as defined in ORS 446.003.

(4) "Dwelling owner" means the person or persons having legal title to a dwelling, including the mortgagor under a duly recorded mortgage of real property, the trustor under a duly recorded deed of trust or a purchaser under a duly recorded contract for the purchase of real property.

(5) "Contractor" means a person, partnership, association, company, corporation or other form of organization qualified to perform one or more weatherization services.

(6) "Weatherization services" means providing and installing items primarily designed to improve the efficiency of space heating and energy utilization of a dwelling. These items include but are not limited to caulking; weatherstripping, and other infiltration preventative materials; ceiling and wall insulation; crawl space insulation; vapor barrier materials; timed thermostats; insulation of heating ducts, hot water pipes and water heaters in unheated spaces; storm doors and windows; double glazed windows; and dehumidifiers. "Weatherization

services" includes installing mobile home weatherization materials.

(7) "Mobile home weatherization materials" means items primarily designed to improve the efficiency of space heating and energy utilization of a dwelling. Such items include, but are not limited to, caulking, weatherstripping and other infiltration preventative materials, floor insulation, ground cover, timed thermostats, insulation of heating ducts, hot water pipes and water heaters in unheated spaces, storm doors and windows, double glazed windows and dehumidifiers.

(8) "Energy supplier" means a publicly owned utility or fuel oil dealer which supplies electricity or fuel oil for the space heating of dwellings.

(9) "Fuel oil dealer" means a person, association, company, corporation or any other form of organization which supplies during any 12-month period more than 500,000 gallons of fuel oil at retail for the space heating of dwellings.

(10) "Investor-owned utility" means an electric or gas utility regulated by the Public Utility Commissioner of Oregon under ORS chapter 757.

(11) "Publicly owned utility" means an electric utility owned or operated, in whole or in part, by a municipality, cooperative association or people's utility district.

(12) "Space heating" means the primary means of heating the air within a dwelling by electricity, gas or fuel oil.

(13) "Space-heating customer" means a dwelling owner or tenant receiving space-heating services from an energy supplier.

(14) "Tenant" means a person or head of a household who has rented a dwelling for more than six months or who has a written agreement for a period of six months or more with the dwelling owner.

Sec. 4. Within 90 days after July 28, 1977, each energy supplier shall present for approval by the director a weatherization services program which shall, in accordance with the rules of the director adopted pursuant to ORS 183.310 to 183.500:

(1) Make available to all space-heating customers of the energy supplier, upon request, information relating to weatherization services;

(2) Except as provided in section 5, chapter 887, Oregon Laws 1977, provide to all space-heating customers of the energy supplier, upon request, assistance and technical advice concerning various methods of saving energy in the customer's dwelling, including but not limited to an inspection of the customer's dwelling to determine sources of heat loss followed within 60 days by an estimate of the cost to the customer for the installation of recommended weatherization services by a contractor;

(3) Include a list of not less than two contractors providing various types of weatherization services within or in close proximity to the service area or areas of the energy supplier, each of which has registered with the Builders Board and posted a surety bond as provided in ORS chapter 701;

(4) Based upon the list described in subsection (3) of this section, submit to each space-heating customer desiring one or more types of weatherization services, a list of not less than two contractors in close proximity to the customer to provide such services; and

(5) Provide to dwelling owners who are space-heating customers or who rent to space-heating customers information about the availability of low-interest home loans for weatherization services through commercial lending institutions.

Sec. 5. (1) No energy supplier shall be required to provide assistance and technical advice concerning weatherization services to a space-heating customer unless such energy supplier is the primary provider of space-heating energy for the customer.

(2) No energy supplier who in good faith complies with the provisions of section 4 of this Act shall be liable for any act or failure to act or any contractor whose name is submitted by such energy supplier to a space-heating customer.

Sec. 6b. The interest rate for loans provided by commercial lending institutions to dwelling owners who are or who rent to space-heating customers of energy suppliers pursuant to chapter 887, Oregon Laws 1977, and dwelling owners who are or who rent to residential customers of investor-owned utilities pursuant to chapter 889, Oregon Laws 1977, for the purpose of financing weatherization services shall not exceed six and one-half percent annually.

Sec. 10. Sections 1 to 6 of this Act expire and stand repealed on January 1, 1982.

Note: Sections 6 and 7, chapter 164, Oregon Laws 1979, provide:

Sec. 6. Any space-heating customer of an energy supplier or residential customer of a public utility applying for low interest financing under the provisions of chapter 887 or 889, Oregon Laws 1977, after the effective date of this Act [October 3, 1979], may use any assistance and technical advice provided by an energy supplier under chapter 887, Oregon Laws 1977, or by a public utility under chapter 889, Oregon Laws 1977, including an estimate of cost for installation of weatherization materials, obtained prior to the effective date of this Act, in applying for that financing, if:

(1) The assistance or cost estimate was voluntarily obtained after July 28, 1977, and prior to the effective date of this Act; and

(2) The applicant was not eligible to apply for low interest financing under chapter 887 or 889, Oregon Laws 1977, at the time the assistance or cost estimate was obtained because the applicant's residence was excluded from the definition of "dwelling" under section 3, chapter 887, Oregon Laws 1977, or section 3, chapter 889, Oregon Laws 1977.

Sec. 7. A space-heating customer of an energy supplier or residential customer of a public utility may not apply for low interest financing under chapter 887 or 889, Oregon Laws 1977, unless the customer has first requested and obtained assistance and technical advice from an energy supplier under chapter 887, Oregon Laws 1977, or a public utility under chapter 889, Oregon Laws 1977.

## PENALTIES

**469.990 Penalties for ORS 469.090.** (1) In addition to any penalties under subsection (2) of this section, a person who discloses confidential information in violation of ORS 469.090, wilfully or with criminal negligence, as defined by ORS 161.085, may be subject to removal from office or immediate dismissal from public employment.

(2) (a) Wilful disclosure of confidential information in violation of ORS 469.090 is punishable upon conviction, by a fine or not more than $10,000 or imprisonment for up to one year, or both, for each offense.

(b) Disclosure of confidential information in violation of ORS 469.090 with criminal negligence, as defined by ORS 161.085, is punishable, upon conviction, by a fine of not more than $1,000 for each offense. [1975 c.606 §20]

**469.992 Civil penalties.** (1) A civil penalty in an amount not less than $1,000 per day nor more than $25,000 per day for each day of construction or operation in material violation of ORS 469.300 to 469.570 and this section or in material violation of any site certificate issued pursuant to ORS 469.300 to 469.570 and this section may be assessed by the circuit court.

(2) Violation of an order entered pursuant to ORS 469.550 is punishable upon conviction by a fine of $50,000. Each day of violation constitutes a separate offense.

(3) A civil penalty in an amount not less than $100 per day nor more than $1,000 per day may be assessed by the circuit court for a wilful failure to submit an energy forecast required by subsection (4) of ORS 469.070 or for a wilful failure to comply with a subpena served by the director pursuant to subsection (2) of ORS 469.080. [Formerly 453.994; 1977 c.794 §17]

### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1979

Thomas G. Clifford
Legislative Counsel

## CHAPTER 470
## [Reserved for expansion]

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# Chapter 459

## 1979 REPLACEMENT PART

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## CROSS REFERENCES

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Vehicles used in refuse operations, maximum single axle weight, 483.506

## SOLID WASTE MANAGEMENT
## (General Provisions)

**459.005 Definitions for ORS 459.005 to 459.285.** As used in ORS 459.005 to 459.285, unless the context requires otherwise:

(1) "Board of county commissioners" or "board" includes county court.

(2) "Commission" means the Environmental Quality Commission.

(3) "Department" means the Department of Environmental Quality.

(4) "Disposal site" means land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, and composting plants; but the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service; or a site licensed pursuant to ORS 481.345.

(5) "Land reclamation" means the restoration of land to a better or more useful state.

(6) "Local government unit" means a city, county, metropolitan service district formed under ORS chapter 268, sanitary district or sanitary authority formed under ORS chapter 450, county service district formed under ORS chapter 451, regional air quality control authority formed under ORS 468.500 to 468.530 and 468.540 to 468.575 or any other local government unit responsible for solid waste management.

(7) "Permit" includes, but is not limited to, a conditional permit.

(8) "Person" means the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(9) "Resource recovery" means the process of obtaining useful material or energy resources from solid waste and includes:

(a) "Energy recovery," which means recovery in which all or a part of the solid waste materials are processed to utilize the heat content, or other forms of energy, of or from the material.

(b) "Material recovery," which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

(c) "Recycling," which means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(d) "Reuse," which means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(10) "Solid waste collection service" or "service" means the collection, transportation or disposal of or resource recovery from solid wastes but does not include that part of a business licensed under ORS 481.345.

(11) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes; but the term does not include:

(a) Hazardous wastes as defined in ORS 459.410.

(b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

(12) "Solid waste management" means prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.

(13) "Transfer station" means a fixed or mobile facility normally used, as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection

route and a disposal site, including but not limited to a large hopper, railroad gondola or barge.

(14) "Waste" means useless or discarded materials. [1971 c.648 §2; 1973 c.811 §1; 1973 c.835 §135; 1975 c.239 §1; 1977 c.867 §21]

459.010 [1967 c.428 §2; 1969 c.593 §42; repealed by 1971 c.648 §33]

**459.015 Policy.** In the interest of protection of the public health, safety and welfare, it is declared to be the policy of the State of Oregon to establish a comprehensive state-wide program for solid waste management which will:

(1) Retain primary responsibility for management of adequate solid waste management programs with local government units, reserving to the state those functions necessary to assure effective programs, cooperation among local government units and coordination of solid waste management programs throughout the state.

(2) Promote research, surveys and demonstration projects to encourage resource recovery.

(3) Promote research, surveys and demonstration projects to aid in developing more sanitary, efficient and economical methods of solid waste management.

(4) Provide advisory technical assistance and planning assistance to local government units and other affected persons in the planning, development and implementation of solid waste management programs.

(5) Develop, in coordination with federal, state and local agencies and other affected persons, long-range plans including regional approaches to promote reuse, to provide land reclamation in sparsely populated areas, and in urban areas necessary disposal facilities for resource recovery.

(6) Provide for the adoption and enforcement of minimum performance standards necessary for safe, economic and proper solid waste management.

(7) Provide authority for counties to establish a coordinated program for solid waste management, to regulate solid waste mangement and to license or franchise the providing of service in the field of solid waste management.

(8) Encourage utilization of the capabilities and expertise of private industry in accomplishing the purposes of ORS 459.005 to 459.105 and 459.205 to 459.285.

(9) Promote means of preventing or reducing at the source, materials which otherwise would constitute solid waste.

(10) Promote application of resource recovery systems which preserve and enhance the quality of air, water and land resources. [1971 c.648 §1; 1975 c.239 §2]

**459.017 Relationship of state to local governments in solid waste management.** (1) The Legislative Assembly finds and declares that:

(a) The planning, location, acquisition, development and operation of landfill disposal sites is a matter of state-wide concern.

(b) Local government has the primary responsibility for planning for solid waste management.

(c) Where the solid waste management plan of a local government unit has identified a need for a landfill disposal site, the state has a responsibility to assist local government and private persons in establishing such a site.

(2) It is the intent of the Legislative Assembly that any action taken by the Environmental Quality Commission to establish a landfill disposal site under ORS 459.049 be recognized as an extraordinary measure that should be exercised only in the closest cooperation with local government units that have jurisdiction over the area affected by the proposed establishment of a landfill disposal site. [1979 c.773 §2]

459.020 [1967 c.248 §1; repealed by 1971 c.648 §33]

**(State Administration)**

**459.025 General powers and duties of department.** Subject to policy direction by the commission, the department:

(1) Shall promote and coordinate research, studies and demonstration projects on improved methods and techniques in all phases of solid waste management.

(2) May apply to and receive funds from the Federal Government and from public and private agencies to carry out studies, research and demonstration projects in the field of solid waste management.

(3) May enter into agreements with the Federal Government, state agencies, local

government units and private persons to carry out ORS 459.005 to 459.105 and 459.205 to 459.285. [1971 c.648 §4; 1973 c.835 §136]

459.030 [1967 c.428 §3; 1969 c.593 §43; repealed by 1971 c.648 §33]

**459.035 Assistance in development and implementation of solid waste management plans and practices.** Consistent with subsection (1) of ORS 459.015, the department shall provide to state agencies, local government units and persons providing solid waste collection service, advisory technical and planning assistance in development and implementation of effective solid waste management plans and practices, and assistance in training of personnel in solid waste management. The department shall report to the Legislative Assembly from time to time on further assistance that will be needed to develop, implement and administer effective solid waste management programs. The department shall assist in surveys to locate potential disposal sites. The department may request the assistance of other state agencies. [1971 c.648 §3]

459.040 [1967 c.428 §4; 1969 c.593 §44; repealed by 1971 c.648 §33]

**459.045 Rules.** (1) The commission shall adopt reasonable and necessary solid waste management rules governing the:

(a) Accumulation, storage, collection, transportation and disposal of solid wastes to prevent vector production and sustenance, transmission of diseases to man or animals, air pollution, pollution of surface or ground waters, and hazards to service or disposal workers or to the public.

(b) Location of disposal sites, giving consideration to the adaptability of each disposal site to the population served, topography and geology of the area and other characteristics as they affect protection of ground and surface waters and air pollution; minimum standards of design, management and operation of disposal sites; and open burning and salvage operations at disposal sites.

(c) Construction, loading and operation of vehicles used in performing solid waste collection service to prevent the contents thereof from dropping, sifting, leaking or escaping onto public highways.

(d) Definition of other "wastes" subject to regulation pursuant to ORS 459.005 to 459.105, 459.205 to 459.285 and subsections (1), (2) and (3) of 459.992.

(2) The commission shall adopt rules on other subjects as necessary to carry out ORS 459.005 to 459.105 and 459.205 to 459.285.

(3) The commission shall adopt rules which have modified or limited application in different geographic areas of the state when special conditions prevail in specified geographic areas. Special conditions that shall be considered include, but are not limited to, climatic conditions, zone classification of the area, population characteristics, methods and costs of solid waste management, solid waste management plans and other conditions in the area. Modifications or limitations shall not be unreasonable, arbitrary or inimical to the policy and purposes of ORS 459.005 to 459.105 and 459.205 to 459.285.

(4) All rules adopted under this section shall be adopted after public hearing and in accordance with ORS 183.310 to 183.500.

(5) Unless a rule adopted under this section is adopted pursuant to the authority granted by subsection (2) of ORS 183.335, the commission shall mail copies of the proposed rules to all persons who have requested such copies. The copies shall be mailed at least 30 days prior to the hearing required by subsection (4) of this section. [1971 c.648 §5; 1973 c.835 §137]

**459.047 Landfill assistance from department; landfill disposal site certificate; effect of issuance.** Upon request by a city or county responsible for implementing a department approved solid waste management plan which identifies a need for a landfill disposal site, and subject to policy direction by the commission, the Department of Environmental Quality shall:

(1) Assist the local government unit in the establishment of the landfill including assisting in planning, location, acquisition, development and operation of the site.

(2) Site and issue a solid waste disposal permit pursuant to ORS 459.205 to 459.265 for a landfill disposal site within the boundaries of the requesting local government unit. Subject to the conditions set forth therein, any permit for a landfill disposal site authorized by the Environmental Quality Commission under this subsection shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the proposed facility. Affected state agencies, counties, cities and political subdivisions shall issue the appropriate permits, licenses and

certificates necessary to construction and operation of the landfill disposal site, subject only to condition of the site certificate. Each state or local government agency that issues a permit, license or certificate shall continue to exercise enforcement authority over such permit, license or certificate. [1979 c.773 §3]

**459.049 Sites may be mandated in certain counties; criteria for location; establishment by state.** (1) Upon its own motion or upon the recommendation of the department, the Environmental Quality Commission may determine that a landfill disposal site within the counties of Marion, Polk, Clackamas, Washington or Multnomah must be established in order to protect the health, safety and welfare of the residents of an area for which a local government solid waste management plan has identified the need for a landfill disposal site. In making its determination on the need for a landfill disposal site or, where applicable, on the location of a landfill disposal site, the commission shall give due consideration to:

(a) The legislative policy and findings expressed in ORS 459.015, 459.017 and 459.065, and particularly the policy that action taken under this section be exercised in cooperation with local government;

(b) The provisions of the solid waste management plan or plans for the affected area;

(c) Applicable local government ordinances, rules, regulations and plans other than for solid waste management;

(d) The state-wide planning goals adopted under ORS 197.005 to 197.430;

(e) The need for a landfill disposal site;

(f) The availability and capacity of alternative disposal sites or resource recovery systems and facilities;

(g) The time required to establish a landfill disposal site;

(h) Information received from public comment and hearings; and

(i) Any other factors the commission considers relevant.

(2) If the commission makes a determination under subsection (1) of this section that there is a need for a landfill disposal site within a plan area, the commission may adopt an order directing the local government unit responsible for implementing the plan to establish a landfill disposal site within a specified period of time. The order may specify a time schedule for the completion of the major elements required to establish the site. A local government unit directed to establish a landfill disposal site under this section may request assistance from the department or request that the department establish the disposal site as provided in ORS 459.047.

(3) If the commission determines that the establishment of a landfill disposal site ordered by the commission under subsection (2) of this section is not being accomplished or that the completion of major elements has fallen behind the time schedule specified in the order, the commission may direct the department to establish the disposal site or complete the establishment of the disposal site undertaken by the local government unit. The commission may direct the department to establish or complete the establishment of a landfill under this section only if the commission finds that:

(a) The action is consistent with the state-wide planning goals relating to solid waste management adopted under ORS 197.005 to 197.430 and any applicable provisions of a comprehensive plan or plans; and

(b) The responsible local government unit is unable to establish the landfill disposal site ordered by the commission under subsection (2) of this section.

(4) If the commission directs the department to establish or complete the establishment of a landfill disposal site under subsection (3) of this section, the department may establish the site subject only to the approval of the commission and the provisions of the solid waste management plan adopted for the area and in consultation with all affected local government units. Notwithstanding any city, county or other local government charter or ordinance to the contrary, the department may establish a landfill disposal site under this subsection without obtaining any license, permit, franchise or other form of approval from a local government unit. [1979 c.773 §4]

**459.050** [1967 c.428 §5; 1969 c.593 §45; repealed by 1971 c.648 §33]

**459.051 Procedural rules of commission.** In accordance with the requirements of ORS 183.310 to 183.500 and after public hearing, the commission shall adopt rules:

(1) To establish a procedure for local government units to request assistance from the department in the establishment of landfill

disposal sites under ORS 459.047, and to give notice of such requests.

(2) To establish a procedure for obtaining public comment on determinations of need for landfill sites made by the commission under ORS 459.049.

(3) To provide for public hearings in the area affected by a proposed landfill disposal site to be established by the department under ORS 459.049. [1979 c.773 §5]

**459.053 Powers of department regarding landfill disposal sites.** Subject to policy direction by the commission in carrying out ORS 215.213, 215.214, 459.017, 459.047 to 459.065, 459.245 and 468.220, the department may:

(1) By mutual agreement, return all or part of the responsibility for development or operation of the site to the local government unit within whose jurisdiction the site is to be established, or contract with the local government unit to establish the site.

(2) To the extent necessary, acquire by purchase, gift, grant or exercise of the power of eminent domain, real and personal property or any interest therein, including the property of public corporations or local government.

(3) Lease and dispose of real or personal property.

(4) At reasonable times and after reasonable notice, enter upon land to perform necessary surveys or tests.

(5) Acquire, modify, expand or build landfill disposal site facilities.

(6) Subject to any limitations in ORS 468.195 to 468.260, use money from the Pollution Control Fund created in ORS 468.215 for the purposes of carrying out ORS 459.047 and 459.049.

(7) Enter into contracts or other agreements with any local government unit or private person for the purposes stated in subsection (1) of ORS 459.065.

(8) Accept gifts, donations or contributions from any source to carry out the provisions of ORS 459.047 and 459.049.

(9) Establish a system of fees or user charges to fund the operation and maintenance of a department owned landfill disposal site and to repay department costs. [1979 c.773 §6]

**459.055 Landfills in farm use areas; waste reduction programs.** (1) Before issuing a permit for a landfill disposal site to be established after October 3, 1979, in any area zoned for exclusive farm use, the department shall determine that the site can and will be reclaimed for uses permissible in the exclusive farm use zone. A permit issued for a disposal site in such an area shall contain requirements that:

(a) Assure rehabilitation of the site to a condition comparable to its original use at the termination of the use for solid waste disposal;

(b) Protect the public health and safety and the environment;

(c) Minimize the impact of the facility on adjacent property;

(d) Minimize traffic; and

(e) Minimize rodent and vector production and sustenance.

(2) Before issuing a permit for a landfill disposal site established under ORS 459.047 or 459.049, or for a disposal site established as a conditional use in an area zoned for exclusive farm use, the department shall require the local government unit responsible for solid waste disposal pursuant to statute or agreement between governmental units to prepare a waste reduction program and shall review that program in the manner provided in subsection (5) of this section. Such program shall provide for:

(a) A commitment by the local government unit to reduce the volume of waste that would otherwise be disposed of in a landfill through techniques such as source reduction, recycling, reuse and resource recovery;

(b) A timetable for implementing each portion of the waste reduction program;

(c) Energy efficient, cost-effective approaches for waste reduction;

(d) Procedures commensurate with the type and volume of solid waste generated in the area; and

(e) Legal, technical and economical feasibility.

(3) If a local government unit has failed to implement the waste reduction program required pursuant to this section, the commission may, by order, direct such implementation.

(4) The department shall report to each Legislative Assembly on the use made of this section, the level of compliance with waste

reduction programs and recommendations for further legislation.

(5) A waste reduction program prepared under subsection (2) of this section shall be reviewed by the department and shall be accepted by the department if it meets the criteria prescribed therein.

(6) Notwithstanding subsection (1) of ORS 459.245, if the department fails to act on an application subject to the requirements of this section within 60 days, the application shall not be considered granted. [1979 c.773 §8a]

**459.057 Department to limit wastes allowed in landfills in certain counties.** (1) Before issuing a permit for a landfill disposal site to be established under ORS 459.047 or 459.049 or for a disposal site established as a conditional use in an area zoned for exclusive farm use within the boundaries of Clackamas, Marion, Multnomah, Polk or Washington County, the department shall require that, to the extent legally, technically and economically feasible only solid waste from transfer stations or solid waste residues from resource recovery facilities will be deposited in the landfill. As used in this section, "transfer station" means a site established for the collection and temporary storage of solid waste pending shipment in a compact and orderly manner to a landfill disposal site.

(2) Nothing in this section shall be construed to prohibit the department from allowing other solid waste to be deposited in the landfill in order to protect the public health and safety or the waters of this state during a temporary emergency condition. [1979 c.773 §86]

**459.060** [1967 c.428 §6; 1969 c.593 §46; repealed by 1971 c.648 §33]

(Local Administration)

**459.065 State preemption; intergovernmental agreements authorized.** (1) The Legislative Assembly finds that solid waste disposal is a matter of state-wide concern. The Legislative Assembly finds that carrying out the provisions of ORS 459.005 to 459.105 and 459.205 to 459.285 by cities, counties and metropolitan service districts is a matter of state-wide concern. In carrying out the provisions of ORS 459.005 to 459.105 and 459.205 to 459.285, a county or a city, or a metropolitan service district for one of its authorized functions, may enter into any agreement which the county, city or metropolitan service district determines is desirable, for any period of time, with the department, any local government unit or other person:

(a) For joint or regional franchising of service or the franchising or licensing of disposal sites.

(b) For joint preparation or implementation of a solid waste management plan.

(c) For establishment of a regional solid waste management system.

(d) For cooperative establishment, maintenance, operation or use of regional disposal sites, including but not limited to resource recovery facilities.

(e) For the employment of persons to operate a site owned or leased by the county, city or metropolitan service district.

(f) For promotion and development of markets for energy and materials from resource recovery.

(g) For the establishment of landfill disposal sites including site planning, location, acquisition, development and placing into operation.

(2) Authority granted by ORS 459.005 to 459.105 and 459.205 to 459.285 to local government units is specific and is in no way intended to restrict the general authority granted under ORS 190.010 to 190.030, 190.110, 203.010 to 203.065, 203.110, 203.120 to 203.810 and ORS chapter 268, and is in addition to and not in lieu of such authority. [1971 c.648 §14; 1973 c.835 §138; 1975 c.239 §3; 1977 c.95 §6; 1979 c.773 §7]

**459.070** [1967 c.428 §7; 1969 c.593 §47; repealed by 1971 c.648 §33]

**459.075 Acquisition of property for disposal sites and operations by cities and counties.** Subject to the requirements of ORS 459.005 to 459.105 and 459.205 to 459.285, a county or a city may acquire real or personal property by lease, purchase, exercise of the power of eminent domain or otherwise for the purpose of operating and maintaining disposal sites. With the consent of the city involved, a county may acquire property for a site within the limits of a city. With the consent of the county having jurisdiction, a city may acquire property for a site outside the limits of the city. [1971 c.648 §15]

**459.080** [1967 c.428 §8; repealed by 1971 c.648 §33]

**459.085 County authority outside cities; effect of annexation; interagency agreements.** (1) With respect to areas outside of cities, a board of county commissioners

may, by ordinance or by regulation or order adopted pursuant thereto:

(a) Prescribe the quality and character of and rates for solid waste collection service, and the minimum requirements to guarantee maintenance of service.

(b) Divide the unincorporated area into service areas, grant franchises to persons for solid waste collection service within service areas, and establish and collect fees from persons holding franchises.

(c) Prescribe a procedure for issuance, renewal or denial of a franchise to a person providing or proposing to provide solid waste collection service.

(d) Establish an agency to be responsible for investigation or inspection of solid waste collection service proposed or provided under a franchise or proposed franchise, such agency to have authority to order modifications, additions or extensions to the physical equipment, facilities, plan or service as shall be reasonable and necessary in the public interest.

(e) Regulate solid waste management.

(2) With respect to areas outside of cities, a board of county commissioners may adopt ordinances to provide for:

(a) The licensing of disposal sites as an alternative to franchising of service.

(b) The regulation, licensing or franchising of salvage businesses or the operation of salvage sites where such action is found necessary to implement any part of a solid waste management plan applicable in the county; however, such an ordinance shall grant the same authority and prescribe the same procedures as provided for other franchises or licenses under this section.

(3) (a) Where a city annexes all or a portion of a service area previously franchised by a county, the city, county and affected persons or local government units providing solid waste collection service shall attempt to reach an agreement to protect the extent and quality of service in areas remaining outside the city, to protect the quality of service within the city and to protect the rights of affected persons or local government units.

(b) A city and county may, with permission of the city collector, provide by prior agreement that an area, or portion of an area, annexed by the city but previously franchised by the county shall continue to be served by the county franchisee or shall be transferred to the city collector with compensation from the city collector to the county franchisee.

(c) A city with permission of the city collector, or a city-regulated collector with permission of the city, may provide by prior agreement that an area, or portion of an area, annexed by the city but previously served by a collector located in an unfranchised area of the county shall continue to be served by the county collector or shall be transferred to the city collector with compensation from the city collector to the county collector.

(d) Where no agreement has been reached under paragraph (a), (b) or (c) of this subsection, upon annexation of territory to a city the county-franchised collector may continue to serve the annexed area until:

(A) The county collector is compensated by the city collector for the collection service in the annexed area, which compensation shall be the sum of the fair market value of the service at the time of the annexation and applicable severance damages; or

(B) The expiration of the longer of the county franchise term or the term of the current city license, contract or franchise regulating solid waste collection; provided that term does not include any renewals or extensions made after the effective date of the annexation and that the total term does not exceed 10 years from the effective date of the annexation.

(e) Nothing in this subsection shall restrict the right of a county to franchise, license or regulate solid waste management or any portion thereof as otherwise provided in subsections (1), (2) and (4) of this section.

(4) If a county under the authority of ORS 670.210 to 670.240 (1969 Replacement Part) enacted an ordinance providing for the licensing of garbage dumps prior to July 1, 1971, the ordinance or that portion of the ordinance dealing specifically with garbage dumps shall be continued in full force and effect, and licenses issued pursuant thereto shall be in full force and effect until action is taken by the board of county commissioners under this section to amend or repeal the ordinance or to suspend or revoke the license. [1971 c.648 §16; 1977 c.639 §1]

**459.095 Restrictions on authority of local units of governments.** (1) No ordinance, order, regulation or contract affecting solid or liquid waste disposal, resource recov-

ery or solid waste management shall be adopted by a local government unit if such ordinance, order, regulation or contract conflicts with regulations adopted by the commission pursuant to ORS 459.045 or with a solid waste management plan or program adopted by a metropolitan service district and approved by the department or any ordinances or regulations adopted pursuant to such plan or program.

(2) Solid waste management regulations adopted by a sanitary district or sanitary authority shall be limited to regulations supplemental to the rules adopted by the commission pursuant to ORS 459.045 and necessary to meet special local conditions. [1971 c.648 §17; 1973 c.835 §139; 1977 c.95 §7]

**459.105 Regulations on use of disposal sites.** A local government unit may adopt regulations for patrons using each disposal site owned or operated by the local government unit, governing the volume or type of solid wastes that will be received at the site and the particular class or classes of person that may use the site. [1971 c.648 §18]

**(County Nuisance Abatement)**

459.110 [1969 c.509 §1; repealed by 1971 c.648 §33]

**459.120 County authority to regulate waste on private property.** For the protection of the public health, welfare, safety and morals, the board of county commissioners of any county may enact ordinances regulating waste and solid waste on private property, outside the limits of cities, as a public nuisance. An ordinance may:

(1) Prohibit the deposit, accumulation, storage, collection, maintenance or display on private property of waste or solid waste that is hazardous to the health and safety of the public; or which creates offensive odors or a condition of unsightliness.

(2) Provide for abatement of such offensive, hazardous or unsightly conditions as a public nuisance. [1969 c.509 §2; 1971 c.648 §29]

**459.130 Hearing; notice; voter referral; exceptions to ORS 459.120.** (1) An ordinance authorized by ORS 459.120 may be adopted only after a hearing conducted by the board, and shall take effect 30 days after the date of enactment unless a later effective date is specified in the ordinance. Notice of such a hearing shall be published by two insertions, the first not less than 15 days and not more than 25 days and the last not less than eight days and not more than 14 days before the hearing, in a newspaper considered by the board to be of general circulation within the county. The board may also cause the notice to be published by radio and television stations located within the county, or heard or viewed in the county.

(2) The board may refer an ordinance authorized by ORS 459.120 to the voters of the county for their approval or rejection. An ordinance adopted under ORS 459.120 is a local law within the meaning of, and subject to, ORS 250.005 to 250.346, relating to initiative and referendum.

(3) An ordinance authorized by ORS 459.120 does not apply to:

(a) Disposal sites operated in compliance with regulations promulgated by the commission or other ordinances or regulations of the county.

(b) Agricultural operations and growing or harvesting of crops and the raising of fowls or animals. [1969 c.509 §3; 1971 c.330 §1; 1971 c.648 §30; 1979 c.190 §421]

**459.140 Investigation to determine whether public nuisance exists; notice to abate; proceeding to prevent existence of nuisance.** (1) To determine whether there is reasonable cause to believe that a public nuisance exists on private property outside the limits of any city, the board, or whomever it designates, may conduct an investigation for that purpose. In conducting such an investigation, the board, or whomever it designates, may administer oaths, subpena and require the attendance of witnesses at public hearings, require the production of relevant documents, and take the testimony of any person.

(2) Whenever it appears that there is reasonable cause to believe that a public nuisance exists, the board may order that a notice be issued and served upon the owner, tenant, occupant or person in possession of the premises where the nuisance is alleged or claimed to exist, requiring such person to appear before the board at the time and place stated in the notice to show cause why a nuisance should not be declared to be existing on the premises.

(3) At the time and place described in said notice, the board shall conduct a public hearing on the question of the existence of the alleged nuisance, and if the board finds that a nuisance exists, it shall declare the existence

of a nuisance by order entered in its journal, and may order a suit to be brought in the name of the county to institute injunction, abatement or any other proceeding provided by law to prevent temporarily or permanently the existence of the nuisance. [1969 c.509 §4; 1975 c.239 §5]

**459.150 When board may abate nuisance; liability; costs.** In lieu of and not in addition to the remedies provided in ORS 459.140, the board may provide by ordinance that where a hearing is held in accordance with ORS 459.140 and where the board finds that a nuisance exists and declares the existence of a nuisance by order entered in its journal, if the owner or occupant of the property fails to abate the nuisance within 30 days after the entry of the order, the board may cause the nuisance to be abated. Where such removal is performed by the county, or its agent, neither the county nor its agent shall be liable for any trespass or conversion as to any real or personal property and the costs may be collected from the person served in accordance with ORS 459.140, or may be collected as a lien against such property. The remedies provided in ORS 459.120 to 459.155 are in addition to and not in lieu of any other remedies otherwise provided by law. [1969 c.509 §5; 1975 c.239 §6]

**459.155 Judicial review.** Review of any action of the board taken pursuant to ORS 459.150 shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to 34.100. [1975 c.239 §8; 1979 c.772 §23]

**459.160** [1969 c.509 §7; repealed by 1971 c.648 §33]

## (Disposal Sites)

**459.205 Permit required.** Except as provided by ORS 459.215, after July 1, 1971, a disposal site shall not be established and after July 1, 1972, a disposal site shall not be operated, maintained or substantially altered, expanded or improved, and a change shall not be made in the method or type of disposal at a disposal site, until the person owning or controlling the disposal site obtains a permit therefor from the department as provided in ORS 459.235. [1971 c.648 §6]

**459.210** [1969 c.90 §2; repealed by 1971 c.648 §33]

**459.215 Exclusion of certain sites from permit requirement.** (1) By rule and after public hearing, the commission may prescribe criteria and conditions for excluding classes of disposal sites from the permit requirements of ORS 459.205. Disposal sites so excluded shall be limited to those which, because of the nature or volume of solid waste handled, are not likely to create a public nuisance, health hazard, air or water pollution, or other serious problem. Facilities operated under a permit issued under ORS 468.740 are not required to obtain a permit from the department pursuant to ORS 459.205. However, exclusion from the permit requirements of ORS 459.205 does not relieve any person from compliance with other requirements of ORS 459.005 to 459.105 and 459.205 to 459.285 and the rules and regulations adopted pursuant thereto.

(2) By rule and after public hearing, the commission may delay the date after that prescribed by ORS 459.205 on which permits shall be required for a class or classes of disposal sites. However, a date after which a permit shall be required shall not be delayed later than July 1, 1975. In making its determintion, the commission shall consider the nature, type and volume of solid waste handled at such sites, the threat of air or water pollution, the potential for creation of a public or private nuisance or health hazard, and the cost and funding of the program for carrying out this section.

(3) By rule and after public hearing the commission may establish classes of disposal sites that qualify for exclusion or for time extensions under this section. [1971 c.648 §7; 1973 c.835 §140]

**459.220** [1969 c.90 §1; repealed by 1971 c.648 §33]

**459.225 Variances or conditional permits authorized.** (1) If the commission finds that a disposal site cannot meet one or more of the requirements of ORS 459.005 to 459.105 and 459.205 to 459.285 or any rule or regulation adopted pursuant thereto, it may issue a variance from such requirement either for a limited or unlimited time or it may issue a conditional permit containing a schedule of compliance specifying the time or times permitted to bring the disposal site into compliance with such requirements, or it may do both.

(2) In carrying out the provisions of subsection (1) of this section, the commission may grant specific variances from particular requirements or may grant a conditional permit to an applicant or to a class of applicants or to a specific disposal site, and specify conditions

it considers necessary to protect the public health.

(3) The commission shall grant a variance or conditional permit only if:

(a) Conditions exist that are beyond the control of the applicant.

(b) Special conditions exist that render strict compliance unreasonable, burdensome or impractical.

(c) Strict compliance would result in substantial curtailment or closing of a disposal site and no alternative facility or alternative method of solid waste management is available.

(4) A variance or conditional permit may be revoked or modified by the commission after a public hearing held upon not less than 10 days' notice. Such notice shall be served upon all persons who the commission knows will be subjected to greater restrictions if such variance or conditional permit is revoked or modified, or who are likely to be affected or who have filed with the commission a written request for such notification.

(5) The establishment, operation, maintenance, expansion, alteration, improvement or other change of a disposal site in accordance with a variance or a conditional permit is not a violation of ORS 459.005 to 459.105 and 459.205 to 459.285 or any rule or regulation adopted pursuant thereto. [1971 c.648 §8; 1973 c.835 §141]

**459.230** [1969 c.90 §3; repealed by 1971 c.648 §33]

**459.235 Applications for permits.** Applications for permits shall be on forms prescribed by the department. An application shall contain a description of the existing and proposed operation and the existing and proposed facilities at the site, with detailed plans and specifications for any facilities to be constructed. The application shall include a recommendation by the local government unit or units having jurisdiction and such other information the department deems necessary in order to determine whether the site and solid waste disposal facilities located thereon and the operation will comply with applicable requirements. [1971 c.648 §9; 1977 c.37 §1]

**459.240** [1969 c.90 §4; repealed by 1971 c.648 §33]

**459.245 Issuance of permits; terms.** (1) If the disposal site meets the requirements of ORS 459.005 to 459.105 and 459.205 to 459.285, the department shall issue the permit. Every completed application shall be approved or disapproved within 60 days after its receipt by the department. Except as provided in ORS 459.055, if the department fails to act within the time allowed, the application shall be considered approved unless an extension of time is granted by the commission on a showing of good cause by the department.

(2) Disposal site permits shall be issued for a period not to exceed 10 years, to be determined by the department and specified in the permit.

(3) Subject to the provisions of ORS 183.310 to 183.500, the department may refuse to renew a permit unless the disposal site and the facilities thereon meet the requirements of ORS 459.005 to 459.105 and 459.205 to 459.285 and the rules of the commission adopted pursuant thereto. [1971 c.648 §10; 1973 c.835 §142; 1979 c.773 §8]

**459.255 Suspension of permits.** (1) A permit may be suspended or revoked at any time if the department determines that the site or the solid waste management facilities located on the site are being operated in violation of ORS 459.005 to 459.105 and 459.205 to 459.285 or rules of the commission adopted pursuant thereto.

(2) The procedures for denial, suspension, modification of a condition or variance, revocation or refusal to renew a permit shall be those specified for a contested case in ORS 183.310 to 183.500. [1971 c.648 §11; 1973 c.835 §143]

**459.265 Hearings; appeal.** (1) Except as provided by ORS 459.276, the commission may on its own motion or upon the request of the department, and shall upon application of any person entitled to appeal, fix a time and place for a public hearing on any action of the department or commission:

(a) Ordering action to be taken by a person subject to regulation under ORS 459.005 to 459.105 and 459.205 to 459.285.

(b) Ordering, or approving action resulting in, the closure or curtailment of use of a disposal site.

(2) In making its determination upon appeal from the action of a local government unit or the department, which action would result in the closure or curtailment of the use of a disposal site, the commission shall consider and make findings with respect to:

(a) The nature and magnitude of the problems created by the site or its operation.

(b) The applicable solid waste management plan.

(c) The existence or threat of air or water pollution.

(d) The need for the particular disposal site and alternative methods of disposal or alternate disposal sites.

(e) The costs, funds available to meet the costs and the minimum time required for a change in disposal method or disposal site.

(3) In making its determination under subsection (2) of this section with respect to a disposal site owned or operated by a local government unit, and prior to ordering closure or curtailment of use of the site, the commission shall make a finding as to whether there is an alternative method of disposal or an alternate disposal site. [1971 c.648 §12; 1973 c.835 §144]

### (Enforcement)

459.275 [1971 c.648 §13; repealed by 1973 c.826 §3 (459.276 enacted in lieu of 459.275); 1973 c.835 §145; see 459.277]

**459.276 Action to enforce regulations or orders.** (1) The commission may take whatever action is appropriate for the enforcement of its regulations or orders.

(2) The commission may institute proceedings to enforce compliance with or restrain violations of this chapter, or any rule, standard, permit or order adopted, entered or issued pursuant to this chapter, in the same manner provided for enforcement proceedings under ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and ORS chapter 468. [1973 c.826 §4 (enacted in lieu of 459.275)]

459.277 [Formerly 459.275; repealed by 1974 s.s. c.36 §28]

**459.285 Entry upon private premises authorized.** The department or county, district or city board of health personnel, authorized sanitarians or other authorized city or county personnel may enter upon the premises of any person regulated under ORS 459.005 to 459.105 or 459.205 to 459.285, or under regulations adopted pursuant to ORS 450.075, 450.810, 450.820 and 451.570, at reasonable times, to determine compliance with and to enforce ORS 450.075, 450.810, 450.820, 451.570, 459.005 to 459.105 or 459.205 to 459.285 and any rules and regulations adopted pursuant thereto or ordinances adopted pursuant to ORS 459.120 to 459.155. [1971 c.648 §19; 1973 c.835 §146]

## HAZARDOUS WASTES

### (Definitions)

**459.410 Definitions for ORS 459.410 to 459.690.** As used in ORS 453.635 and 459.410 to 459.690, unless the context requires otherwise:

(1) "Commission" means the Environmental Quality Commission.

(2) "Department" means the Department of Environmental Quality.

(3) "Director" means the Director of the Department of Environmental Quality.

(4) "Dispose" or "disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any hazardous constituent thereof may enter the environment or be emitted into the air or discharged into any waters of the state as defined in ORS 468.700.

(5) "Generator" means the person, who by virtue of ownership, management or control, is responsible for causing or allowing to be caused the creation of a hazardous waste.

(6) "Hazardous wastes" does not include radioactive material or the radioactively contaminated containers and receptacles used in the transportation, storage, use or application thereof. Hazardous wastes does include all of the following which are not declassified by the commission pursuant to subsection (3) of ORS 459.430:

(a) Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents or predatory animals, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides as defined by ORS 634.211.

(b) Residues resulting from any process of industry, manufacturing, trade or business or government or from the development or recovery of any natural resources, if such residues are classified as hazardous by order of the commission, after notice and public hearing.

For purposes of such classification, the commission must find that such residue, because of its quantity, concentration, or physical, chemical or infectious characteristics may:

(A) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(B) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(c) Discarded, useless or unwanted containers and receptacles used in the transportation, storage, use or application of the substances described in paragraphs (a) and (b) of this subsection.

(7) "Hazardous waste collection site" means the geographical site upon which hazardous wastes are stored in accordance with a license issued pursuant to this chapter.

(8) "Hazardous waste disposal site" means a geographical site in which or upon which hazardous wastes are disposed in accordance with a license issued pursuant to ORS 459.510 to 459.580 and 459.590 to 459.600.

(9) "Hazardous waste treatment site" means the geographical site upon which hazardous wastes are treated in accordance with a license issued under ORS 459.410 to 459.690.

(10) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

(11) "Person" means the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(12) "Store" or "storage" means the containment of hazardous waste either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(13) "Treat" or "treatment" means any method, technique, activity or process, including but not limited to neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. [1971 c.699 §1; 1973 c.778 §1; 1977 c.867 §1; 1979 c.132 §1]

(Administration)

**459.430 Powers and duties of department.** The department shall:

(1) Provide for the administration, enforcement and implementation of ORS 459.410 to 459.690 and may perform all functions necessary for the regulation of the operation and construction of hazardous waste treatment, collection and disposal sites and, in consultation with the appropriate county planning commissions, the designation of such sites.

(2) Coordinate and supervise all functions of state and local governmental agencies engaged in activities subject to the provisions of ORS 459.410 to 459.690.

(3) After notice and public hearing pursuant to ORS 183.310 to 183.500, declassify as hazardous wastes those substances described in subsection (6) of ORS 459.410 which the commission finds, after deliberate consideration, taking into account the public health and safety, have been properly treated or decontaminated or contain a sufficiently low concentration of hazardous material so that such substances are no longer hazardous. [1971 c.699 §3; 1973 c.778 §2; 1973 c.835 §147; 1977 c.867 §2; 1979 c.132 §2]

**459.440 Rules and orders.** In accordance with applicable provisions of ORS 183.310 to 183.500, the commission shall:

(1) Adopt rules and issue orders thereon, including but not limited to establishing minimum requirements for the treatment, storage and disposal of hazardous wastes, minimum requirements for operation, maintenance, monitoring, reporting and supervision of treatment, collection or disposal sites, and requirements and procedures for selection of such sites.

(2) Adopt rules and issue orders thereon relating to the procedures of the department with respect to hearings, filing of reports, submission of plans and the issuance, revocation and modification of licenses issued under ORS 459.410 to 459.690.

(3) Adopt rules and issue orders thereon to classify as hazardous wastes those residues defined in paragraph (b) of subsection (6) of ORS 459.410.

(4) Adopt rules and issue orders thereon relating to reporting by generators of hazardous wastes concerning type, amount and disposition of such hazardous waste. Rules may be adopted exempting certain classes of generators from such requirements. [1971 c.699 §3a; 1973 c.835 §148; 1977 c.867 §3]

**459.445 Rules for generators of hazardous wastes.** (1) The commission may, by rule, require generators of hazardous wastes to:

(a) Identify themselves to the department, list the location and general characteristics of their activity and name the hazardous wastes generated;

(b) Keep records that accurately identify the quantities of such hazardous wastes, the constituents thereof, and the disposition of such wastes;

(c) Furnish information on the chemical composition of such hazardous waste to persons transporting, treating, storing or disposing of such wastes;

(d) Use a department approved manifest system to assure that all such hazardous wastes generated are destined for treatment, storage or disposal in treatment, storage or disposal facilities (other than facilities on the premises where the waste is generated) which are operating pursuant to provisions of this chapter; and

(e) Submit reports to the department setting out quantities of hazardous waste generated during a given time period and the disposition of all such wastes.

(2) The generator of a hazardous waste shall be allowed to store a hazardous waste produced by that generator on the premises of that generator without obtaining a hazardous waste collection site license. This shall not relieve any generator from complying with any other rule or standard regarding storage of hazardous wastes.

(3) The commission by rule may exempt certain classes or types of hazardous waste generators from part or all of the requirements upon generators adopted by the commission. Such an exemption can only be made if the commission finds that, because of the quantity, concentration, methods of handling or use of a hazardous waste, such a class or type of generator is not likely either:

(a) To cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness; or

(b) To pose a substantial present or potential threat to human health or the environment. [1977 c.867 §6]

**459.450 Rules for transportation of hazardous wastes.** In adopting rules governing transportation of any hazardous wastes for which a permit is required, the Public Utility Commissioner or the State Department of Agriculture must consult with and consider the recommendations of the department prior to the adoption of any such rules. Transporters shall be required to deliver hazardous wastes to a site named in the manifest provided for in this chapter or an alternative site approved by the department. [1971 c.699 §16a; 1973 c.835 §150; 1977 c.867 §4]

**459.460 Inspection and copying of records authorized; exceptions.** (1) Except as provided in subsection (2) of this section, any information filed or submitted pursuant to ORS 459.410 to 459.690 shall be made available for public inspection and copying during regular office hours of the department at the expense of any person requesting copies.

(2) Unless classified by the director as confidential, any records, reports or information obtained under ORS 459.410 to 459.690 shall be available to the public. Upon a showing satisfactory to the director by any person that records, reports or information, or particular parts thereof, if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the director shall classify such record, report or information, or particular part thereof, confidential. However, such record, report or information may be disclosed to other officers, employes or authorized representatives of the state concerned with carrying out ORS 459.410 to 459.690 or when relevant in any proceeding under ORS 459.410 to 459.690. [1971 c.699 §21; 1973 c.836 §149]

## (Waste Treatment, Collection or Disposal)

**459.505 Hazardous waste to be collected, disposed of or treated at licensed site; exemptions.** (1) Except as provided in subsection (2) of this section, no person shall:

(a) Store a hazardous waste anywhere in this state except at a licensed hazardous waste treatment, collection or disposal site;

(b) Operate a hazardous waste collection site in this state without obtaining a hazardous waste collection site license issued pursuant to this chapter; or

(c) Treat a hazardous waste anywhere in this state without obtaining a hazardous waste treatment site license issued under ORS 459.410 to 459.690.

(2) The generator of a hazardous waste shall not be required to obtain a hazardous waste collection or treatment site license for wastes produced by that generator and stored or treated on the site where that waste was generated. This shall not exempt any generator from complying with other rules or standards for storage or treatment of hazardous wastes.

(3) The commission may exempt certain classes of hazardous waste collection sites from part or all of the licensing requirements for hazardous waste collection sites. Such an exemption can only be made if the commission finds that, because of the quantity, concentration of waste or duration of storage, such a class of collection site is not likely to endanger the public health or safety.

(4) If the director finds an emergency condition to exist, the director may authorize the short-term storage of a hazardous waste anywhere in the state as long as such temporary storage shall not constitute a hazard to public health, welfare and safety.

(5) Hazardous waste collection sites operating on June 30, 1977, shall be required to obtain a hazardous waste collection site license not later than January 1, 1978.

(6) Hazardous waste treatment sites operating on October 3, 1979, shall be required to obtain a hazardous waste treatment site license not later than July 1, 1980. [1977 c.867 §12; 1979 c.132 §10]

**459.510 Disposal of wastes restricted; license required.** (1) Except as provided in subsection (3) of this section, no person shall dispose of any hazardous waste anywhere in this state except at a hazardous waste disposal site licensed pursuant to ORS 459.530 to 459.620.

(2) No person shall operate a disposal site without a license therefor issued pursuant to ORS 459.410 to 459.690.

(3) The department may authorize disposal of specified hazardous wastes at specified solid waste disposal sites operating under department permit issued pursuant to ORS 459.205 to 459.265. Such authorization may be granted only under procedures approved by the commission, which shall include a determination by the department that such disposal will not pose a threat to public health and safety. [1971 c.699 §2; 1973 c.778 §3; 1973 c.835 §151; 1977 c.867 §7]

**459.517 Duties of collection or treatment site licensee.** Each hazardous waste collection or treatment site licensee shall be required to do the following as a condition to holding the license:

(1) Maintain records of any hazardous waste identified pursuant to provisions of this chapter which is stored or treated at the site and the manner in which such waste was stored or treated, transported and disposed of.

(2) Report periodically to the department on types and volumes of wastes received and their manner of disposition.

(3) Participate in the manifest system designed by the department.

(4) Maintain current contingency plans to minimize damage from spillage, leakage, explosion, fire or other accidental or intentional event.

(5) Maintain sufficient liability insurance in such amounts as determined by the department to be reasonably necessary to protect the environment and the health, safety and welfare of the people of this state.

(6) Assure that all personnel who are employed by the licensee are trained in proper procedures for handling, transfer, transport, treatment and storage of hazardous waste including, but not limited to, familiarization with all contingency plans. [1977 c.867 §13; 1979 c.132 §11]

**459.520** [1971 c.699 §2a; 1973 c.835 §152; repealed by 1977 c.867 §8]

**459.530 Waste disposal license applications; fees.** (1) The department shall furnish an application form to any person interested in developing or constructing a hazardous waste disposal site upon request. Each such form shall contain:

(a) The name and address of the applicant.

(b) A statement of financial condition of the applicant, including assets, liabilities and net worth.

(c) The experience of the applicant in construction, management, supervision or development of hazardous waste disposal sites and in the handling of such substances.

(2) The department shall also require the submission of such information relating to the construction, development or establishment of proposed hazardous waste disposal sites and facilities to be operated in conjunction therewith, and such additional information, data and reports as it deems necessary to make a decision on granting or denying a license.

(3) The application shall be accompanied by a nonrefundable fee of $5,000, which shall be continuously appropriated to the department for administrative expenses. [1971 c.699 §4; 1977 c.867 §9]

**459.535 Waste collection or treatment applications; form.** (1) The department shall furnish an application form to anyone who wishes to operate a hazardous waste collection or treatment site.

(2) In addition to information requested on the application form, the department shall also require the submission of such information relating to the construction, development or establishment of a proposed hazardous waste collection or treatment site and facilities to be operated in conjunction therewith and such additional information, data and reports as it deems necessary to make a decision on granting or denying a license. [1977 c.867 §14; 1979 c.132 §12]

**459.540 Waste disposal application information.** License applications submitted to the department for managing, operating, constructing, developing or establishing a hazardous waste disposal site must contain the following:

(1) The management program for the operation of the site, including the person to be responsible for the operation of the site and a resume of his qualifications, the proposed method of disposal, the proposed method of pretreatment or decontamination upon the site, if any, and the proposed emergency measures to be provided at such site.

(2) A description of the size and type of facilities to be constructed upon the site, including the height and type of fencing to be used, the size and construction of structures or buildings, warning signs, notices and alarms to be used, the type of drainage and waste treatment facilities and maximum capacity of such facilities, the location and source of each water supply to be used and the location and the type of fire control facilities to be provided at such site.

(3) A preliminary engineering sketch and flow chart showing proposed plans and specifications for the construction and development of the site and the waste treatment and water supply facilities, if any, to be used at such site.

(4) The exact location and place where the applicant proposes to operate and maintain the site, including the legal description of the lands included within such site.

(5) A preliminary geologist's survey report indicating land formation, location of water resources and direction of the flows thereof and his opinion relating to possible sources of contamination of such water resources.

(6) The names and addresses of the applicant's current or proposed insurance carriers, including copies of insurance policies then in effect. [1971 c.699 §5; 1979 c.132 §3]

**459.545 Waste collection or treatment application information.** Applications for a license to operate a hazardous waste collection or treatment site shall include at a minimum:

(1) The name and address of the applicant and the exact location of the proposed collection or treatment site.

(2) Estimates with respect to compositions, quantities and concentrations of any hazardous wastes identified under this chapter, and the time, frequency or rate at which such hazardous waste may be received, stored, treated, transported or disposed.

(3) A description of the operational plan for the site, including handling methods, storage or treatment methods, hours and days of operation and a preliminary engineering sketch showing layout of the site, location of water supply and drainage facilities and traffic flow.

(4) A description of security measures at the site including, but not limited to, type, height and location of fencing, manner for controlling access to the site, alarm systems and warning signs.

(5) The name of any person who will be responsible for managing the operation of the site and a statement of the qualifications of such persons.

(6) The name of the liability insurance carrier who will provide coverage required in ORS 459.517. [1977 c.867 §15; 1979 c.132 §13]

**459.550 Notice of hearings on waste disposal site applications required.** (1) Prior to holding hearings on a hazardous

waste disposal site license application, the commission shall cause notice to be given in the county or counties where the proposed site is located in a manner reasonably calculated to notify interested and affected persons of the license application.

(2) The notice shall contain information regarding the approximate location of the site and the type and amount of materials intended for disposal at such site, and shall fix a time and place for a public hearing. In addition, the notice shall contain a statement that any person interested in or affected by the proposed site shall have opportunity to testify at the hearing. [1971 c.699 §6; 1979 c.132 §4]

**459.560 Public hearings in areas of proposed disposal site required.** The commission shall conduct a public hearing in the county or counties where a proposed hazardous waste disposal site is located and may conduct hearings at such other places as the department considers suitable. At the hearing the applicant may present the application and the public may appear or be represented in support of or in opposition to the application. [1971 c.699 §7; 1979 c.132 §5]

**459.570 Recommendations by state agencies on applications for waste disposal site license; effect.** Upon receipt of an application for a hazardous waste disposal site license, the department shall cause copies of the application to be sent to affected state agencies, including the Health Division, the Public Utility Commissioner, the State Fish and Wildlife Commission and the Water Resources Director. Each agency shall respond by making a recommendation as to whether the license application should be granted. If the Health Division recommends against granting the license, the commission must refuse to issue the license. Recommendation from other agencies shall be considered as evidence in determining whether to grant the license. [1971 c.699 §8; 1973 c.835 §152a; 1979 c.132 §6]

**459.580 Review of waste disposal applications; issuance; notice; judicial review.** (1) The department shall examine and review all hazardous waste disposal site license applications submitted to it and make such investigations as it considers necessary, and make a recommendation to the commission as to whether to issue the license.

(2) After reviewing the department's recommendations under subsection (1) of this section, the commission shall decide whether or not to issue the license. It shall cause notice of its decision to be given to the applicant by certified mail at the address designated in the application. The decision of the commission is subject to judicial review under ORS 183.480. [1971 c.699 §9; 1979 c.132 §7]

**459.585 Review of waste treatment applications; issuance; notice; judicial review.** (1) The department shall review and cause to be investigated all hazardous waste treatment site license applications submitted to it.

(2) After reviewing and investigating the application, the department shall decide whether or not to issue the license. It shall cause notice of its decision to be given to the applicant by certified mail at the address designated in the application. The decision of the department is subject to review by the commission under the provisions of ORS 183.310 to 183.500 governing contested cases. [1979 c.132 §15]

**459.590 Conveyance of disposal site by licensee to state required; license requirements.** (1) As a condition of issuance of a hazardous waste disposal site license, the licensee must deed to the state all that portion of the hazardous waste disposal site in or upon which hazardous wastes shall be disposed of. If the state is required to pay the licensee just compensation for the real property deeded to it, the licensee shall pay the state annually a fee in an amount determined by the department to be sufficient to make such real property self-supporting and self-liquidating.

(2) Each hazardous waste disposal site licensee under ORS 459.410 to 459.690 shall be required to do the following as a condition to holding the license:

(a) Proceed expeditiously with and complete the project in accordance with the plans and specifications approved therefor pursuant to ORS 459.410 to 459.690 and the rules adopted thereunder.

(b) Commence operation, management or supervision of the hazardous waste disposal site on completion of the project and not to discontinue such operation, management or supervision of the site without the approval of the department.

(c) Maintain sufficient liability insurance in force in such amounts as determined by the department to be reasonably necessary to

protect the environment, and the health, safety and welfare of the people of this state.

(d) Establish emergency procedures and safeguards necessary to prevent accidents and reasonably foreseeable risks.

(e) Restore, to the extent reasonably practicable, the site to its original condition when use of the area is terminated as a site.

(f) Maintain a cash bond in the name of the state and in an amount estimated by the department to be sufficient to cover any costs of closing the site and monitoring it or providing for its security after closure and to secure performance of license requirements. The bond shall remain on deposit for the duration of the license and until the site is closed, except as the bond may be released pursuant to ORS 459.600.

(g) Report periodically on the volume of material received at the site and the fees collected therefor. [1971 c.699 §10; 1973 c.778 §4; 1973 c.835 §153; 1977 c.867 §10; 1979 c.132 §8]

**459.595 Acquisition of sites by condemnation.** The commission may acquire real property for the disposal of hazardous wastes by instituting condemnation proceedings therefor to be conducted in accordance with ORS chapter 35. [1973 c.778 §7; 1977 c.867 §11]

**459.600 Waste disposal site license fees; disposition; cash bond; withdrawal by licensee.** (1) The hazardous waste disposal site license shall require a fee based either on the volume of material accepted at the site or a percentage of the fee collected for disposal or both. Such fees shall be calculated in amounts estimated to produce over the use of the site for disposal a sum sufficient to provide for any monitoring or protection of the site after closure.

(2) The amount so paid shall be held in a separate account and when the amount paid in by the licensee together with the earnings thereon equals the amount of the cash bond required under this section, the licensee shall be allowed to withdraw the cash bond.

(3) If the site is closed prior to the fees reaching an amount equal to the bond, appropriate adjustment shall be made and the reduced portion of the cash bond may be withdrawn. [1971 c.699 §11; 1979 c.132 §9]

**459.610 Annual license fees; use.** An annual license fee shall be required of every licensee under ORS 459.410 to 459.690. The fee shall be in an amount determined by the department to be adequate to maintain a monitoring and surveillance program for that disposal site. All such fees are continuously appropriated to the department to pay the cost of the program under ORS 459.670. [1971 c.699 §12; 1973 c.835 §154]

**459.620 Revocation of licenses; judicial review.** The commission may revoke any license issued under ORS 459.410 to 459.690 after public hearing upon a finding that the licensee has violated any provision of ORS 459.410 to 459.690 or rules adopted pursuant thereto or any material condition of the license, subject to review under ORS 183.310 to 183.500. [1971 c.699 §16; 1973 c.835 §155]

**459.625** [1975 c.483 §3; 1977 c.796 §3; renumbered 469.375]

**459.630** [1975 c.483 §2; 1977 c.796 §4; renumbered 469.525]

**459.635 Chemical waste disposal site; regulation; modification or waiver of requirements.** The legislature finds that there is an urgent need for an Oregon site for the disposal of hazardous chemical wastes and that such a site should be regulated but not operated by the Department of Environmental Quality. In order to secure such a site, the commission may modify or waive any of the requirements of this chapter, but not ORS 469.375 or 469.525, if it finds that such waiver or modification:

(1) Is necessary to make operation of the site economically feasible; and

(2) Will not endanger the public health and safety. [1975 c.483 §4]

**(Enforcement)**

**459.650 Investigation required upon complaint against disposal, collection or treatment site; hearings; orders; judicial review.** (1) The department shall investigate any complaint made to it by any person that a hazardous waste disposal, collection or treatment site or its operation is unsafe or that the operation of the site is in violation of the provisions of ORS 453.635 and 459.410 to 459.690 or the rules adopted thereunder.

(2) If, after making an investigation pursuant to subsection (1) of this section, the department is satisfied that sufficient grounds exist to justify a hearing upon the complaint, it shall give 10 days' written notice of the time and place of the hearing and the matters to be considered at such hearing. A copy of the

complaint shall be furnished by the department to the licensee. Both the complainant and the licensee are entitled to be heard, produce evidence and offer exhibits and to require the attendance of witnesses at any such hearing.

(3) The commission, or a hearings examiner appointed by the commission, shall hear the matter and, after considering all evidence and testimony submitted, the commission shall, within 30 days after the date of the hearing, make such specific order as it considers necessary in the premises. Any order so issued by the commission shall be subject to judicial review in the manner provided by ORS 183.480 for judicial review of orders in contested cases. The costs of reporting and of transcribing the hearing for the purpose of judicial review shall be paid by the party seeking such judicial review. [1971 c.699 §13a; 1977 c.867 §16; 1979 c.132 §16]

**459.660 Investigations by department; findings and orders; notice; judicial review.** (1) Whenever the department believes that any hazardous waste disposal, collection or treatment site or its operation is unsafe, or in violation of ORS 459.410 to 459.690 or not in compliance with rules or orders, it may, upon its own motion, investigate the operation of the site.

(2) The department may, after it has made an investigation under subsection (1) of this section, without notice and hearing, make such findings and orders as it considers necessary from the results of its investigations.

(3) The findings and orders made by the department pursuant to subsection (2) of this section may:

(a) Require changes in operations conducted, practices utilized and operating procedures found to be in violation of ORS 459.410 to 459.690 or the rules adopted thereunder.

(b) Require compliance with the provisions of the license.

(4) The department shall cause a certified copy of all orders issued by it under subsection (2) of this section to be delivered to the licensee or a duly authorized representative at the address furnished to the department in the license application. Any such order shall take effect 20 days after the date of its issuance, unless the licensee requests a hearing on the order before the commission before the 20-day period has expired. The request shall be submitted in writing and shall include the reasons for such hearing. At the conclusion of any such hearing, the commission may affirm, modify or reverse the original order.

(5) All hearings before the commission shall be in compliance with applicable provisions of ORS 183.310 to 183.500. Judicial review of all orders entered after hearing or where no hearing is requested shall be in accordance with the applicable provisions of ORS 183.310 to 183.500 for judicial review of contested cases. [1971 c.699 §14; 1973 c.835 §156; 1977 c.867 §17; 1979 c.132 §17]

**459.670 Monitoring and surveillance program; licensees' duties.** The department shall establish and operate a monitoring and surveillance program over all hazardous waste disposal, collection and treatment sites or may contract with any qualified public or private agency to do so. Licensees must allow necessary access to the site and to its records, including those required by other public agencies for such program to operate. [1971 c.699 §13; 1977 c.867 §18; 1979 c.132 §18]

**459.680 Procedure for emergencies.** (1) Whenever, in the judgment of the department from the results of monitoring or surveillance of operation of any hazardous waste disposal, collection or treatment site, there is reasonable cause to believe that a clear and immediate danger to the public health and safety exists from the continued operation of the site, without hearing or prior notice, the department shall order the operation of the site halted by service of the order on the site superintendent.

(2) Within 24 hours after such order is served, the department must appear in the appropriate circuit court to petition for such equitable relief as is required to protect the public health and safety and may commence proceedings for the revocation of the license if grounds therefor exist. [1971 c.699 §15a; 1977 c.867 §19; 1979 c.132 §19]

**459.685 Liability for improper disposal of wastes; duty; action by department; costs; action to recover.** (1) Any person having the care, custody or control of a hazardous waste or a substance which would be a hazardous waste except for the fact that it is not discarded, useless or unwanted, who causes or permits any disposal of such waste or substance in violation of law or otherwise than as reasonably intended for normal use or handling of such waste or substance, including but not limited to accidental spills thereof,

shall be liable for the damages to person or property, public or private, caused by such disposition.

(2) It shall be the obligation of such person to collect, remove or treat such waste or substance immediately, subject to such direction as the department may give.

(3) If such person fails to collect, remove or treat such waste or substance when under an obligation to do so as provided by subsection (2) of this section, the department is authorized to take such actions as are necessary to collect, remove or treat such waste or substance.

(4) The director shall keep a record of all necessary expenses incurred in carrying out any clean-up projects or activities authorized under subsection (3) of this section, including reasonable charges for services performed and equipment and materials utilized.

(5) Any person who fails to collect, remove or treat such waste or substance immediately, when under an obligation to do so as provided in subsection (2) of this section, shall be responsible for the necessary expenses incurred by the state in carrying out a clean-up project or activity authorized under subsections (3) and (4) of this section.

(6) If the amount of state-incurred expenses under subsections (3) and (4) of this section are not paid to the department within 15 days after receipt of notice that such expenses are due and owing, the Attorney General, at the request of the director, shall bring an action in the name of the State of Oregon in any court of competent jurisdiction to recover the amount specified in the final order of the director. [1973 c.778 §§8, 9, 10, 11, 12, 13; 1977 c.867 §20]

**459.690 Actions or proceedings to enforce compliance.** Whenever it appears to the department that any person is engaged or about to engage in any acts or practices which constitute a violation of ORS 459.410 to 459.690 or the rules and orders adopted thereunder or of the terms of the license, without prior administrative hearing, the department may institute actions or proceedings for legal or equitable remedies to enforce compliance therewith or to restrain further violations thereof. [1971 c.699 §15; 1973 c.835 §157; 1979 c.284 §150]

## BEVERAGE CONTAINERS

**459.810 Definitions for ORS 459.810 to 459.890.** As used in ORS 459.810 to 459.890 and subsections (5) and (6) of 459.992, unless the context requires otherwise:

(1) "Beverage" means beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.

(2) "Beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar, or carton containing a beverage.

(3) "Commission" means the Oregon Liquor Control Commission.

(4) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption.

(5) "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer, or means a redemption center certified under ORS 459.880.

(6) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sales.

(7) "In this state" means within the exterior limits of the State of Oregon and includes all territory within these limits owned by or ceded to the United States of America.

(8) "Manufacturer" means every person bottling, canning or otherwise filling beverage containers for sale to distributors or dealers.

(9) "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.

(10) "Use or consumption" includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale. [1971 c.745 §1]

**459.820 Refund value required.** (1) Except as provided in subsection (2) of this section, every beverage container sold or offered for sale in this state shall have a refund value of not less than five cents.

(2) Every beverage container certified as provided in ORS 459.860, sold or offered for sale in this state, shall have a refund value of not less than two cents. [1971 c.745 §2]

**459.830 Practices required of dealers and distributors.** Except as provided in ORS 459.840:

(1) A dealer shall not refuse to accept from any person any empty beverage containers of the kind, size and brand sold by the dealer, or refuse to pay to that person the refund value of a beverage container as established by ORS 459.820.

(2) A distributor shall not refuse to accept from a dealer any empty beverage containers of the kind, size and brand sold by the distributor, or refuse to pay the dealer the refund value of a beverage container as established by ORS 459.820. [1971 c.745 §3; 1973 c.758 §1]

**459.840 When dealer or distributor authorized to refuse to accept or pay refund in certain cases.** (1) A dealer may refuse to accept from any person, and a distributor may refuse to accept from a dealer any empty beverage container which does not state thereon a refund value as established by ORS 459.820.

(2) A dealer may refuse to accept and to pay the refund value of empty beverage containers if the place of business of the dealer and the kind and brand of empty beverage containers are included in an order of the commission approving a redemption center under ORS 459.880. [1971 c.745 §4; 1973 c.758 §2]

**459.850 Indication of refund value required; exception; certain metal containers and plastic container holders prohibited.** (1) Every beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, or by a label or other method securely affixed to the beverage container, the refund value of the container.

(2) Subsection (1) of this section shall not apply to glass beverage containers designed for beverages having a brand name permanently marked thereon which, on October 1, 1972, had a refund value of not less than five cents.

(3) No person shall sell or offer for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container without the aid of a can opener.

(4) On or after March 1, 1979, no person shall sell or offer for sale at retail in this state, in addition to beverages as defined in subsection (1) of ORS 459.810, any beverage in liquid form intended for human consumption in any beverage container so designed and constructed that a metal part of the container is detachable in opening the container through use of a metal ring or tab without the aid of a can opener. However, nothing in this subsection shall prohibit the sale of a container the only detachable part of which is a piece of pressure sensitive tape.

(5) No person shall sell or offer for sale at retail in this state metal beverage containers connected to each other by a separate holding device constructed of plastic rings or other material which will not decompose by photobiodegradation, chemical degradation, or biodegradation within 120 days of disposal. [1971 c.745 §5; 1977 c.151 §1; 1977 c.157 §1; 1979 c.188 §1]

**459.860 Certification of containers as reusable by more than one manufacturer.** (1) To promote the use in this state of reusable beverage containers of uniform design, and to facilitate the return of containers to manufacturers for reuse as a beverage container, the commission may certify beverage containers which satisfy the requirements of this section.

(2) A beverage container may be certified if:

(a) It is reusable as a beverage container by more than one manufacturer in the ordinary course of business; and

(b) More than one manufacturer will in the ordinary course of business accept the beverage container for reuse as a beverage container and pay the refund value of the container.

(3) The commission may by rule establish appropriate liquid capacities and shapes for beverage containers to be certified or decertified in accordance with the purposes set forth in subsection (1) of this section.

(4) A beverage container shall not be certified under this section if by reason of its shape or design, or by reason of words or symbols permanently inscribed thereon, whether by engraving, embossing, painting or other permanent method, it is reusable as a beverage container in the ordinary course of business only by a manufacturer of a beverage sold under a specific brand name. [1971 c.745 §6; 1973 c.693 §1]

**459.870 Decision upon certification applications; review and withdrawal of certifications granted.** (1) Unless an application for certification under ORS 459.860 is

denied by the commission within 60 days after the filing of the application, the beverage container shall be deemed certified.

(2) The commission may review at any time certification of a beverage container. If after such review, with written notice and hearing afforded to the person who filed the application for certification under ORS 459.860, the commission determines the container is no longer qualified for certification, it shall withdraw certification.

(3) Withdrawal of certification shall be effective not less than 30 days after written notice to the person who filed the application for certification under ORS 459.860 and to the manufacturers referred to in subsection (2) of ORS 459.860. [1971 c.745 §7]

**459.880 Redemption centers.** (1) To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the Oregon Liquor Control Commission, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers.

(2) Application for approval of a redemption center shall be filed with the commission. The application shall state the name and address of the person responsible for the establishment and operation of the redemption center, the kind and brand names of the beverage containers which will be accepted at the redemption center and the names and addresses of the dealers to be served by the redemption center. The application shall include such additional information as the commission may require.

(3) The commission shall approve a redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers. The order of the commission approving a redemption center shall state the dealers to be served by the redemption center and the kind and brand names of empty beverage containers which the redemption center must accept. The order may contain such other provisions to insure the redemption center will provide a convenient service to the public as the commission may determine.

(4) The commission may review at any time approval of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center, and to the dealers served by the redemption center, the commission may, after hearing, withdraw approval of a redemption center if the commission finds there has not been compliance with its order approving the redemption center, or if the redemption center no longer provides a convenient service to the public. [1971 c.745 §8; 1973 c.758 §3]

**459.890 Certification and withdrawal procedures.** The procedures for certification or withdrawal provided for in ORS 459.860 to 459.880 shall be in accordance with ORS 183.310 to 183.500. [1971 c.745 §9]

## PENALTIES

**459.990** [1967 c.428 §16; 1969 c.593 §48; subsection (2) enacted as 1969 c.509 §6; repealed by 1971 c.648 §33]

**459.992 Criminal penalties.** (1) The following are Class A misdemeanors:

(a) Violation of rules, regulations or ordinances adopted under ORS 459.005 to 459.105 and 459.205 to 459.285.

(b) Violation of ORS 459.205.

(c) Violation of an ordinance enacted under ORS 459.120.

(2) Each day a violation referred to by subsection (1) of this section continues constitutes a separate offense. Such separate offenses may be joined in one indictment or complaint or information in several counts.

(3) Penalties provided in this section are in addition to and not in lieu of any other remedy specified in ORS 459.005 to 459.105, 459.120 to 459.155 or 459.205 to 459.285.

(4) Violation of ORS 459.505, 459.510 or of any rule or order entered or adopted pursuant to ORS 459.410 to 459.690 is punishable, upon conviction, by a fine of not more than $3,000 or by imprisonment in the county jail for not more than one year, or by both. Each day of violation shall be deemed a separate offense.

(5) Violation of ORS 459.820, 459.830 or 459.850 is a Class A misdemeanor.

(6) In addition to the penalty prescribed by subsection (5) of this section, the commission or the State Department of Agriculture may revoke or suspend the license of any person who wilfully violates ORS 459.820, 459.830 or 459.850, who is required by ORS chapter 471 or 635, respectively, to have a license. [Subsections (1), (2) and (3) enacted as 1971 c.648 §20; subsection (4) enacted as 1971 c.699 §20; subsections (5)

and (6) enacted as 1971 c.745 §10; 1973 c.835 §158; 1977 c.867 §22]

**459.995 Civil penalties.** (1) In addition to any other penalty provided by law, any person who violates ORS 459.205, 459.510, 469.525 or any rule or order of the Environmental Quality Commission pertaining to the disposal, collection or storage of solid wastes, as defined by ORS 459.005, shall incur a civil penalty not to exceed $500 a day for each day of violation.

(2) The civil penalty authorized by subsection (1) of this section shall be established, imposed and collected in the same manner as civil penalties are established, imposed and collected under ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and ORS chapter 468. [1973 c.835 §130; 1977 c.317 §1]

**CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1979.

Thomas G. Clifford
Legislative Counsel

(a) Uranium, thorium or any other material which the division declares to be essential to the production of special nuclear material by an order made after the United States Atomic Energy Commission or any successor thereto has determined the material to be source material; or

(b) Ore that contains such a concentration of one or more materials mentioned in paragraph (a) of this subsection that the division declares the ore to be essential to the production of special nuclear material by an order made after the United States Atomic Energy Commission or any successor thereto has determined such ore to be source material.

(10) "Special nuclear material" means any of the following that is not source material:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, or any other material which the division declares to be capable of releasing substantial quantities of atomic energy by an order made after the United States Atomic Energy Commission or any successor thereto has determined the material to be special nuclear material.

(b) Material artificially enriched by any material mentioned in paragraph (a) of this subsection.

(11) "Specific license" means a license, issued after application, to receive, acquire, own, possess, use, manufacture, produce or transfer a device or equipment that produces radiation, or a quantity of, or a device or equipment that utilizes, by-product material, source material or special nuclear material or other radioactive material that occurs naturally or is produced artificially.

(12) "X-ray machine" means a device or equipment that produces radiation when in operation but does not utilize by-product material, source material, special nuclear material or other radioactive material that occurs naturally or is produced artifically.
[1961 c.664 §3; 1973 c.90 §1]

453.610 [1957 c.399 §2; repealed by 1961 c.664 §16]

**453.615 Statement of policy.** It is the policy of the State of Oregon in furtherance of its responsibility to protect the public health and safety:

(1) To institute and maintain a regulatory program for radiation sources so as to provide for:

(a) Compatibility with the standards and regulatory programs of the Federal Government;

(b) An integrated effective system of regulation within the state; and

(c) A system consonant in so far as possible with those of other states; and

(2) To institute and maintain a program to permit development and utilization of radiation sources for peaceful purposes consistent with the health and safety of the public.
[1961 c.664 §1]

453.620 [1957 c.399 §1; repealed by 1961 c.664 §16]

**453.625 Purpose of ORS 453.605 to 453.745.** It is the purpose of ORS 453.605 to 453.745 to effectuate the policies set forth in ORS 453.615 by providing for:

(1) A program of effective regulation of radiation sources for the protection of the occupational and public health and safety;

(2) A program to promote an orderly regulatory pattern within the state, among the states and between the Federal Government and this state and to facilitate intergovernmental cooperation with respect to use and regulation of radiation sources to the end that duplication of regulation may be minimized;

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to by-product materials, source materials and special nuclear materials; and

(4) A program to permit maximum utilization of radiation sources consistent with the health and safety of the public.
[1961 c.664 §2]

453.630 [1957 c.399 §§3, 4; repealed by 1961 c.664 §16]

**453.635 Health Division as State Radiation Control Agency; duties; applicability of ORS 453.605 to 453.745.** (1) The Health Division is the State Radiation Control Agency, but ORS 453.605 to 453.745 do not apply to a radiation source while it is being transported on a railroad car or in a motor vehicle subject to and in conformity with rules adopted by the Public Utility Commissioner of Oregon nor do they apply to any matter other than transportation of radiation sources within the authority of the Energy Facility Siting Council under ORS chapter 469. To protect occupational and public health and safety against radiation hazards the division shall:

(a) Develop programs to evaluate hazards associated with the use of radiation sources; and

## RADIATION SOURCES

**453.605 Definitions for ORS 453.605 to 453.745.** In ORS 453.605 to 453.745, unless the context requires otherwise:

(1) "Division" means the Health Division of the Department of Human Resources.

(2) "Assistant director" means the Assistant Director for Health.

(3) "By-product material" means radioactive material, other than special nuclear material, that is yielded or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(4) "Electronic product" means any manufactured product or device or component part of such a product or device that has an electronic circuit which during operation can generate or emit a physical field of radiation, such as, but not limited to microwave ovens, laser systems or diathermy machines.

(5) "Federal Government" means the United States or any agency or instrumentality of the United States.

(6) "General license" means a license, effective under rules of the division without the filing of an application, to acquire, own, possess, use or transfer a device or equipment that produces radiation, or a quantity of, or a device or equipment that utilizes, by-product material, source material, special nuclear material or other radioactive material that occurs naturally or is produced artificially.

(7) "Person" means any of the following other than the United States Atomic Energy Commission or any successor thereto:

(a) Individual, group, association, firm, partnership, corporation, trust, estate, agency or public or private institution;

(b) Political subdivision or agency of this state;

(c) State other than this state or any political subdivision or agency of a state other than this state; or

(d) The legal successor, representative, agent or agency of a person listed in paragraphs (a) to (c) of this subsection.

(8) "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons and other atomic or nuclear particles or rays.

(b) Any electromagnetic radiation which can be generated during the operations of electronic products and which the division has determined to present a biological hazard to the occupational or public health and safety but does not mean electromagnetic radiation which can be generated during the operation of an electronic product which is licensed by the Federal Communications Commission.

(c) Any sonic, ultrasonic or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and which the division has determined to present a biological hazard to the occupational or public health and safety.

(9) "Source material" means:

(b) With due regard for compatibility with the regulatory programs of the Federal Government, promulgate standards and make reasonable regulations relating to registration, licensing, use, handling, transport, storage, disposal, other than disposal regulated by ORS 469.300 to 469.570, and control of radiation sources, including but not limited to by-product materials, source materials and special nuclear materials.

(2) To protect occupational and public health and safety against radiation hazards the division or its authorized representative may:

(a) Advise, consult and cooperate with other agencies of this state, the Federal Government, other states, interstate agencies, political subdivisions of this state or other states and with groups concerned with control of radiation sources;

(b) Encourage, participate in or conduct studies, investigations, training, research or demonstrations relating to control of radiation sources;

(c) Accept and administer loans, grants or other funds or gifts, conditional or otherwise, from the Federal Government or from any other source, public or private;

(d) Collect and disseminate information relating to control of radiation sources; and

(e) Subject to any applicable provision of the State Merit System Law, appoint officers and employes and prescribe their duties and fix their compensation.
[1961 c.664 §4; 1971 c.699 §17; 1977 c.796 §6]

**453.640** [1957 c.399 §5; repealed by 1961 c.664 §16]

**453.645 Radiation Advisory Committee; composition; compensation and expenses.** The assistant director shall appoint a Radiation Advisory Committee to advise the division on matters relating to radiological health and radiation protection. The committee shall consist of eight persons who because of their training and experience are qualified to advise the division on such matters and they shall serve at the pleasure of the assistant director. The members of the Radiation Advisory Committee are entitled to compensation and expenses as provided in ORS 292.495.
[1961 c.664 §4a; 1969 c.314 §47; 1973 c.90 §2]

**453.650** [1957 c.399 §6; repealed by 1961 c.664 §16]

**453.655 License or registration required for radiation source.** When under ORS 453.605 to 453.745 a license or registration or both, as the case may be, is required for that purpose, no person shall receive, acquire, own, possess, use, manufacture, produce or transfer any radiation source without the license or registration or both, as the case may be.
[1961 c.664 §6]

**453.665 Licenses; application; modifications; exemptions.** (1) Subject to subsection (2) of this section, the division shall provide for the issuance, allowance, modification, amendment, revision, suspension and revocation of general and specific licenses that relate to by-product materials, source materials or special nuclear materials and to devices or equipment that utilize any of those materials. The division shall not require a specific license for the use of an X-ray machine within the limits of his license by a licensed dentist, chiropodist or veterinarian or by a person licensed to practice medicine, surgery, osteopathy, chiropractic, naturopathy or any other system or method of healing. Otherwise the division may require registration or a general or specific license or both registration and a general or specific license with respect to any radiation source.

(2) (a) Each application for a specific license shall be in writing and shall state such information as the division by regulation determines both to be necessary to decide the applicant's technical, insurance, financial or other qualifications and to be reasonable and necessary to protect occupational and public health and safety. At any time after the filing of the application for and before the expiration of a specific license the division may require further written statements, and may cause such inspections to be made as the division considers necessary, to determine whether the license should be granted, denied, modified, amended, revised, suspended or revoked. An application for a specific license or any statement relating to that application or to any license pursuant thereto shall be signed by the applicant or licensee. The division may require any such application or statement to be made under oath or affirmation.

(b) Each license shall be in such form and contain such terms and conditions as the division considers necessary to protect the occupational and public health and safety.

(c) No general or specific license or right to possess or use a radiation source under a general or specific license may be assigned in any manner without the approval of the division.

(d) The terms and conditions of any general or specific license may be modified, amended or revised by regulation or order.

(e) Subject to any requirement for registration, the division may by regulation recognize a license from any other state or from the Federal Government as compliance with a license requirement of this section or of ORS 453.635.

(f) When the division finds that a radiation source, a use of a radiation source, a user of a radiation source or a class of such sources, uses or users will not constitute a significant risk to the health and safety of the public, the division may exempt the source, use, user or class, as the case may be, from any requirement for registration or a license.
[1961 c.664 §5]

**453.670 X-ray machine registration fee; annual license fees; use of fees.** (1) The division shall charge an annual registration fee for an X-ray machine registration granted pursuant to ORS 453.665 which shall not exceed $10 for a dental X-ray machine and those machines used specifically for nonmedical scientific teaching purposes and shall not exceed $25 for all other classes.

(2) The division shall charge an annual license fee for a specific license granted pursuant to ORS 453.665 which shall not exceed $250 as determined by rule of the division and approved by the Executive Department.

(3) The fees prescribed by the division pursuant to this section are due and payable on or before July 1 of each year.

(4) All moneys received by the division under this section shall be paid into the State Treasury, deposited in the General Fund to the credit of the Health Division Account, and used exclusively by the division for the purposes of ORS 453.605 to 453.745.
[1969 c.304 §2; 1973 c.182 §10]

**453.675 Assumption by state of Federal Government's responsibility regarding radiation sources; effect of federal licenses.** (1) When in his opinion such agreements will promote public health and safety and assist in the peaceful uses of radiation sources, the Governor on behalf of this state shall enter into agreements with the Federal Government providing for discontinuance of certain of the Federal Government's responsibilities with respect to radiation sources and the assumption thereof by this state.

(2) When a person immediately before the effective date of an agreement under subsection (1) of this section has a license from the Federal Government to do anything which relates to by-product material, source material or special nuclear material and which on the effective date of the agreement is subject to the control of this state, he shall be considered to have a like license under ORS 453.605 to 453.745 until the expiration date specified in the license from the Federal Government or until the end of the 90th day after the person receives notice from the division that the license will be considered expired, whichever is earlier.
[1961 c.664 §7]

**453.685 Entry on property for inspection purposes; issuance of warrant; liability for entry.** (1) The assistant director may enter at any reasonable time upon any private or public property, with the permission of the owner or custodian; to determine whether there is compliance with ORS 453.605 to 453.745 and rules lawfully issued pursuant thereto. When such permission is not obtained or given, if the assistant director has grounds to believe that a violation of ORS 453.605 to 453.745 or rules lawfully issued pursuant thereto exists, the assitant director may apply to the proper judicial officer for a warrant to enter upon the property for purposes of inspection, search or seizure consonant with the scope of ORS 453.605 to 453.745; except that in a case where the assistant director has grounds to believe that a violation of ORS 453.605 to 453.745 or rules pursuant thereto exists which presents a clear and present danger to the health, safety or security of the state or its citizens, the assistant director may make such entry of property as is reasonable to abate the danger involved and for that purpose.

(2) Upon application to the proper judicial officer for a warrant to enter property under this section, the judicial officer shall forthwith summarily determine whether or not grounds to issue such warrant exists, and if he finds such exists, he shall immediately issue a warrant authorizing entry by the assistant director upon the described property for the purposes of ORS 453.605 to 453.745. The assistant director shall not be liable for injury or damage resulting from his action taken or authorized in good faith and without malice under the apparent authority of this section, even though such action is later judicially determined to be unlawful.
[1961 c.664 §8; 1973 c.90 §3]

**453.695 Records concerning radiation source; notice of exposure to radiation source.** (1) When the division by regulation so requires, any person who possesses or uses a radiation source shall cause to be made, in the manner prescribed by the division, records relating to the receipt, storage, transfer and disposition of the source and to such other matters as the division prescribes.

(2) Any person who possesses or uses a radiation source shall cause to be made, in the manner prescribed by the division, records showing the radiation exposure of any individual who is affected by such possession or use and for whom the division by regulation requires personnel monitoring.

(3) (a) Each person who possesses or uses a radiation source and who has reason to believe that any individual has received from that source radiation exposure in excess of the maximum permissible exposure established for an individual by regulations of the division shall give that individual notice of the possible exposure with a copy of any record of the exposure.

(b) Any person who possesses or uses a radiation source and who, in connection with that possession or use, employs an individual for whom the division by regulation requires personnel monitoring, in addition to any requirement of paragaraph (a) of this subsection shall, if the individual so requests or if regulations of the division so require, give the individual a copy of the individual's personnel monitoring exposure record annually and at the end of the employment.

(4) Upon the request of the division or its authorized representative, the custodian of any record required by this section shall give a copy of that record to the division or its authorized representative.
[1961 c.664 §10]

**453.705 Impounding radiation source upon violation.** When a radiation source is in the possession, custody or control of any person who is not equipped to observe or who fails to observe any applicable provision of or regulation pursuant to ORS 453.605 to 453.745, upon the issuance of an emergency order under ORS 453.755 the division or its authorized representative may cause that source to be impounded.
[1961 c.664 §11; 1975 c.241 §1]

**453.715 Injunction against violation.** When the division in writing notifies the Attorney General that, in the judgment of the board, a person has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of or regulation pursuant to ORS 453.605 to 453.745, if the division so requests, the Attorney General shall apply to the circuit court for the county of that person's residence for an order enjoining such act or practice, or for an order directing compliance; and upon a showing by the division that that person has engaged or is about to engage in any such act or practice, the court may grant a permanent or temporary injunction or restraining order or other order.
[1961 c.664 §12]

**453.725** [1961 c.664 §13; repealed by 1971 c.734 §21]

**453.735 ORS 453.605 to 453.745 and rules supersede contrary laws or regulations.** Each provision of ORS 453.605 to 453.745 or rules pursuant thereto supersedes any inconsistent provision of any ordinance, resolution, regulation, rule or order of any county, city, other political subdivision or public corporation of this state.
[1961 c.664 §14; 1973 c.90 §4]

**453.745 Intergovernmental cooperation to control radiation sources.** (1) Subject to the approval of the Governor, to protect the public health and safety and to assist in the peaceful uses of radiation sources the division may cooperate with the Federal Government, other states or interstate agencies to perform functions, including inspection, that relate to control of radiation sources.

(2) The division may institute programs to qualify personnel to carry out the provisions of ORS 453.605 to 453.745 and may make those personnel available for participation with the Federal Government, other states or interstate agencies in any program in furtherance of the purposes of ORS 453.605 to 453.745.
[1961 c.664 §9]

**453.750 Elimination of radiation source danger; compelling compliance.** (1) Whenever it appears to the Assistant Director for Health that a radiation source is presenting an imminent and substantial endangerment to the health or safety of persons, the assistant director may, without the necessity of prior administrative procedures or hearing, enter an order requiring the person or persons responsible for the radiation source to immediately take such action as is necessary to eliminate the endangerment. The assistant director shall, if requested, provide a prompt hearing after such order, in accord-

ance with ORS chapter 183, after which the order shall be continued, modified or revoked.

(2) If any person fails to comply with an order issued pursuant to subsection (1) of this section, the circuit court in which the radiation source is located shall compel compliance with the order in the same manner as with an order of that court.
[1975 c.241 §3]

**453.755 When hearing required; procedure; rules.** (1) Where the division proposes to refuse to issue or renew a license, to modify, amend, revise, revoke or suspend a license or to determine compliance with or grant exemption from a regulation of the division, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be in accordance with ORS 183.310 to 183.500.
[1971 c.734 §66; 1975 c.241 §2]

**(Miscellaneous)**

**453.765 Rules for health protection and evacuation procedure.** The Health Division in cooperation with the Energy Facility Siting Council and the Emergency Services Division shall establish rules for the protection of health and procedures for the evacuation of people and communities who would be affected by radiation in the event of an accident or a catastrophe in the operation of a nuclear power plant or nuclear installation.
[Formerly 453.590]

**453.770 Duty of public utility under ORS 453.765.** A public utility which operates a nuclear power plant or nuclear installation shall disseminate through the public media and educational sources information approved by the Health Division which explains rules or procedures adopted under ORS 453.765.
[Formerly 453.595]

## WESTERN INTERSTATE NUCLEAR COMPACT

**453.810 Western Interstate Nuclear Compact.** The Western Interstate Nuclear Compact is enacted into law and entered into with all other jurisdictions lawfully joining therein in a form substantially as follows:

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### ARTICLE I
### POLICY AND PURPOSE

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

### ARTICLE II
### THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Western Interstate Nuclear Board" (hereinafter called the board). The board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The Federal Government may be represented without vote if provision is made by federal law for such representation.

(b) The board members of the party states shall each be entitled to one vote on the board. No action of the board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the board are cast in favor thereof.

## DIVISION 10

## ADMINISTRATION

### General Rules of Practice

**Filing of Documents**

**345-10-005** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 13, f. & ef. 6-11-76]

**Filing of Documents**

**345-10-006** (1) Documents required to be filed with the Council by its governing statutes, or rules adopted pursuant thereto, shall be personally delivered or mailed to the Director, Department of Energy, 528 Cottage Street N.E., Salem, Oregon 97310.

(2) The Council may reject documents filed with it if:

(a) such documents do not comply with the Council's governing statutes, rules, or administrative orders; or

(b) such documents are not accompanied by any applicable fees required by law. Payment of fees shall be by money order, bank draft, or certified check payable to the State of Oregon Energy Facility Siting Council.

(3) Any person wishing the Council to take certain action on any matter appearing on the agenda for a regular or special Council meeting, other than a rulemaking or site certificate application proceeding, should make every effort to present its request, together with appropriate supporting information, to the Council at least seven days in advance of the meeting. The Council may refuse to entertain a presentation by any person who fails to comply with this rule.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 13, f. & ef. 6-11-76

**Council Requests for Information**

**345-10-010** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 13, f. & ef. 6-11-76]

**Form of Documents**

**345-10-011** Documents filed with the Council, including prepared testimony and exhibits offered at Council hearings, should, if possible, be on paper 8-1/2 by 11 inches in size, or folded in multiples thereof. Printing and reproduction processes used shall assure ease of reading and permanent legibility.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 13, f. & ef. 6-11-76

**Council Requests for Information**

**345-10-015** The Council may at any time require the filing of information with respect to any matter within its jurisdiction.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 13, f. & ef. 6-11-76

**Internal Communications**

**345-10-020** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 13, f. & ef. 6-11-76]

**Appearances Before Council**

**345-10-021** (1) Any person may appear at a Council meeting or hearing in his own behalf or by an attorney at law in good standing admitted to practice before the courts of Oregon.

(2) Attorneys shall conform to standards of conduct applicable in the Oregon court.

(3) The presiding officer at any Council meeting or hearing may by order, for good cause stated on the record, suspend or bar from further participation any person who engages in dilatory tactics or disorderly or contemptuous conduct.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 13, f. & ef. 6-11-76

**Appearances Before Council, Attorneys, Standard of Practice**

**345-10-025** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 13, f. & ef. 6-11-76]

**Model Rules of Practice**

**345-10-026** (1) The Attorney General's "Model Rules of Practice and Procedure under the Administrative Procedure Act", effective November 25, 1977, are adopted by the Council.

(2) Notwithstanding (1) above, specific rules adopted by the Council governing site certification proceedings shall control such proceedings.

**Stat. Auth.:** ORS Ch. 183 & 469
**Hist:** NTEC 1, f. 12-16-71, ef. 1-1-72; NTEC 6, f. 11-19-73, ef. 12-11-73; EFSC 13, f. & ef. 6-11-76; EFSC 5-1978, f. & ef. 5-9-78

[*ED. NOTE:* The full text of the Attorney General's Model Rules of Procedures is available from the office of the Attorney General, Secretary of State, or the Energy Facility Siting Council.]

**Form of Documents**

**345-10-030** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 13, f. & ef. 6-11-76]

**Notice of Rule-Making Activity**

**345-10-031** Prior to the adoption, amendment, or repeal of any rule, the Energy Facility Siting Council shall give notice of the proposed adoption, amendment, or repeal within the time period required by ORS 183.335:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360.

(2) By mailing a copy of the notice to persons on the Energy Facility Siting Council's mailing list established pursuant to ORS 183.335(6).

(3) By mailing a copy of the notice to United Press International and Associated Press.

**Stat. Auth.:** ORS Ch. 183
**Hist:** EFSC 1, f. & ef. 1-9-76

## DIVISION 12

## RULES OF PROCEDURE GOVERNING "ON THE RECORD" RULEMAKING HEARINGS

**Purpose**

**345-12-005** The purpose of these rules is to prescribe the procedures which will be employed by the EFSC when it is of the opinion that a decision by it to adopt standards must be supported by an evidentiary record.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Scope**

**345-12-010** These rules shall apply only if the EFSC states in a notice of proposed rulemaking that its decision must be based upon an evidentiary record.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Authority**

**345-12-015** These rules are adopted pursuant to authority conferred by ORS 469.470(7) and 469.490.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Effective Date**

**345-12-020** These rules shall be effective immediately upon filing with the Oregon Secretary of State.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Notice of Hearing**

**345-12-025** The EFSC shall hold a hearing before adopting any rule under these procedures. Notice of such hearing shall be given at least 45 days in advance:

(1) In the manner provided by OAR 345-10-031; and

(2) In the Oregon Administrative Rules Bulletin; and

(3) By mailing copies to persons on the mailing list established by the EFSC pursuant to ORS 183.335(6).

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Contents of Notice**

**345-12-030** The EFSC's notice of proposed rulemaking shall contain:

(1) A summary statement of the proposed rule and the reasons for its adoption.

(2) A statement of the manner, time, and place in which copies of the proposed rule and the justification statement prepared pursuant to rule 345-12-035 may be obtained.

(3) A designation of the person who will preside at and conduct the hearing.

(4) The time and place of the public hearing.

(5) A brief description of the manner in which interested persons may participate in the rulemaking proceeding.

(6) The date by which persons wishing to be Full Participants in the rulemaking must so notify the EFSC, if earlier than the date of the hearing.

(7) The date on which the Full Participant's written testimony and exhibits must be filed with the EFSC.

(8) A statement of whether the EFSC intends to permit oral cross-examination of witnesses.

(9) The date of the first prehearing conference the EFSC will hold in connection with the proposed rulemaking, if any.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Justification Statement**

**345-12-035** At the time it publishes a notice pursuant to these rules, the EFSC will have available a statement justifying adoption of the proposed rule. The justification statement shall contain:

(1) The facts underlying the EFSC's decision to propose the rule, including the facts supporting the particular formulation of the rule which the EFSC is proposing.

(2) A statement of the analyses or research underlying the proposed rule, including a description of the extent to which the EFSC consulted with other individuals or agencies in reaching its conclusion to propose the rule.

(3) An identification of any documentary material which the EFSC is relying upon as a basis for the proposed rule.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Participation in Hearings; Consolidation**

**345-12-040** (1) Any person may participate in the hearing on the proposed rule in either of the following ways:

(a) Limited participation — a person participates in this manner only to the extent of giving a sworn oral or written statement of position on the proposed rule. Such statements will be considered by the EFSC in reaching its decision.

(b) Full participation — a person who participates in this manner is entitled, subject to the conditions and limitations in these rules, to request discovery pursuant to rule 345-12-060, to present sworn testimony, exhibits, and arguments relevant to the proposed rule, to submit written questions which will be propounded by the presiding officer pursuant to section 345-12-055(4), and to request an opportunity for oral cross-examination, pursuant to rule 345-12-065.

(2) A person must inform the presiding officer of its intention to participate as a Full Participant on or before the date set in the EFSC's notice. A late-filed request to become a Full Participant may be granted only by the EFSC itself, if the requestor demonstrates:

(a) Good cause for failure to file on or before the date set in the EFSC's notice; and

(b) That the requestor's interests cannot be represented adequately by other Full Participants and cannot be served by a limited participation; and

(c) The requestor's full participation may reasonably be expected to contribute to a sound decision by the EFSC.

(3) The EFSC or the presiding officer may, at its own initiative or upon request, order any Full Participants determined to have substantially similar interests or who are raising substantially the same questions to consolidate their participation in the rulemaking proceeding. No consolidation will be ordered which will prejudice the rights of any Full Participant.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Prehearing Conferences**

**345-12-045** (1) If deemed necessary or appropriate, the EFSC will, in its notice of proposed rulemaking or by subsequent order, fix a date for a prehearing conference at which any of the following may be considered:

(a) Identification, narrowing, and simplification of the issues;

(b) Establishment of special procedures for a particular rulemaking hearing;

(c) Securing admissions of fact and of documents, exhibits, and other evidence;

(d) Securing agreements which will avoid or limit unnecessary, cumulative, repetitious or immaterial testimony;

(e) Determining the necessity for oral cross-examination by Full Participants;

(f) Securing agreements to facilitate the informal exchange of information among the EFSC's staff and all Full Participants;

(g) Determining the necessity for formal discovery prior to hearing, and establishing discovery schedules if needed;

(h) Whether the hearings should be converted to a comment, as opposed to an "on the record", procedure;

(i) Any other matters which may aid in expediting a sound decision on the proposed rules.

(2) No prehearing conference shall be held until at least five business days after the deadline set in the EFSC's notice of proposed rulemaking for becoming Full Participants.

(3) The EFSC or its presiding officer will issue an order subsequent to any prehearing conference, incorporating all agreements reached at such prehearing conference, and rulings made on all points of contention.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Prefiling of Full Participant's Testimony**

**345-12-050** (1) The EFSC may require a Full Participant to file with presiding officer the original and 10 copies of this testimony on the proposed rule, together with all supporting exhibits, not later than 20 business days prior to the date of the hearing.

(2) Testimony and exhibits which must be prefiled under this rule shall be served on all other Full Participants to the proceeding, and upon the staff of the Department of Energy.

Stat. Auth.: ORS Ch. 183
Hist: ESFC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Conduct of Hearing**

**345-12-055** (1) The hearing, and any prehearing conferences held pursuant to rule 345-12-045, shall be conducted and controlled by the presiding officer, who shall be either the chairperson of the EFSC or any other person designated by the EFSC in its notice of proposed rulemaking.

(2) At the opening of the hearing, the presiding officer shall read the notice of proposed rulemaking, and the substance of any prehearing conference orders.

(3) Subject to the presiding officer's discretion, the order of presentation at the hearing shall be as follows:

(a) Presentation of, and questioning upon, the EFSC's proposed rule and justification statement;

(b) Statements of Limited Participants who favor the proposed rule;

(c) Statements of Limited Participants who oppose the proposed rule;

(d) Testimony of Full Participants who favor the proposed rule; and

(e) Testimony of Full Participants who oppose the proposed rule.

(4) Except to the extent that oral cross-examination by Full Participants is permitted pursuant to rule 345-12-065, only the presiding officer or a member of the EFSC may question or examine any witnesses. The presiding officer will propound relevant written questions to witnesses, other than Limited Participants, which have been prepared by a Full Participant or by the Department of Energy staff. The presiding officer may pursue such questions to the extent necessary to develop a sound and accurate record.

(5) There shall be no rebuttal or additional statements given by any witness unless requested by the presiding officer. When such additional statements are given, the presiding officer shall allow an equal opportunity for reply by a Full Participant whose testimony was the subject of a rebuttal or additional statement.

(6) The hearing may be continued with recesses as determined by the presiding officer until all Limited and Full Participants have had an opportunity to testify.

(7) The presiding officer shall, where practicable, receive all physical and documentary evidence presented by Full Participants. Exhibits shall be preserved by the EFSC for one year or, in the discretion of the EFSC, returned to the offering Full Participant.

(8) The presiding officer may set reasonable time limits for oral presentations, and may exclude or limit cumulative, repetitious, or immaterial matter.

(9) A verbatim oral, written, or mechanical record shall be made of all of the rulemaking proceeding. A Full Participant who files an affidavit of indigency satisfactory to the EFSC will be provided a copy of the record free of charge.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Discovery**

**345-12-060** (1) Except as provided in section (2), there shall be no formal discovery by deposition, interrogatory, motions to produce or otherwise in proceedings conducted under these rules. The EFSC staff will, on the date notice is given of the proposed rulemaking, have available for public inspection and copying all documents which are relied upon in formulating the proposed rule. Full Participants are encouraged to confer informally for the purpose of exchanging information and documents relied upon in their presentations.

(2) A Full Participant may request that the EFSC permit formal discovery. Such a request will be granted only in exceptional circumstances where the presiding officer finds that there is compelling justification for formal discovery in order to assure that the EFSC's decision on the proposed rulemaking will be made upon a sound evidentiary basis. Requests for formal discovery made pursuant to this section must be made at least 10 business days in advance of the date set for hearing.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Oral Cross-Examination by Full Participants**

**345-12-065** (1) If any Full Participant believes that oral cross-examination of the EFSC staff or of any other Full Participant is necessary to insure a sound decision, it may request the presiding officer to permit such oral cross-examination. A request for oral cross-examination will be granted only if:

(a) The requesting Full Participant identifies with specificity the issues requiring cross-examination; and

(b) The requesting Full Participant demonstrates that the issues allegedly requiring cross-examination are significant to the EFSC's decision; and

(c) The requesting Full Participant demonstrates that less time-consuming procedures, such as the submission of written cross-examination questions, will probably not be satisfactory for resolving the identified issues with sufficient accuracy.

(2) Requests for permission to conduct oral cross-examination shall be made at the earliest practicable date.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**Presiding Officer's Report**

**345-12-070** (1) If all of the members of the EFSC either did not attend all of the rulemaking hearing, or did not review the hearing record, the presiding officer shall, within a reasonable time after the hearing, prepare and distribute to the Full Participants a proposed decision, setting forth the facts in the record upon which the proposed decision is based, the alternative policy choices considered, and the factual and policy reasons for the proposed decision. All procedural rulings made by the presiding officer which were not contained in a prehearing conference order shall also be set forth.

(2) Full Participants and the EFSC's staff may file statements with the EFSC within ten business days of receipt of the presiding officer's report, stating their exceptions to such report. Statements of exceptions should provide references to the record to demonstrate alleged errors made by the presiding officer. In the exceptions, any Full Participant may also appeal procedural rulings made by the presiding officer which allegedly had an adverse effect on its participation and thereby precluded the development of a sound and accurate record.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

**EFSC Decision**

**345-12-075** (1) Subsequent to the hearing, or after the receipt of the presiding officer's report and exceptions thereto, the EFSC will issue its decision upon the proposed rulemaking. The EFSC's decision shall be in the form of a written opinion which sets forth:

(a) The issues before the EFSC;

(b) The substantive basis in the record for the EFSC's decision;

(c) The various policy alternatives considered by the EFSC and the reasons for the EFSC's choices among competing or conflicting policies;

(d) A statement of the EFSC's reasoning in reaching its decision.

(2) If the EFSC concludes that the presiding officer erred in a procedural ruling and further concludes that such error precluded the development of a sound and accurate record, it shall reverse such ruling and reopen the hearing to the extent it deems necessary to cure the defect. The conduct of the reopened hearing shall be in accordance with these rules.

Stat. Auth.: ORS Ch. 183
Hist: EFSC 16(Temp), f. & ef. 4-19-77; EFSC 17, f. & ef. 8-19-77

## DIVISION 15

## PROCEDURES GOVERNING SITE CERTIFICATION HEARINGS

**Time, Place, and Notice of Hearing**
**345-15-005** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Notices**
**345-15-006** (1) In addition to any other notice required by law, the Council shall give notice of the filing of a site certificate application to those persons on its mailing list established pursuant to ORS 183.335(3), to the general news media, and to news media serving the specific geographic areas in which the site is proposed.

(2) To the extent that the Council holds informal work sessions to discuss with the applicant portions of a site certificate application, reasonable notice thereof shall be given in the manner described in (1) above, and specific notice shall be given to any other parties to the proceeding.

(3) The time and place of formal hearings on site certificate applications shall be set by the Council. Notice thereof, specifying the nature of the hearings, its time and place, the legal authority under which it is held, and the principal issues to be addressed, shall be served upon all parties at least 21 days prior to the hearings. Such notice shall be published in the Administrative Rules Bulletin, and shall also be distributed in the manner described in (1) above.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 14, f. & ef. 10-12-76

**Service Requirements**
**345-15-010** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Service Requirements**
**345-15-011** (1) All documents required to be filed with the Council in connection with a site certificate hearing shall be served by the responsible party upon each other party by delivering one copy thereof either personally or by first class mail properly addressed with postage prepaid. For purposes of this rule, the term "responsible party" includes the staff of the Department of Energy to the extent that it presents testimony and exhibits, or files pleadings and briefs, in a site certificate proceeding.

(2) The original and 15 copies of each document served pursuant to (1) above shall be filed with the Council, with a certificate of service in substantially the following form:

**A true copy of this document was served upon all parties of record in this proceeding, either personally or by mail.**

**Date**_____, **19**_____.
**By**_____

(3) Upon receipt of a statement from a party that it is financially unable to provide the 15 copies, the Council may waive the requirement of section (2).

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 14, f. & ef. 10-12-76

**Participation by Non Parties**
**345-15-015** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Intervention as a Party**
**345-15-016** (1) At any time after the filing of a site certificate application and before the final taking of evidence in the proceeding, a person who has an interest in the results of the hearing, or who represents a public interest in such results, may petition the Council for an order granting such persons status as a party to the proceeding, either in favor of or in opposition to the application.

(2) The petition shall set forth the following information:

(a) The name and address of the petitioner, and of any organization which the petitioner represents.

(b) The name and address of the petitioner's attorney, if any.

(c) If the petitioner is seeking intervention on his own behalf, a detailed statement of the petitioner's interest, economic or otherwise, in the proceeding and of how such interest may be affected by the results of the proceeding.

(d) If the petitioner purports to be representing a public interest in the results of the proceeding, a detailed statement of such public interest and the manner in which such public interest will be affected by the results of the proceeding.

(e) A statement identifying the issues which the petitioner intends to address in the proceedings.

(3) Petitions for leave to intervene shall be served by the Council upon all other parties to the proceeding. Except as provided in (4) below, such other parties shall have five business days after receipt of service within which to file answers to such petitions.

(4) The Council itself shall rule on all petitions for leave to intervene. If a petition is filed within 10 business days of the date on which hearings on an application are scheduled to commence, the hearings shall be stayed until all other parties have had an opportunity to file answers and the Council has ruled. In such circumstances, the Council, through its chairman, may shorten the time within which answers to the petition shall be filed, and the Council shall meet specially, either in person or by telephonic conference call, to deliberate and make its ruling as expeditiously as possible. In ruling on petitions for leave to intervene, the Council shall consider:

(a) Whether the petitioner has demonstrated a personal or public interest which reasonably could be affected by the outcome of the proceeding.

(b) Whether any such affected interest is within the scope of the Council's jurisdiction.

(c) The extent to which the petitioner's interest will be represented by existing parties.

(5) The ruling of the Council on a petition for leave to intervene shall be by written order, which shall be served promptly on the petitioner and all other parties to the proceeding. An order granting a petition, in whole or in part, may be conditioned on such terms as the Council deems necessary in order to:

(a) Require common interests to be represented on a consolidated basis; and

(b) Assure expeditious and fair conduct of the hearing.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 14, f. & ef. 10-12-76

**Intervention and Interested State and Federal Agencies**
**345-15-020** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Limited Appearances**

**345-15-021** Any person may appear in person or by counsel to make a written or oral statement of his position on the issues before the Council within such limits and on such conditions as may be fixed by the presiding officer. In imposing limits or conditions on limited appearances, the presiding officer shall maintain the right of citizens to be heard. Such persons making limited appearances shall not otherwise participate in the proceedings.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Powers of the Hearing Officer**

**345-15-025** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Participation by Governmental Agencies**

**345-15-026** (1) Agencies of the State of Oregon or of the United States who are not parties to the proceeding shall be afforded reasonable opportunity to participate to the extent of their demonstrated interest without taking a position on the issues.

(2) Notwithstanding (1) above, comments and recommendations made by the state agencies identified in ORS 469.350 shall be entered into the record under oath and all parties shall have an opportunity to cross-examine upon such comments and recommendations.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Evidence; Admissibility, Objections**

**345-15-030** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Prepared Testimony and Exhibits**

**345-15-031** The Council may require all parties to a site certificate application hearing to file prepared written testimony and exhibits at least one week in advance of the hearing date.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Prepared Testimony and Exhibits**

**345-15-035** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Conferences**

**345-15-036** The Council, or the presiding officer at the hearing, may direct the parties to appear at any time for a conference to consider any matter that may aid in expediting the orderly conduct and disposition of the proceeding. Specifically, the Council shall require the parties to meet in conference at least 30 days prior to the hearing date on the application for the purpose of identifying issues to be contested in the hearing and to enter into stipulations regarding uncontested issues and evidentiary and procedural matters to the greatest extent possible. Such conferences may be stenographically reported, and the results of any conference shall be stated upon the record of the proceeding. Any proposal made at a conference which was not accepted by all of the parties shall be privileged and shall not be admissible as evidence in the proceeding.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Official Notice**

**345-15-040** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, Filed and Eff. 10-12-76]

**Evidence; Objections**

**345-15-041** Only relevant, material evidence which is not unduly repetitious will be admitted. Evidence meeting such standards shall be admissible when, in the opinion of the presiding officer, it is evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs. An objection to evidence shall briefly state the ground of the objection, and the transcript shall include the objection, the grounds, and the ruling. The presiding officer may in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Resolutions of Municipal Corporations**

**345-15-045** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, Filed and Eff. 10-12-76]

**Official Notice**

**345-15-046** The Council may take official notice of the following matters:

(1) All matters of which the courts of the State of Oregon take judicial notice,

(2) Administrative rulings and reports of the Council and other governmental agencies,

(3) Contents of permits and licenses issued by the Council,

(4) Documents and records in the files of the Council required by statute or by rules of the Council to be so filed,

(5) The results of personal inspection of physical conditions involved,

(6) General, technical, or scientific facts within the Council's specialized knowledge.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Conference**

**345-15-050** [NTEC 4, f. 10-4-72, ef. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Municipal Resolutions**

**345-15-051** Properly authenticated resolutions of governing boards of municipal corporations and civic organizations shall be received in evidence if offered by a person charged with official custody of such records. Such resolutions shall be received subject to rebuttal as to the authenticity of the resolution or the circumstances surrounding its procurement. Such resolutions shall only be received for the purpose of showing the expression of official action of the resolving body with respect to matter contained in the resolution but shall not be deemed proof of such facts.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Communication Between Council and Parties**

**345-15-055** [NTEC 4, f. 10-4-72, Eff. 10-15-72; Repealed by EFSC 14, f. & ef. 10-12-76]

**Powers of Presiding Officer**

**345-15-056** The presiding officer shall take all necessary action to insure a fair and impartial hearing, to avoid delay and to maintain order. He shall have all power necessary to those ends, including the powers to:

(1) Administer oaths and affirmations,

(2) Rule on offers of proof and receive evidence,

(3) Order depositions to be taken and issue subpoenas,

(4) Regulate the course of the hearing, the order of proof, and the conduct of the participants,

(5) Dispose of procedural requests or similar matters,

(6) Examine witnesses,

(7) Hold conferences before or during the hearing for settlement, simplification of issues or any other proper purpose,

(8) Continue the hearing,

(9) At the request of the Council, or upon the motion of a party for good cause shown, reopen the proceeding for reception of further evidence at any time prior to final decision by the Council, and

(10) Take any other action consistent with the Council's governing statute and the Council's rules adopted pursuant thereto.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Ex parte Communications**

**345-15-060** After the filing of a site certificate application and prior to Council decision thereon, neither the applicant nor any intervenor in the proceeding shall discuss any matter at issue in the proceeding with any Council member unless reasonable notice is given to all parties who have appeared therein to be present at such conference. This rule shall not apply to communications concerning the general regulatory responsibilities of the Council or the Department of Energy, communications concerning the status of the proceedings, or communications regarding any matter not related to the application proceeding.

Stat. Auth.: ORS Ch.
Hist: EFSC 14, f. & ef. 10-12-76

**Site Certificate Hearing Record and Copies**

**345-15-063** (1) The Council will maintain a complete and current record of all motions, rulings, testimony, and exhibits during the course of the hearing.

(2) The Applicant and any Intervenor admitted to the proceeding may request that it receive a copy of the record as the same becomes available to the Council. Unless the party requesting a copy of the record at the same time files an affidavit of indigence satisfactory to the Council, the Council will impose a charge equal to the amount of actual expense it incurs for providing a copy of the record.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 15, f. & ef. 2-11-77

**Model Rules**

**345-15-065** The Council has adopted the Attorney General's "Model Rules of Procedure Under the Administrative Procedure Act" effective November 25, 1977. Site certificate applications are "contested cases" under ORS Chapter 183 and such rules. To the extent a procedural or substantive matter is not addressed specifically in rules 345-15-006 through 345-15-060, the Model Rules shall apply.

Stat. Auth.: ORS Ch. 183 & 469
Hist: EFSC 14, f. & ef. 10-12-76; EFSC 5-1978, f. & ef. 5-9-78

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedures is available from the office of the Attorney General, Secretary of State, or the Energy Facility Siting Council.]

## DIVISION 20

## THERMAL POWER PLANTS

**Notice of Intent to File Application for Site Certificate**

**345-20-005** [NTEC 2, f. 2-4-72, ef. 2-15-72; Repealed by EFSC 13, f. & ef. 6-11-76]

**Notice of Intent Required**

**345-20-006** Any person who proposes to apply for a site certificate for either of the following types of energy facilities shall file a Notice of Intent at least 12 months prior to filing the application:

(1) A nuclear installation, as defined in ORS 453.305(11);

(2) A thermal power plant, as defined in ORS 453.305(16) with a planned nominal electric generating capacity of more than 200,000 kilowatts, excluding combustion turbine power plants and geothermal-fueled power plants.

Stat. Auth.: ORS Ch.
Hist: EFSC 13, f. & ef. 6-11-76

**Supplemental Statement to Accompany Notice of Intent**

**345-20-010** [NTEC 2, f. 2-4-72, ef. 2-15-72; Repealed by EFSC 13, f. & ef. 6-11-76]

**Contents of Notice of Intent**

**345-20-011** A Notice of Intent shall contain the following information:

(1) The proposed location of the energy facility shall be identified by Section(s), Township, Range, and County.

(2) All proposed related and supporting facilities shall be identified.

(3) Any new transmission corridors which may be required shall be identified in terms of the approximate length and the terminus for each corridor.

Stat. Auth.: ORS Ch.
Hist: EFSC 13, f. & ef. 6-11-76

**Supplemental Statement**

**345-20-015** In order to promote knowledgeable and constructive comment on the Notice of Intent, the Notice of Intent shall be accompanied by a supplemental statement in which the following matters relating to the proposed energy facility are discussed:

(1) The expected need and justification for the proposed energy facility including, for thermal power plants, the expected distribution of its power to industrial, commercial, and residential users.

(2) The approximate land area involved with the site (excluding transmission corridors).

(3) The status of decisions regarding the schedule for filing an application for a site certificate and for any required construction permits.

(4) The plans for study of environmental impact.

(5) For thermal power plants:

(a) The source of thermal energy,

(b) The nominal electric rating,

(c) The source of cooling water, and

(d) The general method for disposal of waste heat, waste material, and spent nuclear fuel, if any.

(6) For nuclear installations, the inventory and chemical composition of fissile materials in the proposed facility.

(7) The status of the proposed site under OAR 345-40-015 through 345-40-040, designating areas of the state as "suitable" or "unsuitable" for thermal power plant siting.

Stat. Auth.: ORS Ch.
Hist: EFSC 13, f. & ef. 6-11-76

## DIVISION 25

## INFORMATION TO BE FURNISHED IN AN APPLICATION FOR SITE CERTIFICATE FOR A NUCLEAR-FUELED OR COAL-FIRED THERMAL POWER PLANT

**Introduction**

**345-25-001** These rules prescribe the information to be provided in an application for a site certificate for a nuclear-fueled or coal-fired thermal power plant. Information to be furnished only with respect to a particular kind of plant is so indicated.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Application Form and Other Administrative Requirements**

**345-25-003** (1) An application for a site certificate for a thermal power plant shall be printed generally on paper sheets 8-1/2 inches by 11 inches, in loose-leaf form within a hard binder. Thirty-five (35) copies shall be provided.

(2) Information presented in an application shall be preceded by the text of the rule, or subsection thereof, being addressed.

(3) If portions of the information required by this rule are not applicable or not available, the application shall indicate the reason for the failure to provide the requested information. As such information becomes available or changes occur in information presented in the application, appropriate amendments to the application shall be provided to the Council. Amendments shall be in the form of page-for-page substitution.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**General Site Description**

**345-25-005** (1) Provide a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions, and prominent features such as cities, lakes, and rivers.

(2) Provide detailed maps showing the location of the plant perimeter, utility property, abutting and adjacent properties, nearby water bodies, wooded areas, farms, settlements, and parks and other public facilities.

(3) Describe the boundaries on which the specifications for release of nonradioactive effluents will be based.

(4) For nuclear-fueled plants, describe the area within which permanent residences are excluded, and the boundaries on which specifications on release of radioactive effluents are based.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**General Plant Description**

**345-25-007** (1) Describe the principal characteristics of the plant, including principal design features, operating characteristics, and safety considerations.

(2) Describe the general arrangement of major structures and equipment by use of scale plan and elevation drawings in sufficient number and detail to provide an understanding of the general layout of the plant.

(3) Identify any anticipated difficult engineering problems and significant extrapolations in technology as represented by the design.

(4) List the prime contractors and major vendors for the project.

(5) Provide a construction schedule for the plant.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Approvals by Other Governmental Agencies**

**345-25-009** (1) Provide a listing of federal permits, licenses, and certificates necessary to construction and operation of the plant, and the status thereof. Copies of all such documents, if issued, shall be appended to the application.

(2) Identify and categorize as follows all state and local government permits, licenses, and certificates required in the absence of Council regulation, for the construction and operation of the plant:

(a) Required prior to the expiration of the statutory time period for state evaluation of a site certificate application.

(b) Required concurrent with state site certification.

(c) Required subsequent to state site certification.

(3) In the case of permits, licenses, and certificates in categories (a) or (b) above, a completed application for such permit, license, or certificate shall be submitted to the responsible agency and a duplicate original copy of each such application shall be appended to the site certificate application.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Need for Power to Be Provided by the Plant**

**345-25-011** (1) Discuss the specific power needs which the plant would meet, in relation to the present and proposed capacity of the applicant's system, including the relationship of the electrical capacity of the proposed facility to the prospective power supply and demand situation of the system, pool, or region involved at the scheduled in-service date of the project. The discussion shall also include a description of present and future power needs by industrial, commercial, and residential classes of consumers.

(2) Discuss the consequences of delay in the proposed plant.

(3) Discuss alternatives to the proposed plant, including:

(a) The possibility of electric power purchases from other utilities including a discussion of environmental impact, cost, feasibility, and fuel availability.

(b) Alternative means of power generation such as hydro-electric, geothermal, nuclear (in case of coal-fired), coal-fired (in case of nuclear), oil-fired or gas-fired facilities and associated electric transmission (in terms of environmental impact, cost, feasibility, and fuel availability).

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Regional Demography**

**345-25-013** (1) For nuclear-fueled plants, the following information shall be provided on population and population distribution in the vicinity of the site. Population data presented shall be based on the most recent census data:

(a) Population Within Ten Miles. On a map of suitable scale which identifies places of significant population grouping such as cities and towns within the 10-mile radius, concentric circles shall be drawn, with the reactor at the center point, at distances of one, two, three, four, five, and ten miles. The circles shall be divided into 22-1/2 degree segments with each segment centered on one of the 16 cardinal compass points (e.g., north, north-northeast, northeast, etc.). Within each area thus formed by the concentric circles and radial lines, the current resident population shall be specified, as well as the projected population by decade for at least four decades. The basis for the projection shall be described and population vectors, indicating direction and rate of growth, shall be provided.

(b) Population Between 10 and 50 Miles. A map of suitable scale for these distances shall be used in the same manner as described in (a) above to describe the population and its distribution at 10-mile intervals between the 10- and 50-mile radii from the reactor.

(c) Transient Population. Variations in population on a seasonal basis shall be described and, where appropriate, variations in population distribution during the working day shall be discussed, particularly where significant shifts in population or population distribution may occur.

(d) Public Facilities and Institutions. Any public facilities such as schools, hospitals, prisons, and parks within 10 miles of the site shall be identified and located, and the size of their transient or permanent populations discussed.

(2) For coal-fired plants, the following information shall be provided on population and population distribution in the vicinity of the site. Population data presented shall be based on the most recent census data:

(a) Population Within Fifty Miles. On a map of suitable scale which identifies places of significant population grouping, such as cities and towns within the 50-mile radius, concentric circles shall be drawn, with the thermal source at the center point, at distances of one, five, 10, and 50 miles. The circles shall be divided into 22-1/2 degree segments with each segment centered on one of the 16 cardinal compass points (e.g., north, north-northeast, etc.). Within each area thus formed by the concentric circles and radial lines the current resident population shall be specified, as well as the projected population by decade for at least four decades. The basis for the projection shall be described, and population vectors, indicating the direction and rate of growth, shall be provided.

(b) Public Facilities and Institutions. Any public facilities such as schools, hospitals, prisons, and parks within ten miles of the site shall be identified and located, and the size of their transient or permanent populations discussed.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

**Nearby Industrial, Transportation, and Military Facilities**

**345-25-015** (1) Provide a map showing nearby military bases, military firing ranges, missile sites, industrial plants and storage facilities, airports, transportation routes (land and water), and oil and gas pipelines and tank farms.

(2) An evaluation shall be presented of the possible effects of these facilities on the plant and of the plant on these facilities. The evaluation shall include, but not be limited to, consideration of the following aspects:

(a) For nearby facilities handling hazardous materials, a description of hazardous materials manufactured, stored, or transported shall be provided, including discussion of the maximum quantities of such material likely to be manufactured, stored, or transported. An evaluation shall be made of the effects on the plant of explosions, fires, accidental chemical releases, or other accidents at such facilities.

(b) An evaluation shall be presented of the potential effects on the plant of transportation accidents. This shall include railroad, motor carrier, and aircraft accidents, and ship or barge impacts on cooling water intake or outfall structures. This evaluation shall include consideration of the fact that carriers involved in such accidents might be transporting hazardous materials.

(c) For sites in the vicinity of airports or aircraft flight paths, the potential effects of aircraft impacts on the plant, taking into account aircraft size, weight, and fuel loading shall be evaluated.

(3) The application shall state whether water transportation will be used during construction or after the plant is in operation. If so, channel requirements and necessary jetties or other maritime facilities should be described. It should be noted whether existing Corps of Engineers authorized channels or facilities are adequate. If not, the necessary modifications or additions should be described. The manner of and responsibility for disposition of these channels or facilities at the end of their usefulness should be described, as well as the responsibility for their maintenance.

(4) Any new roadways or railroads, or modifications to existing roadways or railroads necessary shall be identified and the agency having financial responsibility for making these modifications shall be specified.

(5) In the vent high, natural-draft cooling towers or other tall structures such as discharge stacks are used on site, the potential for such structures to be a hazard for aircraft shall be discussed.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

**Geology and Seismology**

**345-25-017** (1) For nuclear-fueled plants, the following basic data shall be provided concerning the geology and seismology of the site and the region surrounding the site:

(a) Maps and Charts:

(A) Topographic;

(B) Location map of proposed structures, test holds, excavations, and sample stations;

(C) Geologic map of rock types and structural features;

(D) Geologic cross-sections indicating subsurface conditions;

(E) Map showing bedrock contours where the site is covered by unconsolidated material.

(b) Physiographic — significance of topographic features explained and related to the regional pattern. Special attention shall be paid to lineations suggesting faulting.

(c) Stratigraphic — genesis, composition, extent, sequence, and correlation of rock units.

(d) Lithologic — composition and textural character, including results of microscopic studies (petrographic) when they are necessary to obtain a complete determination of rock type and mineral composition.

(e) Structure — faults, joints, distortion, alteration, weathering, slip planes, fissures and cavities. Fault lengths shall be indicated, and a description shall be provided, if possible, of fault displacement and time that displacement occurred. The relationship of significant regional structure to site geology shall be explained, expecially faulting. A description shall be provided of any seismic refraction and reflection, magnetic, or other surveys conducted to determine subsurface structure. For faults, any part of which is within 200 miles of the site and which may be of significance in establishing the earthquake design basis, a determination shall be made and provided as to whether these faults should be considered as active faults.

(f) Soils — soil types at the site.

(g) Slope stability — information and appropriate substantiation concerning the stability of slopes, the failure of which could adversely affect the plant. Any evidence of creep, rupture, or offset in the soil shall be described.

(h) Seismic — physical evidence of the behavior of foundation material during prior earthquakes. The results shall be included of tests conducted to determine the nature of vibratory ground motion in the foundation rocks. Historical data shall be provided (including magnitude and epicenter location) on earthquakes which have occurred within 200 miles of the site, and seismicity shall be correlated with tectonic features where possible. The maximum probable earthquake for the site shall be stated, and the basis for this determination shall be presented.

(i) Subsidence — areas of actual or potential surface or subsurface subsidence or collapse resulting from natural conditions or from man's activities.

(j) Submarine geophysical studies — for ocean shore locations. Describe the methodology, extent, and results of submarine geophysical studies, boring, and mapping.

(2) For coal-fired plants, the following basic data shall be provided concerning the geology and seismology of the site and the region surrounding the site:

(a) Maps and Charts:

(A) Topographic;

(B) Location map of proposed structures, test holes, excavations, and sample stations;

(C) Geologic map of rock types and structural features;

(D) Geologic cross-sections indicating subsurface conditions.

(E) Map showing bedrock contours where the site is covered by unconsolidated material.

(b) A discussion of the geologic and seismic suitability of the proposed site including the earthquake design basis for the plant and a discussion of the possibility of surface faulting occurring in the future at the site. The possibility of problems due to slope or surface instability due to natural conditions or man's activity shall be discussed.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Meteorology**

**345-25-019** (1) The application shall describe meteorology of the site and its surrounding areas. This information shall include the following:

(a) Regional Meteorology:

(A) Data Sources. Provide reference to the climatic atlases and regional climatic summaries used.

(B) General Climate. Describe the general climate of the region including the interplay between synoptic scale processes and terrain characteristics of the region.

(C) Severe Weather. Provide the intensity and frequency of occurrence of heavy precipitation (rain and snow), hail, ice storms, thunderstorms, tornadoes, and strong winds.

(D) Areas of High Air Pollution Potential. Describe such areas, including the meteorologic and physiographic reasons, and the frequency, intensity, duration, and monthly or seasonal variation of such phenomena.

(b) Local Meteorology:

(A) Data Sources. Provide National Weather Service (NOAA) station summaries and other meteorological data which are indicative or site characteristics.

(B) Normal and Extreme Value of Meteorological Parameters. Provide monthly summaries of wind (direction and speed), temperature, humidity (absolute and relative), precipitation (rain and snow), fog, atmospheric stability (if available), solar radiation, and cloud cover.

(C) Air Pollution Potential. Present and discuss data on high air pollution potential, if any, caused by local meteorological/climatological factors.

(c) Interactions Between the Plant and its Emissions and Local and Regional Meteorological Factors. Discuss and evaluate the probable interactions between the plant facilities and atmospheric environment. Such discussion and evaluation should include:

(A) The regimes of temperature, humidity, wind, precipitation, visibility, and solar radiation;

(B) The effects of local climate on the plant facilities and emissions, such as icing of structures and transmission lines and wind damage, and dispersion of emissions to the atmosphere. Include discussion of the effect of topography on short-term and long-term diffusion estimates from elevated release points, where appropriate.

(d) Wind and Tornado Design Criteria. Provide the design parameters to be used in design of structures to withstand wind or tornadoes. Explain the basis for these parameters.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Hydrology**

**345-25-021** (1) Surface Waters. The application shall:

(a) Describe the physical, chemical, and hydrologic characteristics of water bodies and watersheds involved. This description shall include appropriate statistics on the seasonal and diurnal changes in temperature, and the concentrations of gases and chemicals listed in applicable water quality standards. It shall also include, where applicable, a descrption of the watershed, flow rates and velocities, surface areas, volumes, stratification, ambient currents, flushing times, ice cover, tidal changes, bathymetry, and wave action.

(b) Describe any new reservoirs, lakes, or canals to be constructed, including surface acres, capacity, and area-capacity curves.

(c) List the amount of water to be used by the plant, including total use, consumptive use, source and receiving basin. Also, describe the variation that may occur daily, seasonally, or as a result of plant evolutions, and discuss the volume of water to be used in relation to the volume of the source.

(d) Discuss the impact of the proposed plant on other present or projected uses of the water resource, such as municipal and industrial water supply, hydroelectric power production, irrigation diversions, spawning, rearing, and transportation of fish, and recreation.

(2) Ground Water. The application shall:

(a) Provide a general description of the local and regional ground water aquifers and related geologic formations and structures, recharge areas, and discharge areas.

(b) Discuss present regional users and projected future users at or near the site, including:

(A) A list of existing ground water users, well locations, well yields, draw-downs, and piezometric levels.

(B) Ground water flow directions and gradients.

(C) Estimates of ground water storage and the expected effects on present or future uses relative to changes in static water levels, gradients, and rates of ground water movement at or near the site.

(D) Any ground water withdrawals associated with plant construction or operation.

(c) Describe ground water dilution, sorption co-efficient distribution, and dispersion characteristics insofar as they might relate to the spread of contaminants which might affect existing or future users, considering both normal operating conditions and accident conditions.

(d) Describe plans for monitoring ground water quality and changes in ground water quality, including radionuclides (for nuclear-fueled plants), and discuss procedures and safeguards to be employed in protecting the ground water resources and its users.

(e) Describe the measures to be taken if accidents occur at the site that threaten the ground water resources, including further monitoring and pumping programs to remove or stop the movement of ground contaminants. Also describe any soil sampling and aquifer pump testing required to accurately describe hydrologic characteristics of local aquifers at proposed sites and to estimate hydrologic boundary conditions.

(3) Floods. The application shall discuss the following:

(a) Flood History. Provide a synopsis of the flood history (date, level, peak discharge, etc.) in the site region. Include river or stream floods, surges, tsunamis, dam failures, ice jams, seiche, tides, etc. Provide pertinent hydrographs.

Discuss recognized high-water marks and the associated floods.

(b) Flood Design Consideration. Discuss the general capability of the plant, including associated canals, reservoirs and dikes, to withstand floods and flood waves. Explain the basis for the design flood protection for the plant. Include a discussion of the Probable Maximum Flood (PMF) as defined by the Corps of Engineers, including consideration of the Possible Maximum Precipitation (PMP) as defined by the National Weather Service. The Corps of Engineers "Standard Project Flood" shall also be discussed. All possible flood conditions should be discussed, up to an including the highest and most critical flood level resulting from any of several different probable maximum flood, surge, combination of surge and stream flood in estuarial areas, wave action or tsunami. Other possiblities are the flood level resulting from the most severe flood wave at the plant site caused by an upstream landslide, dam failure or dam breaching resulting from a seismic or foundation disturbance, or inadequate design capability. The effects of coincident wind generated wave action should be superimposed on the applicable flood level. Provide drawings, maps, and profile sections delineating design flood contours and wave run-up in relation to plant facilities. The basic data used in the flood computations shall be provided, to facilitate independent calculations by the State Engineer using other methods.

(c) Ice Flooding. Present design criteria for protection of the plant from the most severe ice jam flood, wind-driven ice ridges, or ice-produced forces that are reasonably possible and could affect the plant with respect to adjacent rivers, streams, lakes, etc., and the location and proximity of such facilities to ice generating mechanisms. Describe the regional ice and ice jam formation history.

(d) Channel Diversions. Discuss the potential for the up-stream diversion or rerouting of the source of cooling water, such as river cutoffs, ice jams, or subsidence, with respect to historical and topographical evidence in the region. Present the history of flow diversions in the region. Describe available alternative cooling water sources in the event diversions are possible.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

Water Quality

345-25-023 The application shall discuss the chemical additives and corrosion products which may enter the local water environment as a result of plant operation and the projected effect on the environment, including:

(1) How these effluents will be treated.

(2) The expected normal and maximum concentrations for each discharge, and the quantities that will be discharged in a specific period of time.

(3) A comparison of specific chemical concentrations at the point of discharge with applicable water quality standards.

(4) The projected effects of such effluents on the biota for both acute and chronic exposures including any long-term build-up in sediments or in biota.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

Thermal Discharges

345-25-025 (1) Describe heat dissipation techniques and facilities to be employed and discuss the reason for them (such as water resource limitations or reduction of thermal effects), including the rationale for choosing the particular facilities.

(2) Describe seasonal and other variations in temperature of withdrawn and returned water and the receiving body.

(3) Describe the thermal standards applicable to the receiving body (including maximum permissible temperature, maximum permissible duration, mixing zones, and maximum rates of increase and decrease).

(4) Decribe the impact that the discharged effluent will have on the temperature of the receiving body of water with respect to space and time. The predicted characteristics of the mixing zone and temperature alterations in the receiving body of water as a whole, and any model studies that have been performed to determine these characteristics, shall be discussed. Consideration shall be included of tidal cycles, currents, or other such events.

(5) Discuss the projected effects of thermal discharges on the biota for both acute and chronic exposures.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

Air Quality

345-25-027 For coal-fired plants, provide the following information:

(1) The expected normal and maximum discharge rates and concentrations of the materials listed below. Rates shall be given in pounds/hour. Concentration shall be given in parts per million in the stack gas at its point of release to the atmosphere, prior to dilution (with the exception of particulates, which shall be given in grains/standard cubic foot). The heat input rate and total stack gas release rate bases for this information shall also be given:

(a) particulates;
(b) oxides of sulfur;
(c) oxides of nitrogen;
(d) carbon monoxide;
(e) hydrocarbons;
(f) aldehydes;
(g) carbon dioxide;
(h) mercury compounds;
(i) any other potentially toxic materials.

(2) A comparison of the discharge rates and concentrations of the materials listed in section (1) above with federal, state, and local standards, including requirements where applicable, for emission reduction during air pollution episodes.

(3) A description of air pollution abatement equipment to be included in the plant design. A discussion shall be presented of additional equipment or measures that could be taken to further reduce releases to the atmosphere, including cost and technical practicability. If space is to be reserved in the plant design for possible future incorporation of such equipment, the amount of space and types of equipment shall be described.

(4) A description of the equipment and procedures to be used to measure and monitor discharges to the atmosphere.

(5) A discussion of the present air quality in the vicinity of the plant site. This shall include a description of nearby large stationary sources indicating the amount of pollutants they emit. The discussion shall also include a description of seasonal and daily variations in air quality.

(6) A discussion of predicted ambient air levels of particulates, oxides of sulfur, and oxides of nitrogen, on a daily, seasonal, and annual basis, assuming full capacity operation of the facility. Such discussion should include predicted maxima, minima and mean values, and should relate those values to applicable ambient air standards.

(7) A discussion of the anticipated effects of atmospheric emissions on the populace, plant life, and animal life, including:

(a) Maximum expected ground level concentrations of phytoxicants and the anticipated effects on plant life. Existing concentrations of these materials shall be considered additive to the expected contribution for the proposed plant.

(b) Any expected effects that atmospheric emissions would have on the populace, including both health and

nuisance aspects. The discussion shall include a description of the extent to which present air quality in the vicinity of the proposed site is a hazard to health or a nuisance. A description shall also be provided of the extent of photochemical smog in the vicinity of the proposed site and the extent to which emissions from the proposed plant would contribute to smog. Nuisance aspects include such things as visible plumes, odors, or visible fly ash deposits, or dust from coal-handling facilities or equipment.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Land Use Compatibility**

**345-25-029** (1) Describe the present and projected future use of the land surrounding the site, using photographs and maps as necessary. This description shall include a listing of the current zoning for the site and the adjacent area within a 10-mile radius for agricultural, residential, commercial, and industrial categories, and any district-wide comprehensive plans developed by the Councils of Government in that district.

(2) Discuss the impact of the proposed plant on the environment with respect to present and future use of the land surrounding the site, including, but not limited to, such things as industrial operations, transportation, farming, parks, and other recreational uses, fish and wildlife habitat and preserves, forests, population distribution, waterways, and governmental reservations and installations.

(3) Discuss the historic significance, if any, of the site and nearby areas with specific attention to any impact the proposed facility could have on historic or archeologic sites in the vicinity.

(4) Discuss required new transmission facilities. This discussion shall include:

(a) Contour maps or aerial photographs showing proposed right-of-way, line-related facilities such as substations or access and maintenance roads, and land use adjacent to transmission facilities. Any areas where construction of transmission facilities will require permanent clearing of vegetation, changes in topography, or removal of manmade structures shall be indicated, as well as areas where transmission facilities will be placed underground.

(b) A discussion of the means to be taken to minimize the environmental and aesthetic impact of transmission facilities. This shall include discussion of:

(A) Alternate transmission routes.

(B) Methods to be used to clear and maintain right-of-way, including use of herbicides, disposal of slash and unmerchantable timber, cleanup and restoration of area affected by clearing and construction, and measures to prevent erosion.

(C) Changes that may be induced in the physical and biological processes of plant and wildlife as a result of construction of the transmission facilities.

(D) Transmission structures to be utilized, including their approximate dimensions and color.

(E) Possible radiated electrical and acoustic noise, induced or conducted ground currents, and ozone production.

(C) A discussion of how the additional transmission will be integrated into the regional transmission network for both the near term and long term.

(5) Discuss those specific measures which will be taken to preserve the natural environment or to enhance its use, such as plans to create wildlife preserves, provide public recreation facilities, or any beneficial uses planned, such as use of heated condenser cooling water for irrigation or aquaculture.

(6) Discuss the ability of the area adjacent to the plant to absorb the population and industrial growth resulting from construction and operation of the plant. This shall include such matters as anticipated impacts on community services (sewers, schools, streets, etc.) and definition of the agencies responsible for providing such services.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Coal Composition, Delivery, Storage, and Ash Disposal**

**345-25-031** For coal-fired plants, provide the following information:

(1) An analysis of coal expected to be used. This shall include an ash analysis.

(2) A description of the method of coal delivery to the site, including necessary rail, barge, or other facilities, as well as the frequency of delivery that will be necessary. An evaluation shall be provided of the effect these coal supply efforts will have on the industrial, commercial, and recreational use of land, water, highways, and railroads in the area.

(3) A discussion of those operations associated with coal delivery, storage, and handling that could result in releases of material into the environment (e.g., coal washing, transfer, and pulverization).

(4) A discussion of plans for disposal of ash produced by the plant. This shall include description of:

(a) The amount of ash to be produced, and the amount and location of land required for disposal.

(b) Methods to be used to transport and deposit ash.

(c) The compatibility of the disposal site with adjacent land and water uses.

(d) Measures taken to insure ash is not carried from the disposal site by such things as wind, rainwater, floods, or runoff of sluice water used for ash transportation.

(e) A discussion of efforts to be made to harmonize the disposal site with the environment from an aesthetic point of view.

(5) A discussion of measures to be taken to dispose of any other solid waste which will be generated in large quantity by plant operations (e.g., limestone or other materials that might be used in stack gas pollution abatement equipment).

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Sanitary Wastes**

**345-25-033** The application shall discuss how sanitary wastes will be controlled both during construction and operation of the facility, including a discussion of equipment and capacities, and system used for visiting public.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 4, f. 10-4-72, ef. 10-15-72

**Radioactive Effluents and Waste**

**345-25-035** For nuclear-fueled plants, the application shall:

(1) Estimate the quantity of each of the principal radionuclides expected to be released in liquid and gaseous effluents during normal reactor operations.

(2) Identify the important pathways of exposure to man (including food chains on land and in water), and estimate ranges of increases in environmental levels of radioactivity and potential annual radiation doses to individuals and suitable samples of population groups resulting from each of the principal radionuclides expected to be released during normal reactor operation.

(3) Discuss the radiological effects on the environment with respect to important species populations.

(4) Provide a general description of the type, amount, transportation method, transportation route, and destination of radioactive waste to be transported from the site.

(5) Describe the amounts and types of radioactive waste materials to be stored temporarily or permanently onsite and

discuss the measures to be taken to prevent release of these materials to the environment.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

**Biological Impact**

**345-25-037** Ecological studies are necessary to document the present characteristics of the environment, to estimate the effect of the construction and operation of the proposed facility on the environment, and to provide the basis for selecting measures which minimize any projected adverse effects (including thermal, chemical, radiological, biological, hydrological, meteorological, and mechanical effects). Marine life may have a life cycle of several years, so some studies may be required well in advance of any disturbance of the bottom or the water. While all of the evaluations may not be completed at the time of filing of the application, the following information shall be provided to the maximum extent practicable:

(1) Describe the ecological studies performed or planned. The following areas shall be considered in the discussion:

(a) Identification of species important to sport and commercial use or important on some other basis such as uniqueness.

(b) Identification of other species of mammals, rodents, reptiles, amphibians, birds, and fish.

(c) The importance of the locale under consideration to the existence of the important species considering, in particular, those states in the life history of these species (such as spawning, rearing, and migration) when the plant would be most likely to have an impact on the species populations; also estimation of the projected impact of the plant on the important affected species on a regional basis.

(d) The time and space changes in temperature distributions resulting from the projected thermal discharges, considered both in terms of the temporal and spatial biological pattern for important species and functional groups, and in terms of effects on the reproduction and development of the important species. For example, the effect of the space distribution of the thermal plume on the migration of an important species shall be predicted, and the time distribution of the plume shall be discussed in terms of the lethal discharges for planktonic, benthic, and other organisms required to sustain the important species.

(e) The effect of passage through the condenser on planktonic forms and fish larvae and the resultant implications for the important species and functional groups affected.

(f) The implications for the environment (in terms of important species populations) of the withdrawal and return of the cooling water including the biological oxygen demand (BOD), taking water from one level and returning it to another, nutrient circulation, scouring and other physical effects. Indicate the volume of water used in relation to the volume of the source and the volume of the receiving basin.

(g) The measures taken to assure that ecological studies are adequate, including steps taken:

(A) to identify important and supportive species,

(B) to formulate the ecological studies, including data collection techniques, and

(C) to guide the ecological studies.

(h) A description of studies to be conducted on plant life in the area, including a physiognomic map.

(2) If all studies required to resolve questions of environmental impact have not been completed at the time of filing the application, discuss future studies in detail:

(a) Identify any aspects of the ecological studies, plant design, or plant operation which will require further effort to resolve questions of the environmental impact or confirm the adequacy of measures taken to minimize the environmental impact of the facility.

(b) Provide a schedule of such studies showing that such questions of environmental impact will be resolved before the plant operation.

(3) Describe the monitoring programs used to determine the present status of the environment and which will be used to determine any potential effects (including thermal, chemical, radiological, biological, hydrological, and mechanical effects) of the plant on the ecology, including concentration of toxic substances. Discuss planned sample types, frequencies, locations, and analyses (provide map showing locations). Discuss the purpose and justification for the sampling, and how the data will be used.

(4) Identify any potential hazards of the cooling water intake and discharge to important fish species and describe the steps planned to minimize the hazard:

(a) Describe the equipment or methods (including screen and diversion structures) which will be employed to prevent fish or other life forms from being attracted to or physically drawn into the cooling water intake or discharge. Provide sketches or drawings where appropriate.

(b) Discuss the diversion techniques in terms of information obtained from ecological studies on specific important fish population, size and movement habits.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

**Noise Control**

**345-25-039** The application shall discuss the present noise level at the proposed site, the anticipated noise level of the proposed plant, and the need and provision for noise control. This discussion shall include coal delivery, storage and handling facilities, and equipment (for coal-fired plants).

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

**Aesthetics**

**345-25-041** Although aesthetics is a difficult area to quantify, efforts directed toward such subjects as landscaping and architectural design shall be discussed. For example, the application shall discuss the aesthetic implications of the construction and operation of the plant, and shall describe those measures taken to harmonize the facility with the environment from an aesthetic point of view. Architectural sketches or photographs of the plant facilities and landscape shall be provided where appropriate.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

**Discussion of Possible Additional Generating Capacity Siting in the Same Area**

**345-25-043** The application shall discuss the potential for siting of additional power plants at the proposed site, or nearby (within 20 miles).

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

**Plant Economics**

**345-25-045** The application shall include an economic feasibility study on the proposed project setting forth:

(1) The estimated capital investment in the site, thermal power plant, and related properties and facilities.

(2) The anticipated source and amount of funds to finance the project.

(3) A pro forma statement of revenue and expenses. The estimated investment and annual expenses to satisfy the requirements for quality of the environment shall be separately stated in the study.

(4) Projected impact on the tax base of the county or counties for which the plant is proposed.

(5) The period proposed for construction, with estimate of the man days of labor to be employed, and the source of the labor force.

(6) An economic justification of the site as compared to other alternatives including expansion at existing sites, including a discussion of power loss associated with the transmission distance.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

**Applicant's Financial Ability**

**345-25-047** The application shall provide information sufficient to demonstrate the financial qualificaitons of the applicant to construct and operate the plant. Such information shall show that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs, operating costs for the design lifetime of the plant, including related fuel cycle costs, and the estimated costs of permanently shutting the facility down and maintaining it in a safe condition.

Without limitation on the generality of the foregoing requirements, each application submitted by an entity organized for the primary purpose of constructing or operating a facility shall include information showing the legal and financial relationships it has or proposes to have with its stockholders or owners, and their financial ability to meet any contractural obligation to such entity which they have incurred or proposed to incur, and any other information necessary to enable the Council to determine the applicant's financial qualifications.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72; NTEC 5, f. 1-19-73, ef. 2-1-73

**Applicant's Operational Ability**

**345-25-049** The Energy Facility Siting Council establishes qualifications as to ability to construct and to operate thermal power plants that applicants for site certificates must meet. An applicant for a site certificate shall provide information about his experience in constructing and operating other thermal power plants, the experience of employees who will be assigned management positions in the construction and operation of the proposed thermal power plant, the numbers and types of employees who will have to be recruited in order to construct and operate the proposed thermal power plant, and the training programs planned in order that the employees will be qualified to operate the proposed thermal power plant. This information shall be provided in sufficient detail to establish the applicant's compliance with qualifications established by the Council.

Stat. Auth.: ORS Ch.
Hist: NTEC 4, f. 10-4-72, ef. 10-15-72

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## DIVISION 26

## CONSTRUCTION AND OPERATION RULES FOR THERMAL POWER PLANTS

**Purpose**

**345-26-005** It is the purpose of these rules to assure that the construction and operation of thermal power plants is accomplished in a manner consistent with the protection of the public health, safety, and welfare and the protection of the environment.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Legislative Authority**

**345-26-010** These rules are promulgated pursuant to ORS 453.505 and 453.515, which require the Energy Facility Siting Council ("Council") to establish standards for the safety, construction, and operation of thermal power plants.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Scope and Construction**

**345-26-015** (1) These rules apply to all thermal power plants* constructed, or under construction at the time of adoption of these rules, and operated pursuant to a site certification agreement executed by the Governor of the State of Oregon.

(2) To the extent that any of these rules conflict or are inconsistent with administrative rules lawfully adopted by other state agencies, these rules shall be deemed controlling.

(3) To the extent that any of these rules conflict or are inconsistent with a condition contained in a site certification agreement (or amendment thereto) executed by the Governor of the State of Oregon, the latter shall be deemed controlling.

(4) Site certificate holders shall comply with all lawful rules, regulations, and requirements of federal agencies, including, but not limited to, all design, quality assurance, personnel qualification and training, and technical specification (environmental and safety) requirements for the plant in question of the U.S. Nuclear Regulatory Commission. In the event of a conflict resulting in inability to comply with both state and federal requirements, the requirements of state rules shall take precedence except where this would require the site certificate holder to use any equipment or procedures that would cause it to lose any federal license required for operation of the plant.

*NOTE: OAR 345-26-005 through 345-26-200 were developed for thermal power plants as described in ORS 453.305(11). Furthermore, rules applicable to nuclear-fueled thermal power plants were developed considering the light water reactor as the energy supply system. The use of other types of reactors may require additional rules or modifications to existing rules.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Definitions**

**345-26-020** (1) "Site" means all land upon which is located a thermal power plant and major associated facilities including, but not limited to, transmission line rights-of-way road and rail access, pumping plant, makeup or effluent water pipelines, dewatering flow easement, barge unloading facilities, cooling reservoirs, or discharge structures as defined in the site certificate.

(2) "Special nuclear material" means plutonium, uranium-233, or uranium enriched in the isotope 233 or in the isotope 235.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Regulations Applicable During Both Construction and Operation**

**345-26-025** Rules 345-26-030 through 345-26-115 apply to a site certificate holder during both construction and operation of a thermal power plant.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Water Impoundments**

**345-26-030** Thermal power plants and associated facilities shall be designed and operated such that at all times the water quality in cooling ponds, reservoirs, and other water impoundments is acceptable for the water's expected uses as defined by state water quality standards or site certificate conditions.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Visitor Information**

**345-26-035** When visitor information facilities are provided, the need for conservation of energy and the means by which it may be accomplished shall be included as a major objective of the visitor information provided.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Aesthetics**

**345-26-040** The site certificate holder shall:

(1) Construct the thermal power plant and associated facilities in a manner which is aesthetically acceptable to the Council.

(2) Insofar as practicable, restore vegetation and landscape portions of the site disturbed by construction in a manner which is compatible with its surroundings.

(3) Upon completion of construction, dispose of all temporary structures not required for future use and all used timber, brush, refuse, or inflammable material resulting from the clearing of lands or from construction of the project.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Protection of Fish and Wildlife Resources**

**345-26-045** (1) Detailed site planning, construction, and plant operation shall include measures to protect fish and wildlife resources including the following:

(a) Determination of the extent and manner of fish and wildlife use of the site. Annual reports of the results of this determination shall be provided to the Council and Fish and Wildlife Commission for their information.

(b) Based on the results of this determination and other facts, the site certificate holder shall confer with the Council, and with the Fish and Wildlife Commission regarding management policies for fish and wildlife utilizing the site.

(2) The actual impact of plant construction and operation on fish and wildlife shall be periodically compared with the projected impact, and the results of this comparison shall be included in the report required in subsection (1)(a) above.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Inspections**

**345-26-050** (1) General:

(a) Each site certificate holder shall afford to properly identified representatives of the Council opportunity to inspect all materials, activities, facilities, premises, and records at any

time.

(b) The site certificate holder's representative may accompany Council inspectors during an inspection.

(c) If, at the time of inspection, an individual has been authorized by the workers to represent them during Council inspection, the site certificate holder shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(d) Each workers' representative shall be routinely engaged in work under control of the site certificate holder.

(e) Different representatives of the site certificate holder and its designated workers may accompany the inspectors during various phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.

(f) With the approval of the site certificate holder and the workers' representative, an individual who is not routinely engaged in activities under control of the certificate holder, for example, a consultant to the site certificate holder or to the workers' representative, shall be afforded the opportunity to accompany Council inspectors during the inspection of physical working conditions.

(g) Council inspectors are authorized to refuse to permit accompaniment by an individual who deliberately interferes with a fair and orderly inspection.

(h) Representatives accompanying Council inspectors in areas containing proprietary information shall be individuals previously authorized by the site certificate holder to enter that area.

(i) Upon completion of each inspection, the inspector shall have a conference with the person responsible for the project at the site to discuss all pertinent findings.

(j) If any violation of state law, Council rules, or site certificate conditions or warranties is discovered, the Council Chairman shall be notified immediately.

(2) Consultation with Workers during Inspection:

(a) Council inspectors may consult privately with workers concerning matters related to applicable provisions of state law, Council regulations, and site certificate conditions to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(b) During the course of an inspection, any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which he has reason to believe may have contributed to or caused, or is likely to cause, any violation of state law, regulations of the Council, site certificate condition or warranties, or any unnecessary exposure of an individual to radiation from radioactive material under control of the site certificate holder. Such notice concerning state law or rules not administered by the Council shall be forwarded by the inspectors to the appropriate state agency.

(3) Requests by Workers for Inspections:

(a) Any workers or representative of workers may, under conditions expressed below, request an inspection by giving notice of the concern to the administrating state agency, or to Council inspectors during inspections, who shall forward such notice to the appropriate state agency. Such a request may be made when the requesting party believes:

(A) that a violation of state law, regulations of the Council, or site certificate conditions or warranties exists or has occurred or

(B) a situation exists that may lead to such a violation or to unnecessary exposure of an individual to radiation from radioactive material under control of the site certificate holder. Concern with regulations of the Council or site certificate conditions or warranties shall be made to the Council's staff, or to the Council inspectors. Such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of workers. A copy shall be provided to the site certificate holder by the Council's staff or the inspector no later than at the time of inspection. Upon the request of the person giving such notice, his name and the name of individuals referred to therein shall not be disclosed in any manner, except for good cause shown.

(b) If the Council's staff concludes there are reasonable grounds to believe that the alleged violation exists or has occurred, it shall cause an inspection to be made as soon as practicable. Inspections conducted pursuant to this section need not be limited to matters referred to in the complaint.

(c) No site certificate holder shall discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under these regulations or has testified or is about to testify in any such proceeding or because of the exercise by such worker on behalf of himself or others of any option afforded by these rules.

(d) If the Council's staff determines that an inspection is not warranted, it shall give written notice to the complainant. The complainant may submit a written request for review to the Council if their inspection request to the administering state agency or the Council staff has been denied. The Council shall provide the site certificate holder with a copy of such statement by certified mail, excluding the name of the complainant, if so requested. The site certificate holder may submit written statement of its position with the Council, which shall provide a copy to the complainant by certified mail. Upon their own motion or the request of either the complainant or the site certificate holder, the Council or its designee may hold an informal conference to discuss the issue. After considering all written and oral views presented, the Council shall affirm, modify, or reverse the previous determination and furnish the complainant and the site certificate holder a written notification of its decision and the reasons therefor.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Environmental and Effluent Monitoring**

**345-26-060** The site certificate holder shall initiate and maintain environmental and effluent monitoring of the sites, thermal power plants, and associated facilities. Specific plans for the performance, modification, and reporting of these monitoring programs shall be reviewed and concurred in by the appropriate state agencies. All program plans and reports as listed below shall be provided to the Council. The Council, after consultation with the appropriate state agency, may approve or modify those plans. In instances where state agencies are performing contracted monitoring services for the site certificate holder, the Council will arrange for independent review of the plan.

The site certificate holder shall maintain a quality assurance program for the environmental and effluent monitoring program. The quality assurance program shall comply with the requirements of Appendix 1 of OAR Chapter 345, Division 26. The program shall be submitted to the Council for concurrence at the earliest practical time consistent with the schedules of the monitoring programs.

The monitoring programs shall specify what findings would necessitate further study, corrective action, or special reports by the site certificate holder and describe these actions.

(1) Structural Performance of Hydraulic Structures. Structural performance monitoring of major hydraulic structures and water-budget accounting shall be performed. Detailed plans for this monitoring shall be submitted to the State Engineer for concurrence and shall include details of

location and design of equipment, including instrumentation of major embankments for pore pressure, seepage settlement, and deflection.

(2) Fish Screening at Intake Structure. Fish screening efficiency at the pumping plant intake structure shall be monitored to determine effects on the fisheries resource. Detailed plans for this monitoring shall be submitted to the Fish and Wildlife Commissions for concurrence, and shall include frequency of sampling and reporting levels.

(3) Receiving Water Quality Monitoring. A program shall be instituted by the site certificate holder to provide baseline information, and to identify and monitor impact of plant construction and operation on receiving water bodies of any discharges from the thermal power plant and the site. This program shall be submitted to the Department of Environmental Quality for concurrence.

(4) Liquid Effluent Monitoring. A program shall be instituted by the site certificate holder to monitor for the pressence of pollutants in the liquid effluents from the thermal power plant and related facilities. The program shall be submitted to the Department of Environmental Quality for concurrence.

(5) Groundwater Monitoring. A groundwater monitoring program shall be established in selected locations near and on the site to determine whether groundwater quality is being adversely affected by the thermal power plant or associated facilities. The detailed plan for this monitoring shall be submitted to the State Engineer and the Department of Environmental Quality for concurrence.

(6) Meteorological Monitoring. A meteorological monitoring program shall be instituted at least one year prior to any activity that could affect meteorological conditions. This program shall provide information sufficient to determine the effect of the plant and associated facilities on meteorological conditions. This program shall be submitted to the Department of Environmental Quality for concurrence.

(7) Aquatic and Terrestrial Ecology Monitoring. A program shall be instituted by the site certificate holder to provide baseline information and identify any impact of plant construction or operation on aquatic and terrestrial ecology. This program shall be submitted to the Fish and Wildlife Commissions for concurrence.

(8) Radiological Environmental Monitoring for Nuclear Power Plants. A radiological environmental monitoring program shall be established by the site certificate holder and submitted to the Health Division for concurrence. The program shall conform to the AEC Regulatory Guide 4.1, "**Measuring and Reporting of Radioactivity of the Environs of Nuclear Power Plants**", as revised January 18, 1973.

(9) Radioactive Effluent Monitoring for Nuclear Power Plants. A radiological effluent monitoring program shall be established and submitted to the Council staff for concurrence:

(a) This program shall conform to the AEC Regulatory Guide 1.21, "**Measuring, Evaluating, and Reporting Radioactivity in Solid Waste and Releases of Radioactive Materials in Liquid and Gaseous Effluents from Light-Water and Cooled Nuclear Power Plants**", as revised June, 1974.

(b) Provisions shall be included in design for continuous read-out of selected emission monitoring equipment at an off-site location as specified by the Council.

(10) Air Quality Monitoring — Coal-Fired Plant. An air quality monitoring program for coal-fired plants shall be established. This program shall be concurred in by the Department of Environmental Quality and shall include:

(a) Air quality monitoring stations for measurement of sulfur dioxide, nitrogen oxides, suspended particulate material, particle fallout, and other air contaminants as may be required by the Department of Environmental Quality located to include the area of maximum expected concentration.

(b) A mobile air quality monitoring station with capability to measure sulfur dioxide, nitrogen oxides, suspended particulate material, particle fallout, and other air contaminants as may be required by the Department of Environmental Quality.

(c) Ambient air quality monitoring undertaken to provide information required to establish the extent to which plant operations degrade air quality. This program shall include efforts to determine possible plant impacts on regional visibility and shall include consideration of use of devices for collecting particles 5 microns and less in size. The program shall also be designed to differentiate, using the best technology available, suspended particulate material originating from plant operation versus other sources.

(d) A calibrated diffusion model established for stack emissions as soon as practicable after start of operations, at least within three years. If successful, the verified model shall be the basis for any change in ambient air quality monitoring requirements.

(e) Air quality data including emissions measurements, ambient air data, and related environmental monitoring information reports submitted to the Department of Environmental Quality on a monthly or appropriate routine schedule.

(f) Meteorological monitoring performed to provide information on site conditions and data for dispersion modeling.

(11) Emissions and Fuel Monitoring — Coal-Fired Plant:

(a) Emissions and fuel monitoring and sampling and test facilities shall be in accordance with "**EPA Standards of Performance for New Fossil-Fuel Fired Steam Generators**" (Sec. 60.45, 40 CFR, Part 60) published December 23, 1971, in the Federal Register, Volume 36, Number 247, including amendments published October 15, 1973 (38 FR 28565) and June 14, 1974 (39FR 20790) in the Federal Register and the proposed amendments of September 11, 1974(39 FR 32852). Further, such facilities shall comply with Department of Environmental Quality requirements. The type and location of emission monitoring facilities shall be concurred in by the Department of Environmental Quality.

(b) Provisions shall be included in design for continuous read-out of selected emission monitoring equipment at an off-site location as specified by the Council.

(12) Soil and Vegetative Monitoring — Coal-Fired Plant. A soil and vegetative monitoring program for the coal-fired plant shall be established. This program shall be concurred in by the Department of Environmental Quality and shall include:

(a) Soil and vegetative samples collected prior to plant start-up and thereafter at equally representative periods and points to measure levels of elements including, but not limited to, fluorides, iron, zinc, and heavy metals including mercury. This program shall also consider the need for monitoring these samples for possible radioactive materials originating from stack effluents. Quantitative data and qualitative reports shall be submitted to the Department of Environmental Quality.

(b) Sampling of vegetation and crops commonly grown in the area for the purpose of determining the extent of vegetative damage, if any, as a result of plant operations.

[**Publications**: The publication(s) referred to or incorporated by reference in this rule is available from the office of Secretary of State or Energy Facility Siting Council.]

**Stat. Auth.**: ORS Ch.
**Hist**: NTEC 9, f. 2-13-75, ef. 3-11-75

**Reliability of Pollution Control Equipment**

**345-26-070** The site certificate holder shall maintain a quality assurance program to insure the high reliability of pollution control equipment. The program shall comply with

the requirements of Appendix 1 of OAR Chapter 345, Division 26 and shall be submitted to the Council for concurrence at the earliest practical time.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Environmental Report**

**345-26-075** An annual environmental monitoring and effluent release report shall be submitted to the Council within 60 days of the end of the calendar year. The report shall include a discussion of the techniques being used or planned to control pollutant discharges and other techniques that might further abate pollutant discharges. The corresponding emissions and discharges of pollutants for each discussed technique shall be included.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Plant Status**

**345-26-080** The site certificate holder shall annually submit to the Council, within 60 days of the end of the calendar year, a summary report on site conditions and the status of construction and operation of the plant and associated facilities. This report shall summarize current status and changes from those in the original application, site certificate agreement, and previous reports, including the social and economic impact report, and indicate the significance of the changes.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Social and Economic Impact Report**

**345-26-085** The site certificate holder shall prepare and submit to the Council prior to start of plant construction a report describing plans to reduce adverse or to enhance beneficial social and economic impacts of plant construction on the surrounding area. This report should include any recommended actions to be taken by nearby cities, counties, and state agencies. This report shall include, but not be limited to, possible early flow of tax dollars to affected areas, provision of adequate housing, necessary community services such as education, sewage treatment, water, and medical facilities.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Reliability of Power Production**

**345-26-090** As early as practical, the site certificate holder shall submit a report of estimated breakdowns and unavailable operating times for the plant in accordance with the prevailing state of technology.

In addition, the site certificate holder shall prepare and maintain a quality assurance program for those systems or components essential to reliability of power production. This program shall comply with the requirements of Appendix 1 of OAR Chapter 345, Division 26, except for systems or components to which the Nuclear Regulatory Commission requires a quality assurance program in accordance to 10 CFR 50.

An annual report of equipment and plant breakdowns shall be submitted to the Council along with plans on how to minimize such breakdowns. This report shall also include the plant availability and capacity factors for the reporting year.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the office of Secretary of State or Energy Facility Siting Council.]

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Financial Report**

**345-26-095** The site certificate holder and any co-owners or successors in ownership shall provide the Council with an annual financial report which demonstrates his financial qualifications to construct and operate the plant. The report shall include a discussion of fuel contracts and the financial and physical plans for retirement of the plant, or any changes in the status of these contracts and retirement plans.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Schedule Modification**

**345-26-100** The Council shall be promptly notified of any changes in major milestones for construction or operation schedules.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Correspondence With Other State or Federal Agencies**

**345-26-105** Copies shall be exchanged between the site certificate holder and the Council of all correspondence related to thermal power plant construction or operation which are submitted to a state or federal agency, except for material withheld from public disclosure under state or federal law or under Council rules. Abstracts of reports may be submitted in place of full reports; however, full copies of abstracted reports must be provided at the request of the Council staff.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Security Plans for Nuclear Power Plants and Nuclear Materials**

**345-26-110** (1) Upon assurance satisfactory to the Council and the site certificate holder that confidentiality can be maintained, a security plan for nuclear power plants and for radioactive and special nuclear materials, along with a program for continual review and improvement of the plan, shall be made available to authorized Council representatives for inspection and approval.

(2) The Council shall be advised of modifications to the plan which are under consideration.

(3) An annual report on the results of the review program shall be made available to Council representatives.

(4) The Council may order changes in the Security Program so long as such modifications do not cause the site certificate holder to lose any federal license required for operation of the plant.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Intake and Discharge Structures**

**345-26-115** The best technology available shall be used for the location, design, construction, capacity, and operations of intake and discharge structures to minimize adverse environmental impact.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Regulations Applicable During Construction**

**345-26-120** In addition to those rules specified in rule 345-26-025, rules 345-26-125 through 345-26-135 apply to a site certificate holder during construction of a thermal power plant and associated facilities.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Construction Report**

**345-26-125** During construction, the site certificate holder shall submit copies of the monthly Construction Progress Reports to the Council.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Geology**

**345-26-130** (1) The Council, the Department of Geology and Mineral Industries, and the State Engineer shall be promptly informed if site investigations or trenching reveal that conditions in the foundation rocks differ from those previously described. The Council may order additional design measures considered necessary based on such information.

(2) The site certificate holder shall keep the Council, the Department of Geology and Mineral Industries, and the State Engineer informed of trenching projects on a timely basis so their representatives can inspect them. During the construction phase the site certificate holder shall notify the agencies if shear zones, artesian aquifers, deformations, or clastic dikes are found near or beneath the plant site.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Historic, Archeologic, and Paleontologic Sites**

**345-26-135** (1) The site certificate holder shall inspect the site in the course of construction excavation to determine whether archeological, historical, or paleontological sites are being invaded or disturbed and to preserve and provide for interpretation of any historical, archeological, or paleontological artifacts which may be discovered in the course of excavation or construction.

(2) The site certificate holder shall inform the Council of all archeological or paleontological findings made during the course of excavation and construction.

(3) The site certificate holder shall inform the Council of arrangements for preservation of artifacts and for interpretation of any site discovered in the course of construction.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Regulations Applicable During Operation**

**345-26-140** In addition to those rules specified in rule 345-26-025, rules 345-26-145 through 345-26-195 apply to a site certificate holder during operation of a thermal power plant and associated facilities.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Site Uses**

**345-26-145** The site shall not be used for any purpose other than the production of electrical power and those purposes specified in the site certificate without prior approval of the Council.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Power Production**

**345-26-150** Power production above the nominal net electric capacity as defined in the site certificate is prohibited. For the Trojan Nuclear Plant the nominal net electric capacity is 1130 plus or minus 50 MWe.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Pollution Discharges**

**345-26-155** All equipment used to control the discharge of air and water pollutants shall be operated in such a manner as to minimize the discharge of pollutants.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Violations**

**345-26-160** In the event that air or water pollution control equipment or a related facility malfunctions or breaks down or other factors result in emissions or discharges in violation of applicable standards, the site certificate holder shall take the following action:

(1) In the event of a violation of an emission standard or discharge limit administered by an agency other than the Council, the site certificate holder shall provide the Council all notifications required by that agency on the same time schedule.

(2) In the case of emission or discharge standards imposed by the Council over and above those of other state agencies, the site certificate holder shall:

(a) Notify the Council, by telephone or in person, of such failure or breakdown within one hour of the occurrence, or as soon as is reasonably possible, giving all pertinent facts including the estimated duration of the breakdown.

(b) With all practicable speed, initiate and complete appropriate action to correct the conditions, and to reduce the frequency of such occurrences.

(c) Cease or discontinue operations of the thermal power plant no later than 48 hours after the beginning of the violation of the emission or discharge standards if the violation is not corrected by that time.

(d) Submit to the Council an initial written report of a failure or breakdown within 10 days. When the condition has been corrected, submit a final written report to the Council describing the causes and the actions taken to prevent similar upsets or breakdown conditions. The initial and final reports may be combined if it can be submitted within ten days of the failure and breakdown.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Performance Tests of Equipment and Procedures Controlling Pollution Emissions and Discharges**

**345-26-165** (1) Within 60 days after achieving the maximum production rate at which the thermal power plan will be operated, or no later than 180 days after initial start-up of the plant and at such other times as may be required by the Council, the certificate holder shall conduct performance test(s) of emission and discharge control equipment and furnish the Council and the Department of Environmental Quality a written report of the results of such performance test(s).

(2) Performance tests shall be conducted and results reported in accordance with the test method approved by the Council staff subject to review by the Council.

(3) The site certificate holder of an affected facility shall provide the Council ten days prior notice of the performance test to afford the Council the opportunity to have an observer present.

(4) The certificate holder shall provide all necessary facilities for the performance test.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 9, f. 2-13-75, ef. 3-11-75

**Notification of Incidents**

**345-26-170** (1) General:

(a) The Council shall be notified within one hour of any occurrence involving the thermal power plant if:

(A) There is an attempt by anyone to interfere with the safe or reliable operation of the thermal power plant.

(B) A natural event such as an earthquake, flood, tsunami or tornado, or a man-caused event such as a fire or explosion affects or threatens to affect the safe or reliable operation of the thermal power plant.

(C) There is damage to property in excess of $100,000.

(D) There is any fatal injury at the thermal power plant site to a certificate holder employee or a member of the public.

(E) An unplanned shutdown of the thermal power plant, expected to last greater than one week, is necessitated.

(b) The Council shall be notified within 24 hours of any occurrence involving the thermal power plant if:

(A) There is damage to property in excess of $1,000.

(B) An unplanned shutdown of the thermal power plant, expected to last greater than 24 hours, but less than one week, is necessitated.

(C) There is any serious injury at the thermal power plant site to a certificate holder employee or a member of the public requiring hospitalization.

(2) Nuclear Power Plants. In the event of incidents or accidents requiring notification of the Nuclear Regulatory Commission by telephone, the Council shall also be provided such notification on the same time schedule.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Radioactive Pollutants From Nuclear Power Plants**

**345-26-175** Rules 345-26-160(2)(c) and 345-26-165 do not apply to radioactive pollutants.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Coal and Ash Handling for Fossil-Fueled Thermal Power Plants**

**345-26-180** (1) All necessary steps shall be taken to insure that surface or groundwater are not contaminated by run-off or seepage associated with coal or ash storage, transport, or disposal.

(2) Coal and ash shall be handled in such a way as to prevent coal dust and ash from being windblown and causing an environmental or nuisance problem.

(3) Ash disposed of shall be covered by a layer of topsoil which shall be revegetated.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**New Fuel for Nuclear Power Plants**

**345-26-185** The use of new fuel containing plutonium is prohibited without specific approval of the Council and in accordance with procedures that it establishes.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Emergency Planning for Nuclear Power Plants**

**345-26-190** The site certificate holder shall submit in advance, comply with, and maintain in readiness an emergency response plan approved by the Council, the Oregon State Health Division, and the Emergency Services Division of the Oregon Executive Department. The plan shall be submitted six months prior to the operation of a nuclear power plant, and shall be approved before operation of the plant:

(2) The Council shall be advised of modifications to the plan which are under consideration.

(3) A program for continual review and improvement of the plan shall be established and maintained. Annual reports on the results of the review program shall be submitted to the Health Division with copies to the Council.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 4-1978, f. & ef. 4-3-78

**Radioactive Material Inventory and Transportation for Nuclear Power Plants**

**345-26-195** The certificate holder shall submit to the Council an annual report within 60 days of the end of the calendar year on the inventory of radioactive material within the State of Oregon under his control and the transportation of such material that occurred in the previous year and is expected to occur in the upcoming year. The report shall include, but not be limited to:

(1) Physical form of the material.

(2) The total weight and volume.

(3) A breakdown of total and specific activity and the approximate isotopic composition.

(4) For material in storage, in addition to sections (1), (2), and (3) include:

(a) The location and type of storage;

(b) The variation of sections (1), (2), and (3) over the past year and projected variation over the upcoming year.

(5) For material transported include, in addition to sections (1), (2), and (3):

(a) Method of transportation;

(b) Method of packaging; and

(c) Dates of shipment over the past year and expected for the upcoming year.

(6) The isotopic composition, physical form, and mass of special nuclear material unaccounted for, along with the error associated with the mass balance. This requirement applies to a site certificate holder having uner his control at any time during the previous calendar year quantities of plutonium, uranium-233, or uranium enriched to more than 20% in the uranium-235 isotope in any combination sufficient to cause (grams Plutonium)/200 plus (grams uranium233)/200 plus (grams uranium-235 (contained in uranium enriched to more than 20% in uranium-235))/350 to be greater than unity.

(7) For additional transportation regulations refer to OAR 345-60-001 through 345-60-007.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**Exemption**

**345-26-200** The Council may, either upon written application or on its own motion, waive or delay compliance with any of these rules as applied to a specific site, if after a public hearing, it concludes that such action will not result in injury to the public health, safety, or welfare.

Stat. Auth.: ORS Ch.
Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

**OREGON ADMINISTRATIVE RULES**

**ENERGY FACILITY SITING COUNCIL**

**CHAPTER 345**

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## APPENDIX 1
## (345-26-060, 345-26-070, 345-26-090)

## QUALITY ASSURANCE PROGRAM

"Quality Assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a structure, system, or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to the physical characteristics of a material, structure, component, or system which provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

The site certificate holder shall be responsible for the establishment and execution of the quality assurance program. The site certificate holder may delegate to other organizations the work of establishing and executing the quality assurance program, or any part thereof, but shall retain responsibility therefor. The authority and duties of persons and organizations performing quality assurance functions shall be clearly established and delineated in writing. Such persons and organizations shall have sufficient authority and organizational freedom to identify quality problems; to initiate, recommend, or provide solutions; and to verify implementation of solutions. In general, assurance of quality requires management measures which provide that the individual or group assigned the responsibility for checking, auditing, inspecting, or otherwise verifying that an activity has been correctly performed is independent of the individual or group directly responsible for performing the specific activity.

The site certificate holder shall establish a quality assurance program which complies with the requirements listed below. This program shall be documented by written policies, procedures, or instructions and shall be carried out throughout plant life in accordance with those policies, procedures, or instructions. The site certificate holder shall identify the structures, systems, and components to be covered by the quality assurance program and the major organizations participating in the program, together with the designated functions of these organizations. The quality assurance program shall provide control over activities affecting the quality of the identified structures, systems, and components, to an extent consistent with their importance. Activities affecting quality shall be accomplished under suitably controlled conditions. Controlled conditions include the use of appropriate equipment; suitable environmental conditions for accomplishing the activity, such as adequate cleanness; and assurance that all prerequisites for the given activity have been satisfied. The program shall take into account the need for special controls, processes, test equipment, tools, and skills to attain the required quality, and the need for verification of quality by inspection and test. The program shall provide for indoctrination and training of personnel performing activities affecting quality as necessary to assure that suitable proficiency is achieved and maintained. The site certificate holder shall regularly review the status and adequacy of that part of the quality assurance program which they are executing.

## DIVISION 30

## RESEARCH REACTORS

### Reporting of Operating Information From Research and Other Reactors Which Produce Less Than 200,000 Thermal Kilowatts

**General**

**345-30-005** This rule applies to each research or other reactor in the State of Oregon which is designed to produce less than 200,000 thermal kilowatts. The intent of the rule is to assure that the Energy Facility Siting Council is continually advised, by means of the reports required below, of the operation of such reactors.

For some occurrences, telephone notification of the Council is required. A call list for such notification will be provided by the Council.

**Stat. Auth.**: ORS Ch.
**Hist**: NTEC 4, f. 10-4-72, ef. 10-15-72; NTEC 5, f. 1-19-73, ef. 2-1-73

**Reports Required**

**345-30-010** (1) Annual Reports of Environmental Effects. By August 1 of each calendar year, a report shall be provided to the Council which contains the following information relative to reactor operation during the previous calendar year:

(a) The total amounts (measured or calculated) of radioactivity released to the environment in gaseous, liquid, or solid effluents.

(b) The radionuclides present in these effluents, and the quantities of principal radionuclides.

(c) The location and magnitude of the maximum measured or calculated direct radiation level in unrestricted areas from:

(A) Direct radiation from the facility;

(B) Direct radiation from facility effluents.

(d) A description of the general methods and the results of environmental monitoring.

(2) Notification of Incidents:

(a) The Council shall be promptly notified by telephone of any incident or condition relating to the operation of the reactor which could have prevented a nuclear system from performing its safety function as described in the Technical Specifications or in the safety analysis report. A report shall be submitted in writing within ten (10) days of the occurrence.

(b) The Council shall be notified in writing within thirty (30) days of its occurrence of any substantial variance from performance specification contained in the safety analysis report or in the Technical Specifications.

(3) Reports of Overexposures (from the reactor and its effluents) and Excessive Levels or Concentrations:

(a) The Council shall be promptly notified by telephone in the event of the following:

(A) Exposure (from the reactor or its effluents) of the whole body of any individual to 25 rems or more of radiation; exposure of the skin of the whole body of any individual of 150 rems or more; or exposure of the feet, ankles, hands, or forearms of any individual to 375 rems or more of radiation; or

(B) The release of radioactive material in concentrations which, if averaged over a period of 24 hours, would exceed 5,000 times the applicable limits specified for such material in appropriate sections of AEC regulations.

(b) The Council shall be notified by telephone within 24 hours in the event of the following:

(A) Exposure (from the reactor or its effluents) of the whole body of any individual to 5 rems or more of radiation; exposure of the skin of the whole body of any individual to 30 rems or more or radiation; or exposure of the feet, ankles, hand, or forearms to 75 rems or more of radiation; or

(B) The release of radioactive material in concentrations which, if averaged over a period of 24 hours, would exceed 500 times the applicable limits specified for such materials in appropriate sections of AEC regulations.

(c) The Council shall be notified in writing within 30 days of each:

(A) Exposure (from the reactor or its effluents) of an individual to radiation or concentrations of radioactive material in excess of any applicable limits specified in AEC regulations or in the AEC operating license for the reactor;

(B) Levels of radiation or concentrations of radioactive material (not involving excessive exposure of any individual) in an unrestricted area in excess of ten times any applicable limit specified in AEC regulations or in the AEC operating license for the reactor.

Each report required by subsections (A) and (B) shall describe the extent of exposure of persons to radiation or to radioactive material, including estimates of each individual's exposure; levels of radiation and concentrations of radioactive material involved; the cause of the exposure, levels or concentrations; and corrective steps taken or planned to assure against a recurrence.

(4) Correspondence With Other State or Federal Agencies. A copy shall be provided to the Council of each report related to reactor operations which is submitted to a state or federal agency, except for material withheld from public disclosure under Section 2-790 of 10 CFR, Part 2.

**Stat. Auth.**: ORS Ch.
**Hist**: NTEC 4, f. 10-4-72, ef. 10-15-72; NTEC 5, f. 1-19-73, ef. 2-1-73

## DIVISION 40

## DESIGNATION OF AREAS OF OREGON AS "SUITABLE" OR "UNSUITABLE" FOR THERMAL POWER PLANT SITING

**Purpose**

**345-40-005** The purpose of these rules is to designate broad geographical areas of the state as to their suitability or unsuitability for the siting of thermal power plants.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 8, f. 12-20-74, ef. 1-11-75

**Statutory Authority and Procedure**

**345-40-010** These rules carry out and are authorized by ORS 453.455(2), and were adopted pursuant to ORS 183.335.

**NOTE: The Chairman of the Nuclear and Thermal Energy Council appointed a State-Wide Siting Task Force in June, 1972, to make recommendations. The Task Force prepared a report and distributed it for comment. Notice of public hearings on the Task Force Report was given by the Council in the Oregon Administrative Rules Bulletin of January 1, 1973. Pursuant to this notice, hearings were held in Portland, Medford, Eugene, and Pendleton. Subsequent to these hearings, revisions were made in the Task Force Report, which was again distributed for comment. Public notices of proposed rulemaking were given by the Council in the Oregon Administrative Rules Bulletin of March 15, 1974, and April 15, 1974. Public hearings were held on the Council's State-Wide Siting Task Force Report in Tillamook, Coos Bay, Klamath Falls, Ontario, Albany, Eugene, and Portland pursuant to these notices. Written comments were solicited from interested members of the public. The rules were adopted by the Council at meetings held on August 13, 1974, August 30, 1974, September 10, 1974, October 15, 1974, November 26, 1974, and December 10, 1974.**

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 8, f. 12-20-74, ef. 1-11-75

**Incorporation by Reference**

**345-40-015** (1) A certified copy of the Oregon Nuclear and Thermal Energy Council State-Wide Siting Task Force Report dated July, 1974, (the **"July, 1974, Task Force Report"**) was filed with the Secretary of State concurrently with the filing of these rules. Those portions of the **"July, 1974, Task Force Report"** referred to specifically in these rules are hereby incorporated herein by reference.

(2) A certified copy of a map dated November 1, 1972, prepared by the State Department of Geology and Mineral Industries and entitled **"NTEC Siting Classifications Based Upon Geologic Factors"** (the **"November 1, 1972, SGMI Map"**) was filed with the Secretary of State concurrently with these rules. Those portions of such map referred to specifically in these rules are hereby incorporated herein by reference.

(3) A legal description of the area contained in Newberry Crater, North Paulina Roadless Area, South Paulina Roadless Area and Lava Cast Forest, all in the Deschutes National Forest, prepared by the United States Forest Service (the **"Forest Service Description"**), was filed with the Secretary of State concurrently with the filing of the November, 1975 amendments to these rules. As referred to specifically in these rules, the **"Forest Service Description"** is hereby incorporated by reference. (See Appendix 1 at the end of this division).

[**Publications**: The publication(s) referred to or incorporated by reference in this rule is available from the office of Secretary of State or Energy Facility Siting Council.]

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 8, f. 12-20-74, ef. 1-11-75; EFSC 11, f. & ef. 1-5-76

**Effect of Designations**

**345-40-020** (1) The Council will review applications for site certificates for sites within areas designated as "suitable" for location of thermal power plants, pursuant to ORS 453.355.

(2) The Council will not accept applications for site certificates for sites within areas designated as "unsuitable" for location of thermal power plants.

(3) The designations herein of areas as "suitable" or "unsuitable" may be amended by the Council in the future, either on its own motion or pursuant to petitions filed under ORS 183.390.

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 8, f. 12-20-74, ef. 1-11-75

**Designations for Geothermal Power Plants**

**345-40-030** All areas in Oregon are designated "suitable" for use as sites for geothermal power plants except that:

(1) Areas identified as "less suitable" or "unsuitable" in the section entitled "Natural Resource Areas" on page 1-i through 1-14 and 1-22 of the **"July, 1974, Task Force Report"** are designated "unsuitable" for use as sites for geothermal power plants; and

(2) Areas identified by other appropriate jurisdictions as presenting significant conflicts with geothermal development may be declared by the Council to be "unsuitable" for use as sites for geothermal power plants.

(3) The Newberry Crater Area containing Newberry Crater, North Paulina Roadless Area, South Paulina Roadless Area, and Lava Cast Forest as identified in the Forest Service description is designated "unsuitable" for use as sites for geothermal power plants.

[**Publications**: The publication(s) referred to or incorporated by reference in this rule is available from the office of Secretary of State or Energy Facility Siting Council.]

**Stat. Auth.:** ORS Ch.
**Hist:** NTEC 8, f. 12-20-74, ef. 1-11-75; NTEC 11, f. & ef. 1-5-76

**Designations for Nuclear-Fueled and Fossil-Fueled Thermal Power Plants**

**345-40-040** (1) Eastern Oregon. The area between the crest of the Cascade range and the Oregon-Idaho border is designated "suitable" for use as sites for nuclear-fueled and fossil-fueled thermal power plants except that:

(a) Areas identified as "less suitable" or "unsuitable" in the section entitled "Natural Resource Areas" on pages 1-1 through 1-14 and 1-22 of the **"July, 1974, Task Force Report"** are designated "unsuitable" for use as sites for thermal power plants;

(b) Areas identified by the methods described in the section entitled "Population Proximity" on pages 3-1 through 3-10 of the **"July, 1974, Task Force Report"** resulting in a calculated population proximity greater than 10,000 are designated "unsuitable" for the use of sites for nuclear-fueled power plants;

(c) Areas identified as "less suitable" in the section entitled "Meteorology" on pages 2-1 and 2-2 of the **"July, 1974, Task Force Report"** are designated "unsuitable" for use as sites for fossil-fueled thermal power plants. These areas are further identified as follows:

(A) John Day Valley Air Shed — All area enclosed by a line beginning at the NW corner of T8S, R23E; proceeding southerly along the western edge of R23E to the SW corner of T12S, R23E; thence easterly to the SE corner of T12S, R23E; then a direct line to the SE corner of T14S, R26E; thence easterly along the southern boundary of T14S to the SE corner T14S, R34E; thence northerly to the NE corner of T14S, R34E; thence easterly to the SE corner of T13S, R34E; continuing northerly to the NE corner of T12S, R34E; thence westerly along the northern boundary of T12S to the SE corner of T11S,

R26E; thence northerly along the eastern boundary of R26E to the NE corner of T9S, R26E; thence west-north-westerly on a line direct to the NE corner of T8S, R24E; thence along the northern boundary of T8S to the point of beginning (NW corner of T8S, R23E).

(B) Grande Ronde, Baker, and Snake River Valleys Air Shed — All area enclosed by a line beginning at the NW corner of T1N, R38E; thence southward along the western boundary of R38E to the SW corner of T1S, R38E; thence southwesterly on a line direct to the NW corner of T3S, R36E; thence south-easterly to the SE corner of T3S, R36E; thence easterly along the southern boundary of T3S, to the SE corner of T3S, R38E; thence southerly along the western boundary of R38E to the SW corner of T8S, R38E; thence south-easterly to the SE corner of T14S, R39E; continuing south-easterly then to the SE corner of T21S, R43E; thence easterly along the southern boundary of T21S to the Oregon-Idaho border; thence northerly along the Oregon-Idaho border to the northern boundary of T8S; thence westerly along the northern boundary of T8S to the NW corner of T8S, R44E; thence north-westerly to the NW corner of T6S, R42E; continuing north-westerly to the NW corner of T2S, R41E; thence northerly along the eastern boundary of R40E to the NE corner of T2N, R40E; thence west-south-westerly on a line direct to the point of beginning (NW corner of T1N, R38E).

(d) Areas identified as "unsuitable" on the **"November 1, 1972, SGMI Map"** are designated "unsuitable" for use as sites for nuclear-fueled thermal power plants; and

(e) The total amount of Class I, II, III, IV, V, and VI agricultural land (according to U.S. Soil Conservation Service classifications) removed from potential productive capability by the development of thermal power plants and associated facilities, including such lands encompassed by site certificate applications in process, shall not exceed 25,000 acres.

(f) The Newberry Crater Area containing Newberry Crater, North Paulina Roadless Area, South Paulina Roadless Area, and Lava Cast Forest as identified in the Forest Service description is designated "unsuitable" for use as sites for thermal power plants.

(2) Oregon Coast. The "Oregon Coastal Zone", as defined in ORS 191.110(4), is designated "suitable" for use as sites for nuclear-fueled and fossil-fueled thermal power plants except that:

(a) Areas identified as "less suitable" or "unsuitable" in the section entitled "Natural Resource Areas" on pages 1-1 through 1-14 and 1-22 of the **"July, 1974, Task Force Report"** are designated "unsuitable" for use as sites for thermal power plants;

(b) Areas identified as "unsuitable" in the section entitled "Natural Resource Areas" on pages 1-14 through 1-20 of the **"July, 1974, Task Force Report"** are designated "unsuitable" for use as sites for thermal power plants;

(c) Areas identified by the methods described in the section entitled "Population Proximity" on pages 3-1 through 3-10 of the **"July, 1974, Task Force Report"** resulting in a calculated population proximity greater than 10,000 are designated "unsuitable" for use as sites for nuclear-fueled power plants;

(d) The area identified as "unsuitable" on the **"November 1, 1972, SGMI Map"** is designated "unsuitable" for use as sites for nuclear-fueled thermal power plants;

(e) Areas which are adjacent to the Columbia River and downstream from Puget Island are designated "unsuitable" for use as sites for thermal power plants; and

(f) The total amount of Class I, II, III, and IV agricultural land (according to U.S. Soil Conservation Service classifications) removed from potential productive capability by the development of thermal power plants and associated facilities shall not exceed 1,500 acres.

(3) Western Interior Oregon. The area between the crest of the Cascade range and the Oregon Coastal Zone is designated "suitable" for use as sites for nuclear-fueled and fossil-fueled thermal power plants except that:

(a) Areas identified as "less suitable" or "unsuitable" in the section entitled "Natural Resources" on pages 1-1 through 1-14 and 1-22 of the **"July, 1974, Task Force Report"** are designated "unsuitable" for use as sites for thermal power plants;

(b) Areas identified by the methods described in the section entitled "Population Proximity" on pages 3-1 to 3-10 of the **"July, 1974, Task Force Report"** resulting in a calculated population proximity greater than 10,000 are designated "unsuitable" for the siting of nuclear-fueled power plants;

(c) Areas which consist of greater than 33% prime agricultural land, identified as Class I, II, or III by the U.S. Soil Conservation Service, are designated "unsuitable" for use as sites for thermal power plants; and

(d) Areas identified as "less suitable" in the section entitled "Meteorology" on pages 2-1 and 2-2 of the **"July, 1974, Task Force Report"** are designated "unsuitable" for use as sites for fossil-fueled thermal power plants. These areas are further identified as follows:

(A) Willamete Valley — All of Benton, Clackamas, Columbia, Linn, Marion, Multnomah, Polk, Washington, and Yamhill Counties, and that portion of Lane County east of an extension of the Lincoln-Benton County line.

(B) Umpqua Valley — That area defined by OAR Chapter 340, section 340-21-010(2).

(C) Rogue Valley — That area defined by OAR Chapter 340, section 340-21-010(3).

[**Publications**: The publication(s) referred to or incorporated by reference in this rule is available from the office of Secretary of State or Energy Facility Siting Council.]

**Stat. Auth.**: ORS Ch.

**Hist**: NTEC 8, f. 12-20-74, ef. 1-11-75; EFSC 11, f. & ef. 1-5-76

# APPENDIX I

## LEGAL DESCRIPTION OF AREA INVOLVED IN HJR 31 (OAR 345-40-015)

LISTING OF PARTS OF SECTIONS

T. 21 S., R. 12 E.

| | |
|---|---|
| Lot 4, S 1/2 NW 1/4 NW 1/4, SW 1/4 NW 1/4, W 1/2 SE 1/4 NW 1/4, SW 1/4, S 1/2 NW 1/4 SE 1/4, Section 1 ..... | 370.72 Ac. |
| SE 1/4 NE 1/4, W 1/2 SE 1/4, W 1/2 SW 1/4 SE 1/4, SW 1/4 SW 1/2 SE 1/4, Section 3 ..... | 150.00 Ac. |
| NE 1/4, W 1/2 NE 1/4 NW 1/4, SE 1/4 NW 1/4, SE 1/4 SW 1/4 NW 1/4, SE 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, NE 1/4 SW 1/4, S 1/2 SW 1/4, Section 10 ..... | 540.00 Ac. |
| W 1/2 SE 1/4 SE 1/4, Section 9 ..... | 20.00 Ac. |
| S 1/2 SW 1/4, S 1/2 SE 1/4, Section 11 ..... | 160.00 Ac. |
| NE 1/4 NE 1/4, SE 1/4 NW 1/4 NE 1/4, E 1/2 SW 1/4 NE 1/4, SW 1/4 SW 1/4 NW 1/4, SE 1/4 NE 1/4, SE 1/4, E 1/2 SE 1/4 SW 1/4, Section 16 ..... | 300.00 Ac. |
| E 1/2, E 1/2 SE 1/4 SW 1/4, Section 21 ..... | 340.00 Ac. |
| NE 1/4 NW 1/4, E 1/2 SW 1/4 NW 1/4, SE 1/4 NW 1/4, SW 1/4, E 1/2, Section 28 ..... | 580.00 Ac. |
| N 1/2 N 1/2, Section 33 ..... | 160.00 Ac. |
| N 1/2, SE 1/4, SE 1/4 NE 1/4 SW 1/4, SE 1/4 SW 1/4, SE 1/4 SW 1/4 SW 1/4, Section 34 ..... | 540.00 Ac. |

T. 22 S., R. 12 E.

| | |
|---|---|
| N 1/2 NW 1/4, E 1/2 SW 1/4 NW 1/4, SE 1/4 NW 1/4, E 1/2, E 1/2 NW 1/4 SW 1/4, NE 1/4 SW 1/4, SE 1/4 SW 1/4, Section 2 ..... | 520.00 Ac. |
| W 1/2, N 1/2 NE 1/4, SW 1/4 NE 1/4, SE 1/4, Section 3 ..... | 600.00 Ac. |
| E 1/2 NE 1/4, E 1/2 SE 1/4, Section 4 ..... | 160.00 Ac. |
| NE 1/4 NE 1/4, E 1/2 SW 1/4 NE 1/4, SW 1/4 SW 1/4 NE 1/4, SE 1/4 NE 1/4, SE 1/4, NE 1/4 NE 1/4 SW 1/4, S 1/2 NE 1/4 SW 1/4, SE 1/4 SW 1/4, Section 9 ..... | 320.00 Ac. |

T. 22 S., R. 12 E. (Continued)

| | |
|---|---|
| N 1/2, N 1/2 SW 1/4 SW 1/4, N 1/2 SW 1/4 SW 1/4, N 1/2 SE 1/4 SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, Section 10 ..... | 560.00 Ac. |
| N 1/2 NW 1/4 NW 1/4, N 1/2 NE 1/4 NW 1/4, N 1/2 NE 1/4, SE 1/4 NE 1/4, S 1/2, Section 11 ..... | 480.00 Ac. |
| N 1/2, N 1/2 SW 1/4, E 1/2 SW 1/4 SW 1/4, SE 1/4 SW 1/4, SE 1/4, Section 13 ..... | 620.00 Ac. |
| NE 1/4 NW 1/4 NW 1/4, NE 1/4 NW 1/4, N 1/2 NE 1/4, N 1/2 SW 1/4 NE 1/4, SE 1/4 NE 1/4, Section 14 ..... | 190.00 Ac. |
| NE 1/4 NE 1/4 NE 1/4, NW 1/4 NE 1/4, N 1/2 NE 1/4 NE 1/4, SW 1/4 NE 1/4 NE 1/4, Section 16 ..... | 80.00 Ac. |
| N 1/2 NE 1/4 NW 1/4, SE 1/4 NE 1/4 NW 1/4, N 1/2 NE 1/4, SW 1/4 NE 1/4, NW 1/4 SE 1/4 NE 1/4, Section 24 ..... | 160.00 Ac. |

T. 22 S., R. 13 E.

| | |
|---|---|
| N 1/2 NW 1/4, SW 1/4 NW 1/4, N 1/2 SE 1/4 NW 1/4, SW 1/4 SE 1/4 NW 1/4, W 1/2 NW 1/4 NE 1/4, NW 1/4 SW 1/4, NW 1/4 NE 1/4 SW 1/4, NW 1/4 SW 1/4 SW 1/4, Section 2 ..... | 230.00 Ac. |
| N 1/2, NW 1/4 SW 1/4, N 1/2 NE 1/4 SW 1/4, NW 1/4 SW 1/4 SW 1/4, N 1/2 SE 1/4, Section 3 ..... | 470.00 Ac. |
| N 1/2 NW 1/4 NW 1/4, N 1/2 NE 1/4 NW 1/4, SW 1/4 NW 1/4 NW 1/4, N 1/2 NE 1/4, N 1/2 SE 1/4 NE 1/4, SE 1/4 SE 1/4 NE 1/4, Section 4 ..... | 160.00 Ac. |
| N 1/2, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4, Section 5 ..... | 630.00 Ac. |
| W 1/2, W 1/2 NE 1/4, W 1/2 SE 1/4, Section 8 ..... | 480.00 Ac. |
| NW 1/4, NW 1/4 NE 1/4, SW 1/4 NE 1/4 NE 1/4, SW 1/4 NE 1/4, NW 1/4 SE 1/4 NE 1/4, N 1/2 SW 1/4, N 1/2 SW 1/4 SW 1/4, N 1/2 SE 1/4 SW 1/4, W 1/2 NW 1/4 SE 1/4, Section 17 ..... | 400.00 Ac. |
| N 1/2, SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, SW 1/4 SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, Section 18 ..... | 610.00 Ac. |
| N 1/2 NW 1/4, Section 19 ..... | 80.00 Ac. |

T. 21 S., R. 13 E.

| | |
|---|---|
| NW 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, SW 1/4 SW 1/4, W 1/2 SE 1/4 SW 1/4, Section 4 ..... | 90.00 Ac. |

T. 21 S., R. 13 E. (continued)

| | |
|---|---|
| NW 1/4 SW 1/4, S 1/2 NE 1/4 SW 1/4, S 1/2 SW 1/4, NE 1/4 NE 1/4 SE 1/4, S 1/2 NW 1/4 SE 1/4, S 1/2 NE 1/4 SE 1/4, S 1/2 SE 1/4, Section 5 ..... | 270.00 Ac. |
| S 1/2 SW 1/4 SW 1/4, NE 1/4 SE 1/4 SW 1/4, S 1/2 SE 1/4 SW 1/4, NE 1/4 NE 1/4 SE 1/4, S 1/2 NE 1/4 SE 1/4, S 1/2 SE 1/4, Section 6 ..... | 160.00 Ac. |
| NW 1/4, NW 1/4 NW 1/4 NE 1/4, S 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4 NE 1/4, S 1/2 NE 1/4, S 1/2, Section 9 ..... | 600.00 Ac. |
| NW 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, N 1/2 SW 1/4 SW 1/4, SW 1/4 SW 1/4 SW 1/4, Section 10 ..... | 70.00 Ac. |
| NW 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, S 1/2 SW 1/4, SW 1/4 SW 1/4 SE 1/4, Section 15 ..... | 140.00 Ac. |
| NW 1/4, NW 1/4 NE 1/4, SW 1/4 NE 1/4 NE 1/4, S 1/2 NE 1/4, S 1/2, Section 22 ..... | 610.00 Ac. |
| W 1/2 NW 1/4 NW 1/4, W 1/2 SW 1/4 NW 1/4, W 1/2 NW 1/4 SW 1/4, SW 1/4 SW 1/4, S 1/2 SE 1/4 SW 1/4, Section 26 ..... | 120.00 Ac. |
| W 1/2 NW 1/4, W 1/2 NE 1/4 NW 1/4, NE 1/4 NE 1/4 NW 1/4, W 1/2 SE 1/4 NW 1/4, SE 1/4 SE 1/4 NW 1/4, W 1/2 SW 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, W 1/2 SE 1/4 SW 1/4, SE 1/4 SE 1/4 SW 1/4, Section 35 ..... | 280.00 Ac. |
| TOTAL ACRES - PARTIAL SECTIONS ..... | 12,250.75 |
| TOTAL ACRES WHOLE SECTIONS - INCLUDING EAST AND PAULINA LAKES - 32 SECTIONS ..... | 20,480.00 |
| TOTAL ACRES - NEWBERRY CRATER AND NORTH AND SOUTH PAULINA ROADLESS AREAS ..... | 32,730.75 |

LAVA CAST FOREST

T. 20 S., R. 12 E.

| | |
|---|---|
| S 1/2, Section 15 | 320.00 Ac. |
| E 1/2 NE 1/4, S 1/2, Section 21 | 400.00 Ac. |
| W 1/2 NE 1/4, W 1/2, Section 22 | 400.00 Ac. |
| W 1/2 SW 1/4, Section 26 | 80.00 Ac. |
| W 1/2 NE 1/4, NW 1/4, S 1/2, Section 27 | 560.00 Ac. |
| Sections 28, 32, 33, and 34 | 2,560.00 Ac. |
| SE 1/4, Section 29 | 160.00 Ac. |
| NW 1/4, S 1/2, Section 35 | 480.00 Ac. |

T. 21 S., R. 12 E.

| | |
|---|---|
| Section 2 | 608.00 Ac. |
| Lots 1, 2, 3, and 4, Section 3 | 127.36 Ac. |
| Lots 1, 2, and 3, Section 4 | 94.57 Ac. |
| N 1/2, N 1/2 S 1/2, Section 11 | 480.00 Ac. |

| | |
|---|---|
| TOTAL ACRES - LAVA CAST FOREST | 6,269.93 |
| TOTAL ACRES - HJR 31 | 39,000.00 |

## DIVISION 50

## RADIOACTIVE WASTE MATERIALS

**Disposal Sites for Radioactive Materials**

**345-50-005** [NTEC 3, f. 5-19-72, ef. 6-1-72; Repealed by EFSC 9-1978, f. 12-28-78, ef. 3-1-79]

**Disposal Prohibited**

**345-50-006** Effective May 1, 1979, except as provided herein, no discarded or unwanted radioactive material may be held or placed for more than seven days at any geographical site in Oregon except the site at which the radioactive material was used or generated pursuant to a license under ORS 453.635 or a site of a thermal power plant used for the temporary storage of radioactive material from that plant for which a site certificate has been issued by the Energy Facility Siting Council.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 9-1978, f. 12-28-78, ef. 3-1-79; EFSC 1-1979(Temp), f. & ef. 3-5-79

**Purpose and Applicability**

**345-50-010** Since virtually all materials contain some measure of radioactivity, it is the purpose of these rules to identify those materials which present such small health hazards that they are exempt from the provisions of ORS 469.525 (1977 Replacement Part) as incorporated in rule 345-50-006 and may be disposed of within the state.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 9-1978, f. 12-28-78, ef. 3-1-79

**Exempt Quantities**

**345-50-020** Materials are exempt from provisions of ORS 469.525 provided that such materials contain radioactive material in individual quantities none of which exceeds that applicable quantity set forth in Table 2 and provided that the number of individual quantities does not exceed 10.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 9-1978, f. 12-28-78, ef. 3-1-79

**Exempt Concentrations**

**345-50-025** Materials are exempt from the provisions of ORS 469.525 provided that such materials contain radioactive materials in concentrations not in excess of those of Table 1.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 9-1978, f. 12-28-78, ef. 3-1-79

**Specific Exemptions**

**345-50-030** In addition to the exemptions under rules 345-50-020 and 345-50-025, the following materials are exempt from the provisions of rule 345-50-006 (or ORS 469.525):

(1) Radioactive material which has been incorporated into a consumer product manufactured under a license issued by the Nuclear Regulatory Commission, or an Agreement State and for which the agency licensing such manufacturer has determined that the possession, use, transfer, and disposal of such consumer product by all persons is exempt from regulatory requirements.

(2) Radium-bearing materials containing less than 5 picocuries of radium-226 per gram of solid, regardless of quantity.

(3) Radium-bearing material containing a total radium-226 activity of less than 10 microcuries, regardless of concentration.

(4) Thorium-bearing materials containing less than 20 picocuries of radium-228 per gram of solid, providing that the radium-228 is present with the parent thorium-232, regardless of quantity.

(5) Thorium-bearing materials containing a total radium-228 activity of less than 100 microcuries, providing that the radium-228 is present with the parent thorium-232, regardless of concentration in the solid.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 9-1978, f. 12-28-78, ef. 3-1-79

**Pathway Exemption**

**345-50-035** Naturally occurring radioactive materials shall be exempt from the provisions of rule 345-50-006 (or ORS 469.525) if it can be demonstrated that accumulation of material will not result in exposures exceeding 500 millirem of external gamma radiation per year, nor in the release of effluents to air and water in annual average concentrations exceeding the values in Table 3. An evaluation of potential radiation exposures and effluent releases shall be performed using the following premises:

(1) The material shall be considered in the form it exists when it is removed from the users' equipment, systems, or settling ponds prior to any dilution or remedial action designed to reduce radiation levels.

(2) No consideration shall be given to the ameliorating effects of land use restrictions, maintenance operations, or overburden at the disposal site.

(3) Accumulations of material over the reasonably projected period of waste generation shall be evaluated.

(4) External gamma radiation exposures shall be based on actual measurement and allowance may be made for the degree of equilibrium and for self-shielding.

(5) In computing radon concentrations in the air above a disposal site containing radium-226, the following additional premises shall be used:

(a) Any house built on ground contaminated with radium-226 is assumed to have an 8-foot high ceiling on the first floor, to have one complete air change per hour, and to have a foundation constructed so as to meet the Structural Specialty Code (State of Oregon Uniform Building Code) effective at the time of adoption of these rules. No consideration will be allowed for any special construction or treatments designed to reduce radon diffusion into the structure.

(b) The relation between radon-emanation rate and radium concentration will be based upon experimental measurements on material intended for disposal.

Stat. Auth.: ORS Ch. 460
Hist: EFSC 9-1978, f. 12-28-78, ef. 3-1-79

TABLE 1 *
(345-50-025)

EXEMPT CONCENTRATIONS

(See notes at end of Table 1)

| Element (atomic number) | Isotope | Liquid and Solid Concentration (μCi/ml for liquids) (uCi/gm for solids) |
|---|---|---|
| Antimony (51) | Sb-122 | $3X10^{-4}$ |
| | Sb-124 | $2X10^{-4}$ |
| | Sb-125 | $1X10^{-3}$ |
| Argon (18) | Ar-37 | (a) |
| | Ar-41 | (a) |
| Arsenic (33) | As-73 | $5X10^{-3}$ |
| | As-74 | $5X10^{-4}$ |
| | As-76 | $2X10^{-4}$ |
| | As-77 | $8X10^{-4}$ |
| Barium (56) | Ba-131 | $2X10^{-3}$ |
| | Ba-140 | $3X10^{-4}$ |
| Beryllium (4) | Be-7 | $2X10^{-2}$ |
| Bismuth (83) | Bi-206 | $4X10^{-4}$ |
| Bromine (35) | Br-82 | $3X10^{-3}$ |
| Cadmium (48) | Cd-109 | $2X10^{-3}$ |
| | Cd-115m | $3X10^{-4}$ |
| | Cd-115 | $3X10^{-4}$ |
| Calcium (20) | Ca-45 | $9X10^{-5}$ |
| | Ca-47 | $5X10^{-4}$ |
| Carbon (6) | C-14 | $8X10^{-3}$ |
| Cerium (58) | Ce-141 | $9X10^{-4}$ |
| | Ce-143 | $4X10^{-4}$ |
| | Ce-144 | $1X10^{-4}$ |
| Cesium (55) | Cs-131 | $2X10^{-2}$ |
| | Cs-134m | $6X10^{-2}$ |
| | Cs-134 | $9X10^{-5}$ |
| Chlorine (17) | Cl-38 | $4X10^{-3}$ |
| Chromium (24) | Cr-51 | $2X10^{-2}$ |
| Cobalt (27) | Co-57 | $5X10^{-3}$ |
| | Co-58 | $1X10^{-3}$ |
| | Co-60 | $5X10^{-4}$ |
| Copper (29) | Cu-64 | $3X10^{-3}$ |
| Dysprosium (66) | Dy-165 | $4X10^{-3}$ |
| | Dy-166 | $4X10^{-4}$ |
| Erbium (68) | Er-169 | $9X10^{-4}$ |
| | Er-171 | $1X10^{-3}$ |

*Unless otherwise noted, this table is identical to Schedule A, Part B of the State of Oregon Regulations for the Control of Radiation.

| Element (atomic number) | Isotope | Liquid and Solid Concentration (μCi/ml for liquids) (uCi/gm for solids) |
|---|---|---|
| Europium (63) | Eu-152 (T =9.2 h) | $6X10^{-4}$ |
| | Eu-155 | $2X10^{-3}$ |
| Fluorine (9) | F-18 | $8X10^{-3}$ |
| Gadolinium (64) | Gd-153 | $2X10^{-3}$ |
| | Gd-159 | $8X10^{-4}$ |
| Gallium (31) | Ga-72 | $4X10^{-4}$ |
| Germanium (32) | Ge-71 | $2X10^{-2}$ |
| Gold (79) | Au-196 | $2X10^{-3}$ |
| | Au-198 | $5X10^{-4}$ |
| | Au-199 | $2X10^{-3}$ |
| Hafnium (72) | Hf-181 | $7X10^{-4}$ |
| Hydrogen (1) | H-3 | $3X10^{-2}$ |
| Indium (49) | In-113m | $1X10^{-2}$ |
| | In-114m | $2X10^{-4}$ |
| Iodine (53) | I-126 | $2X10^{-5}$ |
| | I-131 | $2X10^{-5}$ |
| | I-132 | $6X10^{-4}$ |
| | I-133 | $7X10^{-5}$ |
| | I-134 | $1X10^{-3}$ |
| Iridium (77) | Ir-190 | $2X10^{-3}$ |
| | Ir-192 | $4X10^{-4}$ |
| | Ir-194 | $3X10^{-4}$ |
| Iron (26) | Fe-55 | $8X10^{-3}$ |
| | Fe-59 | $6X10^{-4}$ |
| Krypton (36) | Kr-85m | (a) |
| | Kr-85 | (a) |
| Lanthanum (57) | La-140 | $2X10^{-4}$ |
| Lead (82) | Pb-203 | $4X10^{-3}$ |
| Lutetium (71) | Lu-177 | $1X10^{-3}$ |
| Manganese (25) | Mn-52 | $3X10^{-4}$ |
| | Mn-54 | $1X10^{-3}$ |
| | Mn-56 | $1X10^{-3}$ |
| Mercury (80) | Hg-197m | $2X10^{-3}$ |
| | Hg-197 | $3X10^{-3}$ |
| | Hg-203 | $2X10^{-4}$ |
| Molybdenum (42) | Mo-99 | $2X10^{-3}$ |
| Neodymium (60) | Nd-147 | $6X10^{-4}$ |
| | Nd-149 | $3X10^{-3}$ |
| Nickel (28) | Ni-65 | $1X10^{-3}$ |
| Niobium (Columbium)(41) | Nb-95 | $1X10^{-3}$ |
| | Nb-97 | $9X10^{-3}$ |

| Element (atomic number) | Isotope | Liquid and Solid Concentration (uCi/ml for liquids) (uCi/gm for solids) |
|---|---|---|
| Osmium (76) | Os-185 | $7X10^{-4}$ |
| | Os-191m | $3X10^{-2}$ |
| | Os-191 | $2X10^{-3}$ |
| | Os-193 | $6X10^{-4}$ |
| Palladium (46) | Pd-103 | $3X10^{-3}$ |
| | Pd-109 | $9X10^{-4}$ |
| Phosphorus (15) | P-32 | $2X10^{-4}$ |
| Platinum (78) | Pt-191 | $1X10^{-3}$ |
| | Pt-193m | $1X10^{-2}$ |
| | Pt-197m | $1X10^{-2}$ |
| | Pt-197 | $1X10^{-3}$ |
| Potassium (19) | K-42 | $3X10^{-3}$ |
| Praseodymium (59) | Pr-142 | $3X10^{-4}$ |
| | Pr-143 | $5X10^{-4}$ |
| Promethium (61) | Pm-147 | $2X10^{-3}$ |
| | Pm-149 | $4X10^{-4}$ |
| Rhenium (75) | Re-183 | $6X10^{-3}$ |
| | Re-186 | $9X10^{-4}$ |
| | Re-188 | $6X10^{-4}$ |
| Rhodium (45) | Rh-103m | $1X10^{-1}$ |
| | Rh-105 | $1X10^{-3}$ |
| Rubidium (37) | Rb-86 | $7X10^{-4}$ |
| Ruthenium (44) | Ru-97 | $4X10^{-3}$ |
| | Ru-103 | $8X10^{-4}$ |
| | Ru-105 | $1X10^{-3}$ |
| | Ru-106 | $1X10^{-4}$ |
| Samarium (62) | Sm-153 | $8X10^{-4}$ |
| Scandium (21) | Sc-46 | $4X10^{-4}$ |
| | Sc-47 | $9X10^{-4}$ |
| | Sc-48 | $3X10^{-4}$ |
| Selenium (34) | Se-75 | $3X10^{-3}$ |
| Silicon (14) | Si-31 | $9X10^{-3}$ |
| Silver (47) | Ag-105 | $1X10^{-3}$ |
| | Ag-110m | $3X10^{-4}$ |
| | Ag-111 | $4X10^{-4}$ |
| Sodium (11) | Na-24 | $2X10^{-3}$ |
| Strontium (38) | Sr-85 | $1X10^{-3}$ |
| | Sr-89 | $1X10^{-4}$ |
| | Sr-91 | $7X10^{-4}$ |
| | Sr-92 | $7X10^{-4}$ |

| Element (atomic number) | Isotope | Liquid and Solid Concentration (μCi/ml for liquids) (uCi/gm for solids) |
|---|---|---|
| Sulfur (16) | S-35 | $6X10^{-4}$ |
| Tantalum (73) | Ta-182 | $4X10^{-4}$ |
| Technetium (43) | Tc-96m | $1X10^{-1}$ |
| | Tc-96 | $1X10^{-3}$ |
| Tellurium (52) | Te-125m | $2X10^{-3}$ |
| | Te-127m | $6X10^{-4}$ |
| | Te-127 | $3X10^{-3}$ |
| | Te-129m | $3X10^{-4}$ |
| | Te-131m | $6X10^{-4}$ |
| | Te-132 | $3X10^{-4}$ |
| Terbium (65) | Tb-160 | $4X10^{-4}$ |
| Thallium (81) | Tl-200 | $4X10^{-3}$ |
| | Tl-201 | $3X10^{-3}$ |
| | Tl-202 | $1X10^{-3}$ |
| | Tl-204 | $1X10^{-3}$ |
| Thulium (69) | Tm-170 | $5X10^{-4}$ |
| | Tm-171 | $5X10^{-3}$ |
| Tin (50) | Sn-113 | $9X10^{-4}$ |
| | Sn-125 | $2X10^{-4}$ |
| Tungsten (Wolfram)(74) | W-181 | $4X10^{-3}$ |
| | W-187 | $7X10^{-4}$ |
| Vanadium (23) | V-48 | $3X10^{-4}$ |
| Xenon (54) | Xe-131m | (a) |
| | Xe-133 | (a) |
| | Xe-135 | (a) |
| Ytterbium (70) | Yb-175 | $1X10^{-3}$ |
| Yttrium (39) | Y-90 | $2X10^{-4}$ |
| | Y-91m | $3X10^{-2}$ |
| | Y-91 | $3X10^{-4}$ |
| | Y-92 | $6X10^{-4}$ |
| | Y-93 | $3X10^{-4}$ |
| Zinc (30) | Zn-65 | $1X10^{-3}$ |
| | Zn-69m | $7X10^{-4}$ |
| | Zn-69 | $2X10^{-2}$ |
| Zirconium (40) | Zr-95 | $6X10^{-4}$ |
| | Zr-97 | $2X10^{-4}$ |
| Beta and/or gamma emitting radioactive material not listed above with half-life less than 3 years. | | $1X10^{-6}$ |

NOTE 1. Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Table I the activity stated is that of the parent isotope and takes into account the daughters.

NOTE 2. For purposes of OAR 345-50-025 where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in Table I for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

EXAMPLE:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} \leq 1$$

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(a) These rules are intended to apply only to liquid or solid wastes.

TABLE 2*
(345-50-020)

EXEMPT QUANTITIES

| Radioactive Material | Microcuries | Radioactive Material | Microcuries |
|---|---|---|---|
| Antimony-122 (Sb-122) | 100 | Europium-152 (Eu-152) 9.2h | 100 |
| Antimony-124 (Sb-124) | 10 | Europium-152 (Eu-152) 13 yr | 1 |
| Antimony-125 (Sb-125) | 10 | Europium-154 (Eu-154) | 1 |
| Arsenic-73 (As-73) | 100 | Europium-155 (Eu-155) | 10 |
| Arsenic-74 (As-74) | 10 | Fluorine-18 (F-18) | 1,000 |
| Arsenic-76 (As-76) | 10 | Gadolinium-153 (Gd-153) | 10 |
| Arsenic-77 (As-77) | 100 | Gadolinium-159 (Gd-159) | 100 |
| Barium-131 (Ba-131) | 10 | Gallium-67 (Ga-67) | 100 |
| Barium-133 (Ba-133) | 10 | Gallium-72 (Ga-72) | 10 |
| Barium-140 (Ba-140) | 10 | Germanium-71 (Ge-71) | 100 |
| Bismuth-210 (Bi-210) | 1 | Gold-198 (Au-198) | 100 |
| Bromine-82 (Br-82) | 10 | Gold-199 (Au-199) | 100 |
| Cadmium-109 (Cd-109) | 10 | Hafnium-181 (Hf-181) | 10 |
| Cadmium-115m (Cd-115m) | 10 | Holmium-166 (Ho-166) | 100 |
| Cadmium-115 (Cd-115) | 100 | Hydrogen-3 (H-3) | 1,000 |
| Calcium-45 (Ca-45) | 10 | Indium-111 (In-111) | 100 |
| Calcium-47 (Ca-47) | 10 | Indium-113m (In-113m) | 100 |
| Carbon-14 (C-14) | 100 | Indium-114m (In-114m) | 10 |
| Cerium-141 (Ce-141) | 100 | Indium-115m (In-115m) | 100 |
| Cerium-143 (Ce-143) | 100 | Indium-115 (In-115) | 10 |
| Cerium-144 (Ce-144) | 1 | Iodine-123 (I-123) | 100 |
| Cesium-129 (Cs-129) | 100 | Iodine-125 (I-125) | 1 |
| Cesium-131 (Cs-131) | 1,000 | Iodine-126 (I-126) | 1 |
| Cesium-134m (Cs-134m) | 100 | Iodine-129 (I-129) | 0.1 |
| Cesium-134 (Cs-134) | 1 | Iodine-131 (I-131) | 1 |
| Cesium-135 (Cs-135) | 10 | Iodine-132 (I-132) | 10 |
| Cesium-136 (Cs-136) | 10 | Iodine-133 (I-133) | 1 |
| Cesium-137 (Cs-137) | 10 | Iodine-134 (I-134) | 10 |
| Chlorine-36 (Cl-36) | 10 | Iodine-135 (I-135) | 10 |
| Chlorine-38 (Cl-38) | 10 | Iridium-192 (Ir-192) | 10 |
| Chromium-51 (Cr-51) | 1,000 | Iridium-194 (Ir-194) | 100 |
| Cobalt-57 (Co-57) | 100 | Iron-52 (Fe-52) | 10 |
| Cobalt 58m (Co-58m) | 10 | Iron-55 (Fe-55) | 100 |
| Cobalt-58 (Co-58) | 10 | Iron-59 (Fe-59) | 10 |
| Cobalt-60 (Co-60) | 1 | Krypton-85 (Kr-85) | 100 |
| Copper-64 (Cu-64) | 100 | Krypton-87 (Kr-87) | 10 |
| Dysprosium-165(Dy-165) | 10 | Lanthanum-140 (La-140) | 10 |
| Dysprosium-166 (Dy-166) | 100 | Lutetium-177 (Lu-177) | 100 |
| Erbium-169 (Er-169) | 100 | Manganese-52 (Mn-52) | 10 |
| Erbium-171 (Er-171) | 100 | Manganese-54 (Mn-54) | 10 |

*Unless otherwise noted, this table is identical to Schedule C, Part B of the State of Oregon Regulations for the Control of Radiation.

| Radioactive Material | Microcuries | Radioactive Material | Microcuries |
|---|---|---|---|
| Manganese-56 (Mn-56 | 10 | Silver-110m (Ag-110m) | 1 |
| Mercury-197m (Hg-197m) | 100 | Silver-111 (Ag-111) | 100 |
| Mercury-197 (Hg-197) | 100 | Sodium-22 (Na-22) | 10 |
| Mercury-203 (Hg-203) | 10 | Sodium-24 (Na-24) | 10 |
| Molybdenum-99 (Mo-99) | 100 | Strontium-85 (Sr-85) | 10 |
| Neodymium-147 (Nd-147) | 100 | Strontium-89 (Sr-89) | 1 |
| Neodymium-149 (Nd-149) | 100 | Strontium-90 (Sr-90) | 0.1 |
| Nickel-59 (Ni-59) | 100 | Strontium-91 (Sr-91) | 10 |
| Nickel-63 (Ni-63) | 10 | Strontium-92 (Sr-92) | 10 |
| Nickel-65 (Ni-65) | 100 | Sulphur-35 (S-35) | 100 |
| Niobium-93m (Nb-93m) | 10 | Tantalum-182 (Ta-182) | 10 |
| Niobium-95 (Nb-95) | 10 | Technetium-96 (Tc-96) | 10 |
| Niobium-97 (Nb-97) | 10 | Technetium-97m (Tc-97m) | 100 |
| Osmium-185 (Os-185) | 10 | Technetium-97 (Tc-97) | 100 |
| Osmium-191m (Os-191m) | 100 | Technetium-99m (Tc-99m) | 100 |
| Osmium-191 (Os-191) | 100 | Technetium-99 (Tc-99) | 10 |
| Osmium-193 (Os-193) | 100 | Tellurium-125m (Te-125m) | 10 |
| Palladium-103 (Pd-103) | 100 | Tellurium-127m (Te-127m) | 10 |
| Palladium-109 (Pd-109) | 100 | Tellurium-127 (Te-127) | 100 |
| Phosphorus-32 (P-32) | 10 | Tellurium-129m (Te-129m) | 10 |
| Platinum-191 (Pt-191) | 100 | Tellurium-129 (Te-129) | 100 |
| Platinum-193m (Pt-193m) | 100 | Tellurium-131m (Te-131m) | 10 |
| Platinum-193 (Pt-193) | 100 | Tellurium-132 (Te-132) | 10 |
| Platinum-197m (Pt-197m) | 100 | Terbium-160 (Tb-160) | 10 |
| Platinum-197 (Pt-197) | 100 | Thallium-200 (Tl-200) | 100 |
| Polonium-210 (Po-210) | 0.1 | Thallium-201 (Tl-201) | 100 |
| Potassium-42 (K-42) | 10 | Thallium-202 (Tl-202) | 100 |
| Potassium-43 (K-43) | 10 | Thallium-204 (Tl-204) | 10 |
| Praseodymium-142 (Pr-142) | 100 | Thulium-170 (Tm-170) | 10 |
| Praseodymium-143 (Pr-143) | 100 | Thulium-171 (Tm-171) | 10 |
| Promethium-147 (Pm-147) | 10 | Tin-113 (Sn-113) | 10 |
| Promethium-149 (Pm-149) | 10 | Tin-125 (Sn-125) | 10 |
| Rhenium-186 (Re-186) | 100 | Tungsten-181 (W-181) | 10 |
| Rhenium-188 (Re-188) | 100 | Tungsten-185 (W-185) | 10 |
| Rhodium-103m (Rh-103m) | 100 | Tungsten-187 (W-187) | 100 |
| Rhodium-105 (Rh-105) | 100 | Vanadium-48 (V-48) | 10 |
| Rubidium-81 (Rh-81) | 10 | Xenon-131m (Xe-131m) | 1,000 |
| Rubidium-86 (Rh-86) | 10 | Xenon-133 (Xe-133) | 100 |
| Rubidium-87 (Rb-87) | 10 | Xenon-135 (Xe-135) | 100 |
| Ruthenium-97 (Ru-97) | 100 | Ytterbium-175 (Yb-175) | 100 |
| Ruthenium-103 (Ru-103) | 10 | Yttrium-87 (Y-87) | 10 |
| Ruthenium-105 (Ru-105) | 10 | Yttrium-90 (Y-90) | 10 |
| Ruthenium-106 (Ru-106) | 1 | Yttrium-91 (Y-91) | 10 |

| | | | |
|---|---|---|---|
| Samarium-151 (Sm-151) | 10 | Yttrium-92 (Y-92) | 100 |
| Samarium-153 (Sm-153) | 100 | Yttrium-93 (Y-93) | 100 |
| Scandium-46 (Sc-46) | 10 | Zinc-65 (Zn-65) | 10 |
| Scandium-47 (Sc-47) | 100 | Zinc-69m (Zn-69m) | 100 |
| Scandium-48 (Sc-48) | 10 | Zinc-69 (Zn-69) | 1,000 |
| Selenium-75 (Se-75) | 10 | Zirconium-93 (Zr-93) | 10 |
| Silicon-31 (Si-31) | 100 | Zirconium-95 (Zr-95) | 10 |
| Silver-105 (Ag-105) | 10 | Zirconium-97 (Zr-97) | 10 |

Any radioactive material not listed above other than alpha emitting radioactive material 0.1

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4-Table 2

TABLE 3*

CONCENTRATIONS IN AIR AND WATER ABOVE NATURAL BACKGROUND

(345-50-035)
(See notes at end of Table 3

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| Actinium (89) | Ac-227 | S | $8X10^{-14}$ | $2X10^{-6}$ |
| | | I | $9X10^{-13}$ | $3X10^{-4}$ |
| | Ac-228 | S | $3X10^{-9}$ | $9X10^{-5}$ |
| | | I | $6X10^{-10}$ | $9X10^{-5}$ |
| Americium (95) | Am-241 | S | $2X10^{-13}$ | $4X10^{-6}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | Am-242m | S | $2X10^{-13}$ | $4X10^{-6}$ |
| | | I | $9X10^{-12}$ | $9X10^{-5}$ |
| | Am-242 | S | $1X10^{-9}$ | $1X10^{-4}$ |
| | | I | $2X10^{-9}$ | $1X10^{-4}$ |
| | Am-243 | S | $2X10^{-13}$ | $4X10^{-6}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | Am-244 | S | $1X10^{-7}$ | $5X10^{-3}$ |
| | | I | $8X10^{-7}$ | $5X10^{-3}$ |
| Antimony (51) | Sb-122 | S | $6X10^{-9}$ | $3X10^{-5}$ |
| | | I | $5X10^{-9}$ | $3X10^{-5}$ |
| | Sb-124 | S | $5X10^{-9}$ | $2X10^{-5}$ |
| | | I | $7X10^{-10}$ | $2X10^{-5}$ |
| | Sb-125 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $9X10^{-10}$ | $1X10^{-4}$ |
| Argon (18) | Ar-37 | Sub[2] | $1X10^{-4}$ | ------ |
| | Ar-41 | Sub | $4X10^{-8}$ | ------ |
| Arsenic (33) | As-73 | S | $7X10^{-8}$ | $5X10^{-4}$ |
| | | I | $1X10^{-8}$ | $5X10^{-4}$ |
| | As-74 | S | $1X10^{-8}$ | $5X10^{-5}$ |
| | | I | $4X10^{-9}$ | $5X10^{-5}$ |
| | As-76 | S | $4X10^{-9}$ | $2X10^{-5}$ |
| | | I | $3X10^{-9}$ | $2X10^{-5}$ |
| | As-77 | S | $2X10^{-8}$ | $8X10^{-5}$ |
| | | I | $1X10^{-8}$ | $8X10^{-5}$ |

*Unless otherwise noted, this table is copied from Table II, Appendix A, Part C of the State of Oregon Regulations for the Control of Radiation.

| Element (Atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| Astatine (85) | At-211 | S | $2X10^{-10}$ | $2X10^{-6}$ |
| | | I | $1X10^{-9}$ | $7X10^{-5}$ |
| Barium (56) | Ba-131 | S | $4X10^{-8}$ | $2X10^{-4}$ |
| | | I | $1X10^{-8}$ | $2X10^{-4}$ |
| | Ba-140 | S | $4X10^{-9}$ | $3X10^{-5}$ |
| | | I | $1X10^{-9}$ | $2X10^{-5}$ |
| Berkelium (97) | Bk-249 | S | $3X10^{-11}$ | $6X10^{-4}$ |
| | | I | $4X10^{-9}$ | $6X10^{-4}$ |
| | Bk-250 | S | $5X10^{-9}$ | $2X10^{-4}$ |
| | | I | $4X10^{-8}$ | $2X10^{-4}$ |
| Beryllium (4) | Be-7 | S | $2X10^{-7}$ | $2X10^{-3}$ |
| | | I | $4X10^{-8}$ | $2X10^{-3}$ |
| Bismuth (83) | Bi-206 | S | $6X10^{-9}$ | $4X10^{-5}$ |
| | | I | $5X10^{-9}$ | $4X10^{-5}$ |
| | Bi-207 | S | $6X10^{-9}$ | $6X10^{-5}$ |
| | | I | $5X10^{-10}$ | $6X10^{-5}$ |
| | Bi-210 | S | $2X10^{-10}$ | $4X10^{-5}$ |
| | | I | $2X10^{-10}$ | $4X10^{-5}$ |
| | Bi-212 | S | $3X10^{-9}$ | $4X10^{-4}$ |
| | | I | $7X10^{-9}$ | $4X10^{-4}$ |
| Bromine (35) | Br-82 | S | $4X10^{-8}$ | $3X10^{-4}$ |
| | | I | $6X10^{-9}$ | $4X10^{-5}$ |
| Cadmium (48) | Cd-109 | S | $2X10^{-9}$ | $2X10^{-4}$ |
| | | I | $3X10^{-9}$ | $2X10^{-4}$ |
| | Cd-115m | S | $1X10^{-9}$ | $3X10^{-5}$ |
| | | I | $1X10^{-9}$ | $3X10^{-5}$ |
| | Cd-115 | S | $8X10^{-9}$ | $3X10^{-5}$ |
| | | I | $6X10^{-9}$ | $4X10^{-5}$ |
| Calcium (20) | Ca-45 | S | $1X10^{-9}$ | $9X10^{-6}$ |
| | | I | $4X10^{-9}$ | $2X10^{-4}$ |
| | Ca-47 | S | $6X10^{-9}$ | $5X10^{-5}$ |
| | | I | $6X10^{-9}$ | $3X10^{-5}$ |
| Californium (98) | Cf-249 | S | $5X10^{-14}$ | $4X10^{-6}$ |
| | | I | $3X10^{-12}$ | $2X10^{-5}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| | Cf-250 | S | $2X10^{-13}$ | $1X10^{-5}$ |
| | | I | $3X10^{-12}$ | $3X10^{-5}$ |
| | Cf-251 | S | $6X10^{-14}$ | $4X10^{-6}$ |
| | | I | $3X10^{-12}$ | $3X10^{-5}$ |
| | Cf-252 | S | $2X10^{-13}$ | $7X10^{-6}$ |
| | | I | $1X10^{-12}$ | $7X10^{-6}$ |
| | Cf-253 | S | $3X10^{-11}$ | $1X10^{-4}$ |
| | | I | $3X10^{-11}$ | $1X10^{-4}$ |
| | Cf-254 | S | $2X10^{-13}$ | $1X10^{-7}$ |
| | | I | $2X10^{-13}$ | $1X10^{-7}$ |
| Carbon (6) | C-14 | S | $1X10^{-7}$ | $8X10^{-4}$ |
| | ($CO_2$) | Sub[2] | $1X10^{-6}$ | ------ |
| Cerium (58) | Ce-141 | S | $2X10^{-8}$ | $9X10^{-5}$ |
| | | I | $5X10^{-9}$ | $9X10^{-5}$ |
| | Ce-143 | S | $9X10^{-9}$ | $4X10^{-5}$ |
| | | I | $7X10^{-9}$ | $4X10^{-5}$ |
| | Ce-144 | S | $3X10^{-10}$ | $1X10^{-5}$ |
| | | I | $2X10^{-10}$ | $1X10^{-5}$ |
| Cesium (55) | Cs-131 | S | $4X10^{-7}$ | $2X10^{-3}$ |
| | | I | $1X10^{-7}$ | $9X10^{-4}$ |
| | Cs-134m | S | $1X10^{-6}$ | $6X10^{-3}$ |
| | | I | $2X10^{-7}$ | $1X10^{-3}$ |
| | Cs-134 | S | $1X10^{-9}$ | $9X10^{-6}$ |
| | | I | $4X10^{-10}$ | $4X10^{-5}$ |
| | Cs-135 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $3X10^{-9}$ | $2X10^{-4}$ |
| | Cs-136 | S | $1X10^{-8}$ | $9X10^{-5}$ |
| | | I | $6X10^{-9}$ | $6X10^{-5}$ |
| | Cs-137 | S | $2X10^{-9}$ | $2X10^{-5}$ |
| | | I | $5X10^{-10}$ | $4X10^{-5}$ |
| Chlorine (17) | Cl-36 | S | $1X10^{-8}$ | $8X10^{-5}$ |
| | | I | $8X10^{-10}$ | $6X10^{-5}$ |
| | Cl-38 | S | $9X10^{-8}$ | $4X10^{-4}$ |
| | | I | $7X10^{-8}$ | $4X10^{-4}$ |
| Chromium (24) | Cr-51 | S | $4X10^{-7}$ | $2X10^{-3}$ |
| | | I | $8X10^{-8}$ | $2X10^{-3}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| Cobalt (27) | Co-57 | S | $1X10^{-7}$ | $5X10^{-4}$ |
| | | I | $6X10^{-9}$ | $4X10^{-4}$ |
| | Co-58m | S | $6X10^{-7}$ | $3X10^{-3}$ |
| | | I | $3X10^{-7}$ | $2X10^{-3}$ |
| | Co-58 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-9}$ | $9X10^{-5}$ |
| | Co-60 | S | $1X10^{-8}$ | $5X10^{-5}$ |
| | | I | $3X10^{-10}$ | $3X10^{-5}$ |
| Copper (29) | Cu-64 | S | $7X10^{-8}$ | $3X10^{-4}$ |
| | | I | $4X10^{-8}$ | $2X10^{-4}$ |
| Curium (96) | Cm-242 | S | $4X10^{-12}$ | $2X10^{-5}$ |
| | | I | $6X10^{-12}$ | $2X10^{-5}$ |
| | Cm-243 | S | $2X10^{-13}$ | $5X10^{-6}$ |
| | | I | $3X10^{-12}$ | $2X10^{-5}$ |
| | Cm-244 | S | $3X10^{-13}$ | $7X10^{-6}$ |
| | | I | $3X10^{-12}$ | $3X10^{-5}$ |
| | Cm-245 | S | $2X10^{-13}$ | $4X10^{-6}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | Cm-246 | S | $2X10^{-13}$ | $4X10^{-6}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | Cm-247 | S | $2X10^{-13}$ | $4X10^{-6}$ |
| | | I | $4X10^{-12}$ | $2X10^{-5}$ |
| | Cm-248 | S | $2X10^{-14}$ | $4X10^{-7}$ |
| | | I | $4X10^{-13}$ | $1X10^{-6}$ |
| | Cm-249 | S | $4X10^{-7}$ | $2X10^{-3}$ |
| | | I | $4X10^{-7}$ | $2X10^{-3}$ |
| Dysprosium (66) | Dy-165 | S | $9X10^{-8}$ | $4X10^{-4}$ |
| | | I | $7X10^{-8}$ | $4X10^{-4}$ |
| | Dy-166 | S | $8X10^{-9}$ | $4X10^{-5}$ |
| | | I | $7X10^{-9}$ | $4X10^{-5}$ |
| Einsteinium (99) | Es-253 | S | $3X10^{-11}$ | $2X10^{-5}$ |
| | | I | $2X10^{-11}$ | $2X10^{-5}$ |
| | Es-254m | S | $2X10^{-10}$ | $2X10^{-5}$ |
| | | I | $2X10^{-10}$ | $2X10^{-5}$ |
| | Es-254 | S | $6X10^{-13}$ | $1X10^{-5}$ |
| | | I | $4X10^{-12}$ | $1X10^{-5}$ |
| | Es-255 | S | $2X10^{-11}$ | $3X10^{-5}$ |
| | | I | $1X10^{-11}$ | $3X10^{-5}$ |
| Erbium (68) | Er-169 | S | $2X10^{-8}$ | $9X10^{-5}$ |
| | | I | $1X10^{-8}$ | $9X10^{-5}$ |
| | Er-171 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |

| Element (atomic number) | Isotope[4] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| Europium (63) | Eu-152 | S | $1X10^{-8}$ | $6X10^{-5}$ |
| | (T =9.2 hrs) | I | $1X10^{-8}$ | $6X10^{-5}$ |
| | Eu-152 | S | $4X10^{-10}$ | $8X10^{-5}$ |
| | (T =13 yrs) | I | $6X10^{-10}$ | $8X10^{-5}$ |
| | Eu-154 | S | $1X10^{-10}$ | $2X10^{-5}$ |
| | | I | $2X10^{-10}$ | $2X10^{-5}$ |
| | Eu-155 | S | $3X10^{-9}$ | $2X10^{-4}$ |
| | | I | $3X10^{-9}$ | $2X10^{-4}$ |
| Fermium (100) | Fm-254 | S | $2X10^{-9}$ | $1X10^{-4}$ |
| | | I | $2X10^{-9}$ | $1X10^{-4}$ |
| | Fm-255 | S | $6X10^{-10}$ | $3X10^{-5}$ |
| | | I | $4X10^{-10}$ | $3X10^{-5}$ |
| | Fm-256 | S | $1X10^{-10}$ | $9X10^{-7}$ |
| | | I | $6X10^{-11}$ | $9X10^{-7}$ |
| Fluorine (9) | F-18 | S | $2X10^{-7}$ | $8X10^{-4}$ |
| | | I | $9X10^{-8}$ | $5X10^{-4}$ |
| Gadolinium (64) | Gd-153 | S | $8X10^{-9}$ | $2X10^{-4}$ |
| | | I | $3X10^{-9}$ | $2X10^{-4}$ |
| | Gd-159 | S | $2X10^{-8}$ | $8X10^{-5}$ |
| | | I | $1X10^{-8}$ | $8X10^{-5}$ |
| Gallium (31) | Ga-72 | S | $8X10^{-9}$ | $4X10^{-5}$ |
| | | I | $6X10^{-9}$ | $4X10^{-5}$ |
| Germanium (32) | Ge-71 | S | $4X10^{-7}$ | $2X10^{-3}$ |
| | | I | $2X10^{-7}$ | $2X10^{-3}$ |
| Gold (79) | Au-196 | S | $4X10^{-8}$ | $2X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| | Au-198 | S | $1X10^{-8}$ | $5X10^{-5}$ |
| | | I | $8X10^{-9}$ | $5X10^{-5}$ |
| | Au-199 | S | $4X10^{-8}$ | $2X10^{-4}$ |
| | | I | $3X10^{-8}$ | $2X10^{-4}$ |
| Hafnium (72) | Hf-181 | S | $1X10^{-9}$ | $7X10^{-5}$ |
| | | I | $3X10^{-9}$ | $7X10^{-5}$ |
| Holmium (67) | Ho-166 | S | $7X10^{-9}$ | $3X10^{-5}$ |
| | | I | $6X10^{-9}$ | $3X10^{-5}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| Hydrogen (1) | H-3 | S | $2X10^{-7}$ | $3X10^{-3}$ |
| | | I | $2X10^{-7}$ | $3X10^{-3}$ |
| | | Sub[2] | $4X10^{-5}$ | ------ |
| Indium (49) | In-113m | S | $3X10^{-7}$ | $1X10^{-3}$ |
| | | I | $2X10^{-7}$ | $1X10^{-3}$ |
| | In-114m | S | $4X10^{-9}$ | $2X10^{-5}$ |
| | | I | $7X10^{-10}$ | $2X10^{-5}$ |
| | In-115m | S | $8X10^{-8}$ | $4X10^{-4}$ |
| | | I | $6X10^{-8}$ | $4X10^{-4}$ |
| | In-115 | S | $9X10^{-9}$ | $9X10^{-5}$ |
| | | I | $1X10^{-9}$ | $9X10^{-5}$ |
| Iodine (53) | I-125 | S | $8X10^{-11}$ | $2X10^{-7}$ |
| | | I | $6X10^{-9}$ | $2X10^{-4}$ |
| | I-126 | S | $9X10^{-11}$ | $3X10^{-7}$ |
| | | I | $1X10^{-8}$ | $9X10^{-5}$ |
| | I-129 | S | $2X10^{-11}$ | $6X10^{-8}$ |
| | | I | $2X10^{-9}$ | $2X10^{-4}$ |
| | I-131 | S | $1X10^{-10}$ | $3X10^{-7}$ |
| | | I | $1X10^{-8}$ | $6X10^{-5}$ |
| | I-132 | S | $3X10^{-9}$ | $8X10^{-6}$ |
| | | I | $3X10^{-8}$ | $2X10^{-4}$ |
| | I-133 | S | $4X10^{-10}$ | $1X10^{-6}$ |
| | | I | $7X10^{-9}$ | $4X10^{-5}$ |
| | I-134 | S | $6X10^{-9}$ | $2X10^{-5}$ |
| | | I | $1X10^{-7}$ | $6X10^{-4}$ |
| | I-135 | S | $1X10^{-9}$ | $4X10^{-6}$ |
| | | I | $1X10^{-8}$ | $7X10^{-5}$ |
| Iridium (77) | Ir-190 | S | $4X10^{-8}$ | $2X10^{-4}$ |
| | | I | $1X10^{-8}$ | $2X10^{-4}$ |
| | Ir-192 | S | $4X10^{-9}$ | $4X10^{-5}$ |
| | | I | $9X10^{-10}$ | $4X10^{-5}$ |
| | Ir-194 | S | $8X10^{-9}$ | $3X10^{-5}$ |
| | | I | $5X10^{-9}$ | $3X10^{-5}$ |
| Iron (26) | Fe-55 | S | $3X10^{-8}$ | $8X10^{-4}$ |
| | | I | $3X10^{-8}$ | $2X10^{-3}$ |
| | Fe-59 | S | $5X10^{-9}$ | $6X10^{-5}$ |
| | | I | $2X10^{-9}$ | $5X10^{-5}$ |
| Krypton (36) | Kr-85m | Sub[2] | $1X10^{-7}$ | ------ |
| | Kr-85 | Sub | $3X10^{-7}$ | ------ |
| | Kr-87 | Sub | $2X10^{-8}$ | ------ |
| | Kr-88 | Sub | $2X10^{-8}$ | ------ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| Lanthanum (57) | La-140 | S | $5X10^{-9}$ | $2X10^{-5}$ |
| | | I | $4X10^{-9}$ | $2X10^{-5}$ |
| Lead (82) | Pb-203 | S | $9X10^{-8}$ | $4X10^{-4}$ |
| | | I | $6X10^{-8}$ | $4X10^{-4}$ |
| | Pb-210 | S | $4X10^{-12}$ | $1X10^{-7}$ |
| | | I | $8X10^{-12}$ | $2X10^{-4}$ |
| | Pb-212 | S | $6X10^{-10}$ | $2X10^{-5}$ |
| | | I | $7X10^{-10}$ | $2X10^{-5}$ |
| Lutetium (71) | Lu-177 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| Manganese (25) | Mn-52 | S | $7X10^{-9}$ | $3X10^{-5}$ |
| | | I | $5X10^{-9}$ | $3X10^{-5}$ |
| | Mn-54 | S | $1X10^{-8}$ | $1X10^{-4}$ |
| | | I | $1X10^{-9}$ | $1X10^{-4}$ |
| | Mn-56 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| Mercury (80) | Hg-197m | S | $3X10^{-8}$ | $2X10^{-4}$ |
| | | I | $3X10^{-8}$ | $2X10^{-4}$ |
| | Hg-197 | S | $4X10^{-8}$ | $3X10^{-4}$ |
| | | I | $9X10^{-8}$ | $5X10^{-4}$ |
| | Hg-203 | S | $2X10^{-9}$ | $2X10^{-5}$ |
| | | I | $4X10^{-9}$ | $1X10^{-4}$ |
| Molybdenum (42) | Mo-99 | S | $3X10^{-8}$ | $2X10^{-4}$ |
| | | I | $7X10^{-9}$ | $4X10^{-5}$ |
| Neodymium (60) | Nd-144 | S | $3X10^{-12}$ | $7X10^{-5}$ |
| | | I | $1X10^{-11}$ | $8X10^{-5}$ |
| | Nd-147 | S | $1X10^{-8}$ | $6X10^{-5}$ |
| | | I | $8X10^{-9}$ | $6X10^{-5}$ |
| | Nd-149 | S | $6X10^{-8}$ | $3X10^{-4}$ |
| | | I | $5X10^{-8}$ | $3X10^{-4}$ |
| Neptunium (93) | Np-237 | S | $1X10^{-13}$ | $3X10^{-6}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | Np-239 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| Nickel (28) | Ni-59 | S | $2X10^{-8}$ | $2X10^{-4}$ |
| | | I | $3X10^{-8}$ | $2X10^{-3}$ |
| | Ni-63 | S | $2X10^{-9}$ | $3X10^{-5}$ |
| | | I | $1X10^{-8}$ | $7X10^{-4}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| | Ni-65 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| Niobium (41) | Nb-93m | S | $4X10^{-9}$ | $4X10^{-4}$ |
| | | I | $5X10^{-9}$ | $4X10^{-4}$ |
| | Nb-95 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $3X10^{-9}$ | $1X10^{-4}$ |
| | Nb-97 | S | $2X10^{-7}$ | $9X10^{-4}$ |
| | | I | $2X10^{-7}$ | $9X10^{-4}$ |
| Osmium (76) | Os-185 | S | $2X10^{-8}$ | $7X10^{-5}$ |
| | | I | $2X10^{-9}$ | $7X10^{-5}$ |
| | Os-191m | S | $6X10^{-7}$ | $3X10^{-3}$ |
| | | I | $3X10^{-7}$ | $2X10^{-3}$ |
| | Os-191 | S | $4X10^{-8}$ | $2X10^{-4}$ |
| | | I | $1X10^{-8}$ | $2X10^{-4}$ |
| | Os-193 | S | $1X10^{-8}$ | $6X10^{-5}$ |
| | | I | $9X10^{-9}$ | $5X10^{-5}$ |
| Palladium (46) | Pd-103 | S | $5X10^{-8}$ | $3X10^{-4}$ |
| | | I | $3X10^{-8}$ | $3X10^{-4}$ |
| | Pd-109 | S | $2X10^{-8}$ | $9X10^{-5}$ |
| | | I | $1X10^{-8}$ | $7X10^{-5}$ |
| Phosphorus (15) | P-32 | S | $2X10^{-9}$ | $2X10^{-5}$ |
| | | I | $3X10^{-9}$ | $2X10^{-5}$ |
| Platinum (78) | Pt-191 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| | Pt-193m | S | $2X10^{-7}$ | $1X10^{-3}$ |
| | | I | $2X10^{-7}$ | $1X10^{-3}$ |
| | Pt-193 | S | $4X10^{-8}$ | $9X10^{-4}$ |
| | | I | $1X10^{-8}$ | $2X10^{-3}$ |
| | Pt-197m | S | $2X10^{-7}$ | $1X10^{-3}$ |
| | | I | $2X10^{-7}$ | $9X10^{-4}$ |
| | Pt-197 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| Plutonium (94) | Pu-238 | S | $7X10^{-14}$ | $5X10^{-6}$ |
| | | I | $1X10^{-12}$ | $3X10^{-5}$ |
| | Pu-239 | S | $6X10^{-14}$ | $5X10^{-6}$ |
| | | I | $1X10^{-12}$ | $3X10^{-5}$ |
| | Pu-240 | S | $6X10^{-14}$ | $5X10^{-6}$ |
| | | I | $1X10^{-12}$ | $3X10^{-5}$ |
| | Pu-241 | S | $3X10^{-12}$ | $2X10^{-4}$ |
| | | I | $1X10^{-9}$ | $1X10^{-3}$ |
| | Pu-242 | S | $6X10^{-14}$ | $5X10^{-6}$ |
| | | I | $1X10^{-12}$ | $3X10^{-5}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| | Pu-243 | S | $6X10^{-8}$ | $3X10^{-4}$ |
| | | I | $8X10^{-8}$ | $3X10^{-4}$ |
| | Pu-244 | S | $6X10^{-14}$ | $4X10^{-6}$ |
| | | I | $1X10^{-12}$ | $1X10^{-5}$ |
| Polonium (84) | Po-210 | S | $2X10^{-11}$ | $7X10^{-7}$ |
| | | I | $7X10^{-12}$ | $3X10^{-5}$ |
| Potassium (19) | K-42 | S | $7X10^{-8}$ | $3X10^{-4}$ |
| | | I | $4X10^{-9}$ | $2X10^{-5}$ |
| Praseodymium (59) | Pr-142 | S | $7X10^{-9}$ | $3X10^{-5}$ |
| | | I | $5X10^{-9}$ | $3X10^{-5}$ |
| | Pr-143 | S | $1X10^{-8}$ | $5X10^{-5}$ |
| | | I | $6X10^{-9}$ | $5X10^{-5}$ |
| Promethium (61) | Pm-147 | S | $2X10^{-9}$ | $2X10^{-4}$ |
| | | I | $3X10^{-9}$ | $2X10^{-4}$ |
| | Pm-149 | S | $1X10^{-8}$ | $4X10^{-5}$ |
| | | I | $8X10^{-9}$ | $4X10^{-5}$ |
| Protactinium (91) | Pa-230 | S | $6X10^{-11}$ | $2X10^{-4}$ |
| | | I | $3X10^{-11}$ | $2X10^{-4}$ |
| | Pa-231 | S | $4X10^{-14}$ | $9X10^{-7}$ |
| | | I | $4X10^{-12}$ | $2X10^{-5}$ |
| | Pa-233 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $6X10^{-9}$ | $1X10^{-4}$ |
| Radium (88) | Ra-223 | S | $6X10^{-11}$ | $7X10^{-7}$ |
| | | I | $8X10^{-12}$ | $4X10^{-6}$ |
| | Ra-224 | S | $2X10^{-10}$ | $2X10^{-6}$ |
| | | I | $2X10^{-11}$ | $5X10^{-6}$ |
| | Ra-226 | S | $3X10^{-12}$ | $3X10^{-8}$ |
| | | I | $2X10^{-12}$ | $3X10^{-5}$ |
| | Ra-228 | S | $2X10^{-12}$ | $3X10^{-8}$ |
| | | I | $1X10^{-12}$ | $3X10^{-5}$ |
| Radon (86) | Rn-220 | S | $1X10^{-8}$ | ------ |
| | | I | ------ | ------ |
| | Rn-222[3] | S | $3X10^{-9}$ | ------ |
| Rhenium (75) | Re-183 | S | $9X10^{-8}$ | $6X10^{-4}$ |
| | | I | $5X10^{-9}$ | $3X10^{-4}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| | Re-186 | S | $2X10^{-8}$ | $9X10^{-5}$ |
| | | I | $8X10^{-9}$ | $5X10^{-5}$ |
| | Re-187 | S | $3X10^{-7}$ | $3X10^{-3}$ |
| | | I | $2X10^{-8}$ | $2X10^{-3}$ |
| | Re-188 | S | $1X10^{-8}$ | $6X10^{-5}$ |
| | | I | $6X10^{-9}$ | $3X10^{-5}$ |
| Rhodium (45) | Rh-103m | S | $3X10^{-6}$ | $1X10^{-2}$ |
| | | I | $2X10^{-6}$ | $1X10^{-2}$ |
| | Rh-105 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| Rubidium (37) | Rb-86 | S | $1X10^{-8}$ | $7X10^{-5}$ |
| | | I | $2X10^{-9}$ | $2X10^{-5}$ |
| | Rb-87 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-9}$ | $2X10^{-4}$ |
| Ruthenium (44) | Ru-97 | S | $8X10^{-8}$ | $4X10^{-4}$ |
| | | I | $6X10^{-8}$ | $3X10^{-4}$ |
| | Ru-103 | S | $2X10^{-8}$ | $8X10^{-5}$ |
| | | I | $3X10^{-9}$ | $8X10^{-5}$ |
| | Ru-105 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |
| | Ru-106 | S | $3X10^{-9}$ | $1X10^{-5}$ |
| | | I | $2X10^{-10}$ | $1X10^{-5}$ |
| Samarium (62) | Sm-147 | S | $2X10^{-12}$ | $6X10^{-5}$ |
| | | I | $9X10^{-12}$ | $7X10^{-5}$ |
| | Sm-151 | S | $2X10^{-9}$ | $4X10^{-4}$ |
| | | I | $5X10^{-9}$ | $4X10^{-4}$ |
| | Sm-153 | S | $2X10^{-8}$ | $8X10^{-5}$ |
| | | I | $1X10^{-8}$ | $8X10^{-5}$ |
| Scandium (21) | Sc-46 | S | $8X10^{-9}$ | $4X10^{-5}$ |
| | | I | $8X10^{-10}$ | $4X10^{-5}$ |
| | Sc-47 | S | $2X10^{-8}$ | $9X10^{-5}$ |
| | | I | $2X10^{-8}$ | $9X10^{-5}$ |
| | Sc-48 | S | $6X10^{-9}$ | $3X10^{-5}$ |
| | | I | $5X10^{-9}$ | $3X10^{-5}$ |
| Selenium (34) | Se-75 | S | $4X10^{-8}$ | $3X10^{-4}$ |
| | | I | $4X10^{-9}$ | $3X10^{-4}$ |
| Silicon (14) | Si-31 | S | $2X10^{-7}$ | $9X10^{-4}$ |
| | | I | $3X10^{-8}$ | $2X10^{-4}$ |

| Element (atomic number) | Isotope[1] | | Column I Air (μCi/ml) | Column II Water (μCi/ml) |
|---|---|---|---|---|
| Silver (47) | Ag-105 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $3X10^{-9}$ | $1X10^{-4}$ |
| | Ag-110m | S | $7X10^{-9}$ | $3X10^{-5}$ |
| | | I | $3X10^{-10}$ | $3X10^{-5}$ |
| | Ag-111 | S | $1X10^{-8}$ | $4X10^{-5}$ |
| | | I | $8X10^{-9}$ | $4X10^{-5}$ |
| Sodium (11) | Na-22 | S | $6X10^{-9}$ | $4X10^{-5}$ |
| | | I | $3X10^{-10}$ | $3X10^{-5}$ |
| | Na-24 | S | $4X10^{-8}$ | $2X10^{-4}$ |
| | | I | $5X10^{-9}$ | $3X10^{-5}$ |
| Strontium (38) | Sr-85m | S | $1X10^{-6}$ | $7X10^{-3}$ |
| | | I | $1X10^{-6}$ | $7X10^{-3}$ |
| | Sr-85 | S | $8X10^{-9}$ | $1X10^{-4}$ |
| | | I | $4X10^{-9}$ | $2X10^{-4}$ |
| | Sr-89 | S | $3X10^{-10}$ | $3X10^{-6}$ |
| | | I | $1X10^{-9}$ | $3X10^{-5}$ |
| | Sr-90 | S | $3X10^{-11}$ | $3X10^{-7}$ |
| | | I | $2X10^{-10}$ | $4X10^{-5}$ |
| | Sr-91 | S | $2X10^{-8}$ | $7X10^{-5}$ |
| | | I | $9X10^{-9}$ | $5X10^{-5}$ |
| | Sr-92 | S | $2X10^{-8}$ | $7X10^{-5}$ |
| | | I | $1X10^{-8}$ | $6X10^{-5}$ |
| Sulfur (16) | S-35 | S | $9X10^{-9}$ | $6X10^{-5}$ |
| | | I | $9X10^{-9}$ | $3X10^{-4}$ |
| Tantalum (73) | Ta-182 | S | $1X10^{-9}$ | $4X10^{-5}$ |
| | | I | $7X10^{-10}$ | $4X10^{-5}$ |
| Technetium (43) | Tc-96m | S | $3X10^{-6}$ | $1X10^{-2}$ |
| | | I | $1X10^{-6}$ | $1X10^{-2}$ |
| | Tc-96 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $8X10^{-9}$ | $5X10^{-5}$ |
| | Tc-97m | S | $8X10^{-8}$ | $4X10^{-4}$ |
| | | I | $5X10^{-9}$ | $2X10^{-4}$ |
| | Tc-97 | S | $4X10^{-7}$ | $2X10^{-3}$ |
| | | I | $1X10^{-8}$ | $8X10^{-4}$ |
| | Tc-99m | S | $1X10^{-6}$ | $6X10^{-3}$ |
| | | I | $5X10^{-7}$ | $3X10^{-3}$ |
| | Tc-99 | S | $7X10^{-8}$ | $3X10^{-4}$ |
| | | I | $2X10^{-9}$ | $2X10^{-4}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| Tellurium (52) | Te-125m | S | $1X10^{-8}$ | $2X10^{-4}$ |
| | | I | $4X10^{-9}$ | $1X10^{-4}$ |
| | Te-127m | S | $5X10^{-9}$ | $6X10^{-5}$ |
| | | I | $1X10^{-9}$ | $5X10^{-5}$ |
| | Te-127 | S | $6X10^{-8}$ | $3X10^{-4}$ |
| | | I | $3X10^{-8}$ | $2X10^{-4}$ |
| | Te-129m | S | $3X10^{-9}$ | $3X10^{-5}$ |
| | | I | $1X10^{-9}$ | $2X10^{-5}$ |
| | Te-129 | S | $2X10^{-7}$ | $8X10^{-4}$ |
| | | I | $1X10^{-7}$ | $8X10^{-4}$ |
| | Te-131m | S | $1X10^{-8}$ | $6X10^{-5}$ |
| | | I | $6X10^{-9}$ | $4X10^{-5}$ |
| | Te-132 | S | $7X10^{-9}$ | $3X10^{-5}$ |
| | | I | $4X10^{-9}$ | $2X10^{-5}$ |
| Terbium (65) | Tb-160 | S | $3X10^{-9}$ | $4X10^{-5}$ |
| | | I | $1X10^{-9}$ | $4X10^{-5}$ |
| Thallium (81) | Tl-200 | S | $9X10^{-8}$ | $4X10^{-4}$ |
| | | I | $4X10^{-8}$ | $2X10^{-4}$ |
| | Tl-201 | S | $7X10^{-8}$ | $3X10^{-4}$ |
| | | I | $3X10^{-8}$ | $2X10^{-4}$ |
| | Tl-202 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $8X10^{-9}$ | $7X10^{-5}$ |
| | Tl-204 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $9X10^{-10}$ | $6X10^{-5}$ |
| Thorium (90) | Th-227 | S | $1X10^{-11}$ | $2X10^{-5}$ |
| | | I | $6X10^{-12}$ | $2X10^{-5}$ |
| | Th-228 | S | $3X10^{-13}$ | $7X10^{-6}$ |
| | | I | $2X10^{-13}$ | $1X10^{-5}$ |
| | Th-230 | S | $8X10^{-14}$ | $2X10^{-6}$ |
| | | I | $3X10^{-13}$ | $3X10^{-5}$ |
| | Th-231 | S | $5X10^{-8}$ | $2X10^{-4}$ |
| | | I | $4X10^{-8}$ | $2X10^{-4}$ |
| | Th-232 | S | $1X10^{-12}$ | $2X10^{-6}$ |
| | | I | $1X10^{-12}$ | $4X10^{-5}$ |
| | Th-natural | S | $2X10^{-12}$ | $2X10^{-6}$ |
| | | I | $2X10^{-12}$ | $2X10^{-5}$ |
| | Th-234 | S | $2X10^{-9}$ | $2X10^{-5}$ |
| | | I | $1X10^{-9}$ | $2X10^{-5}$ |
| Thulium (69) | Tm-170 | S | $1X10^{-9}$ | $5X10^{-5}$ |
| | | I | $1X10^{-9}$ | $5X10^{-5}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| | Tm-171 | S | $4X10^{-9}$ | $5X10^{-4}$ |
| | | I | $8X10^{-9}$ | $5X10^{-4}$ |
| Tin (50) | Sn-113 | S | $1X10^{-8}$ | $9X10^{-5}$ |
| | | I | $2X10^{-9}$ | $8X10^{-5}$ |
| | Sn-125 | S | $4X10^{-9}$ | $2X10^{-5}$ |
| | | I | $3X10^{-9}$ | $2X10^{-5}$ |
| Tungsten (74) | W-181 | S | $8X10^{-8}$ | $4X10^{-4}$ |
| | | I | $4X10^{-9}$ | $3X10^{-4}$ |
| | W-185 | S | $3X10^{-8}$ | $1X10^{-4}$ |
| | | I | $4X10^{-9}$ | $1X10^{-4}$ |
| | W-187 | S | $2X10^{-8}$ | $7X10^{-5}$ |
| | | I | $1X10^{-8}$ | $6X10^{-5}$ |
| Uranium (92) | U-230 | S | $1X10^{-11}$ | $5X10^{-6}$ |
| | | I | $4X10^{-12}$ | $5X10^{-6}$ |
| | U-232 | S | $3X10^{-12}$ | $3X10^{-5}$ |
| | | I | $9X10^{-13}$ | $3X10^{-5}$ |
| | U-233 | S | $2X10^{-11}$ | $3X10^{-5}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | U-234 | S[4] | $2X10^{-11}$ | $3X10^{-5}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | U-235 | S[4] | $2X10^{-11}$ | $3X10^{-5}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | U-236 | S | $2X10^{-11}$ | $3X10^{-5}$ |
| | | I | $4X10^{-12}$ | $3X10^{-5}$ |
| | U-238 | S | $3X10^{-12}$ | $4X10^{-5}$ |
| | | I | $5X10^{-12}$ | $4X10^{-5}$ |
| | U-240 | S | $8X10^{-9}$ | $3X10^{-5}$ |
| | | I | $6X10^{-9}$ | $3X10^{-5}$ |
| | U-natural | | | |
| | | S[4] | $5X10^{-12}$ | $3X10^{-5}$ |
| | | I | $5X10^{-12}$ | $3X10^{-5}$ |
| Vanadium (23) | V-48 | S | $6X10^{-9}$ | $3X10^{-5}$ |
| | | I | $2X10^{-9}$ | $3X10^{-5}$ |
| Xenon (54) | Xe-131m | Sub[2] | $4X10^{-7}$ | ------ |
| | Xe-133m | Sub | $3X10^{-7}$ | ------ |
| | Xe-133 | Sub | $3X10^{-7}$ | ------ |
| | Xe-135 | Sub | $1X10^{-7}$ | ------ |
| Ytterbium (70) | Yb-175 | S | $2X10^{-8}$ | $1X10^{-4}$ |
| | | I | $2X10^{-8}$ | $1X10^{-4}$ |

| Element (atomic number) | Isotope[1] | | Column 1 Air (μCi/ml) | Column 2 Water (μCi/ml) |
|---|---|---|---|---|
| Yttrium (39) | Y-90 | S | $4X10^{-9}$ | $2X10^{-5}$ |
| | | I | $3X10^{-9}$ | $2X10^{-5}$ |
| | Y-91m | S | $8X10^{-7}$ | $3X10^{-3}$ |
| | | I | $6X10^{-7}$ | $3X10^{-3}$ |
| | Y-91 | S | $1X10^{-9}$ | $3X10^{-5}$ |
| | | I | $1X10^{-9}$ | $3X10^{-5}$ |
| | Y-92 | S | $1X10^{-8}$ | $6X10^{-5}$ |
| | | I | $1X10^{-8}$ | $6X10^{-5}$ |
| | Y-93 | S | $6X10^{-9}$ | $3X10^{-5}$ |
| | | I | $5X10^{-9}$ | $3X10^{-5}$ |
| Zinc (30) | Zn-65 | S | $4X10^{-9}$ | $1X10^{-4}$ |
| | | I | $2X10^{-9}$ | $2X10^{-4}$ |
| | Zn-69m | S | $1X10^{-8}$ | $7X10^{-5}$ |
| | | I | $1X10^{-8}$ | $6X10^{-5}$ |
| | Zn-69 | S | $2X10^{-7}$ | $2X10^{-3}$ |
| | | I | $3X10^{-7}$ | $2X10^{-3}$ |
| Zirconium (40) | Zr-93 | S | $4X10^{-9}$ | $8X10^{-4}$ |
| | | I | $1X10^{-8}$ | $8X10^{-4}$ |
| | Zr-95 | S | $4X10^{-9}$ | $6X10^{-5}$ |
| | | I | $1X10^{-9}$ | $6X10^{-5}$ |
| | Zr-97 | S | $4X10^{-9}$ | $2X10^{-5}$ |
| | | I | $3X10^{-9}$ | $2X10^{-5}$ |
| Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours. | | Sub[2] | $3X10^{-8}$ | ------ |
| Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours. | | | $1X10^{-10}$ | $3X10^{-6}$ |

| Element (atomic number) | Isotope[1] | Column 1 Air (uCi/ml) | Column 2 Water (uCi/ml) |
|---|---|---|---|
| Any single radionuclide not listed above, which decays by alpha emission or spontaneous fission. | | $2X10^{-14}$ | $3X10^{-8}$ |

[1]Soluble (S); Insoluble (I).

[2]"Sub" means that values given are for submersion in a semi-spherical infinite cloud of airborne material.

[3]These radon concentrations are appropriate for protection from radon-222 combined with its short-lived daughters. Alternatively, this value may be replaced by one-thirtieth (1/30) of a "working level". (A working level is defined as any combination of short-lived radon-222 daughters, polonium-218, lead-214, bismuth-214, and polonium-214, in one liter of air, without regard to the degree of equilibrium, that will result in the ultimate emission of $1.3x10^5$ MeV of alpha particle energy.)

[4]For soluble mixtures of U-238, U-234 and U-235 in air chemical toxicity may be the limiting factor. If the percent by weight (enrichment) of U-235 is less than 5, the concentration value is 0.007 milligrams uranium per cubic meter of air. The specific activity for natural uranium is $6.77 \times 10^{-7}$ Curies per gram U. The specific activity for other mixtures of U-238, U-235 and U-234, if not known, shall be:

$SA = 3.6 \times 10^{-7}$ Curies/gram U U-depleted
$SA = (0,4 + 0.38\ E + 0.0034\ E^2)(10^{-6})$ $E \geq 0.72$

where E is the percentage by weight of U-235, expressed as percent.

APPENDIX A of Table 3

NOTE: In any case where there is a mixture in air or water of more than one radionuclide, the limiting values for purposes of this Appendix should be determined as follows:

1. If the identity and concentration of each radionuclide in the mixture are known, the limiting values should be derived as follows: Determine, for each radionuclide in the mixture, the ratio between the quantity present in the mixture and the limit otherwise established in Table III for the specific radionuclide when not in a mixture. The sum of sucn ratios for all the radionuclides in the mixture may not exceed "1" (i.e., "unity").

   Example: If radionuclides a, b and c are present in concentrations $C_a$, $C_b$ and $C_c$, and if the applicable MPC's are $MPC_a$, $MPC_b$ and $MPC_c$ respectively, then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_a}{MPC_a} + \frac{C_b}{MPC_b} + \frac{C_c}{MPC_c} \leq 1$$

2. If either the identity or the concentration of any radionuclide in the mixture is not known, the limiting values for purposes of Table III shall be:

   a. For purposes of Table II, Col. 1 . . . . . $2X10^{-14}$
   b. For purposes of Table II, Col. 2 . . . . . $3X10^{-8}$

3. If any of the conditions specified below are met, the corresponding values specified below may be used in lieu of those specified in paragraph 2 above.

   a. If the identity of each radionuclide in the mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the concentration limit for the mixture is the limit specified in Table III for the radionuclide in the mixture having the lowest concentration limit; or

   b. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in Table III are not present in the mixture, the concentration limit for the mixture is the lowest concentration limit specified in Table III for any radionuclide which is not known to be absent from the mixture; or

| c. Radionuclide | Column 1 Air ($\mu$Ci/ml) | Column 2 Water ($\mu$Ci/ml) |
|---|---|---|
| If it is known that Sr-90, I-125, I-126, I-129, I-131, (I-133 Table II only), Pb-210, Po-210, At-211, Ra-223, Ra-224, Ra-226, Ac-227, Ra-228, Th-230, Pa-231, Th-232, Th-nat, Cm-248, Cf-254 and Fm-256 are not present ------- | ------ | $3X10^{-6}$ |
| If it is known that Sr-90, I-125, I-126, I-129, (I-131, I-133, Table II only), Pb-210, Po-210, Ra-223, Ra-226, Ra-228, Pa-231, Th-nat, Cm-248, Cf-254 and Fm-256 are not present ---------- | ------ | $2X10^{-6}$ |
| If it is known that Sr-90, I-129, (I-125, I-126, I-131, Table II only), Pb-210, Ra-226, Ra-228, Cm-248 and Cf-254 are not present ---------- | ------ | $6X10^{-7}$ |
| If it is known that (I-129, Table II only), Ra-226 and Ra-228 are not present ---------- | ------ | $1X10^{-7}$ |
| If it is known that alpha-emitters and Sr-90, I-129, Pb-210, Ac-227, Ra-228, Pa-230, Pu-241 and Bk-249 are not present ---------- | $1X10^{-10}$ | ------ |
| If it is known that alpha-emitters and Pb-210, Ac-227, Ra-228 and Pu-241 are not present ---------- | $1X10^{-11}$ | ------ |
| If it is known that alpha-emitters and Ac-227 are not present ----- | $1X10^{-12}$ | ------ |
| If it is known that Ac-227, Th-230, Pa-231, Pu-238, Pu-239, Pu-240, Pu-242, Pu-244, Cm-248, Cf-249 and Cf-251 are not present ------ | $1X10^{-13}$ | ------ |

4. If the mixture of radionuclides consists of uranium and its daughter products in ore dust prior to chemical processing of the uranium ore, the values specified below may be used in lieu of those determined in accordance with paragraph 1 above or those specified in paragraphs 2 and 3 above.

   For purposes of Table III Column 1, $3 \times 10^{-12}$ uCi/ml gross alpha activity; $2 \times 10^{-12}$ uCi/ml natural uranium; or 3 micrograms per cubic meter of air natural uranium.

5. For purposes of this note, a radionuclide may be considered as not present in a mixture if (a) the ratio of the concentration of that radionuclide in the mixture ($C_a$) to the concentration limit for that radionuclide specified in Table III ($MPC_a$) does not exceed 1/10, (i.e., considered as not present in the mixture does not exceed 1/4, (i.e., $C_a/MPC_a + C_b/MPC_b + \ldots \leq 1/4$).

## DIVISION 60

## TRANSPORTATION OF RADIOACTIVE MATERIAL

**Definitions**

**345-60-001** For purpose of ORS 453.535 and as used in these rules:

(1) "Nuclear reactor fission products" means a mixture of radio-nuclides formed as a result of fission in a nuclear reactor. These fission products are normally present in spent nuclear fuel, radioactive wastes resulting from fuel reprocessing, and radioactive waste accumulated in the course of operation of nuclear reactor waste treatment systems.

(2) "Shipper" means a site certificate holder or other person originating a shipment of nuclear reactor fission products destined to move within or through the State of Oregon.

Stat. Auth.: ORS Ch.
Hist: NTEC 7, f. 2-20-74, ef. 3-11-74

**Applicability and Scope**

**345-60-003** (1) These rules apply to the shipment of nuclear reactor fission products, in quantities greater than 10,000 curies, within or through the State of Oregon.

(2) Shipments made by or under the direction of the U.S. Atomic Energy Commission or the Department of Defense, and which are escorted by personnel designated by or under the authority of those agencies, for the purpose of national security, are exempt from these rules.

(3) These rules are in addition to applicable rules and regulations of the United States Department of Transportation and the United States Atomic Energy Commission.

Stat. Auth.: ORS Ch.
Hist: NTEC 7, f. 2-20-74, ef. 3-11-74

**Notification**

**345-60-005** (1) All shipments as defined in rule 345-60-003(1), other than those exempted by rule 345-60-003(2), shall require prior notification to the Energy Facility Siting Council, addressed to Office of the Coordinator, Oregon Energy Facility Siting Council, Salem, Oregon 97310. Notification may be provided by either the shipper or the carrier. However, it shall be the carrier's responsibility to assure the required notification has been provided. This notification shall be made by telegram or registered mail at least five days, not including Saturdays, Sundays, and holidays, prior to shipment. The notification shall include the following information:

(a) Name and address of shipper, carrier, and consignee;

(b) Mode of transport;

(c) Type, quantity and form of radioactive material in each package, and the total quantity in the shipment;

(d) Description of the packaging, including amount and composition of any coolant, and applicable DOT container permit number;

(e) Identification numbers of trucks (both tractor and trailer identification) or trains (both train and specific rail car identification) being utilized in the shipment. It is recognized that in some cases specific identification of tractor, trailer, or rail cars may not be possible. In this event the most complete identification practicable shall be furnished.

(f) Date or dates of movement within Oregon and routes to be followed.

(2) In the event that revisions in the information required by (1)(a) through (f) above occur subsequent to the required notification, the revised information shall be immediately provided by telephone to the Office of the Coordinator, Energy Facility Siting Council.

(3) The Energy Facility Siting Council may, through any authorized representative, designate routes, hours of transport, check points on route, or other safety precautions for shipments requiring notification under these rules.

Stat. Auth.: ORS Ch.
Hist: NTEC 7, f. 2-20-74, ef. 3-11-74

**Inspections**

**345-60-007** Shipments requiring notification under these rules may be inspected by the Energy Facility Siting Council, through any authorized representative, for compliance with applicable rules and regulations.

Stat. Auth.: ORS Ch.
Hist: NTEC 7, f. 2-20-74, ef. 3-11-74

## DIVISION 70

## CONFIDENTIAL TREATMENT OF SECURITY PROGRAM INFORMATION

**Purpose**

**345-70-005** The purpose of these rules is to protect the confidentiality of information submitted to the Energy Facility Siting Council ("Council") and the Director of the Department of Energy ("Director") regarding security programs for nuclear-fueled power plants, nuclear installations, and the transportation of radioactive materials to and from such facilities, and, to the extent possible, maximize information available to the public regarding the nuclear fuel cycle.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 10, f. & ef. 12-23-75

**Legislative Authority**

**345-70-010** These rules are promulgated concurrently by the Council and the Director pursuant to their respective rulemaking authorities contained in ORS 453.505, 453.515, and Section 5(1)(d) of Chapter 606, Oregon Laws 1975, in order to implement their joint responsibility under ORS 453.535(3).

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 10, f. & ef. 12-23-75

**Definitions**

**345-70-015** (1) "Council" means the Energy Facility Siting Council established by Section 35a, Chapter 606, Oregon Laws 1975.

(2) "Director" means the Director of the Oregon Department of Energy.

(3) "Nuclear Installation" shall have the meaning set forth in ORS 453.305(11).

(4) "Person" shall have the meaning set forth in ORS 453.305(12).

(5) "Security Program" means any plan or procedure the primary function of which is to protect nuclear power plants, nuclear installations, transportation and storage of new or irradiated nuclear fuel elements, or transportation and storage of fissile material against any deliberate act which could directly endanger the public health and safety including exposure to radiation, including, but not limited to, the means for:

(a) controlling entry to the site or portions of the site of fixed installations;

(b) deterring or discouraging penetrations of sites or carriers by unauthorized persons;

(c) detecting such penetrations in the event they occur;

(d) apprehending in a timely manner unauthorized persons or authorized persons acting in a manner constituting a threat of sabotage or theft;

(e) providing for appropriate authorities to take custody of violators.

(6) "Fissile Material" means fissile plutonium, uranium-233, and uranium-235 in any combination sufficient to cause (gm Pu/200 gm) + (gm U-233/200 gm) + (gm U-235 (contained in uranium enriched to more than 20% in U-235)/350gm) to be greater than unity.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 10, f. & ef. 12-23-75

**Confidential Treatment Required**

**345-70-020** Information submitted by any person pursuant to ORS 453.535(3) for review and approval by the Council and Director shall, to the extent it falls within the definition of "security program" in rule 345-70-015(5), be received and maintained in strict confidentiality. The Council and Director shall take all reasonable precautions to:

(1) limit the number of persons within the Department of Energy having access to such information; and

(2) physically safeguard such information.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 10, f. & ef. 12-23-75

**Releases of Non-Confidential Information**

**345-70-025** In reviewing information submitted to them under ORS 453.535(3), the Council and Director shall jointly determine whether specific portions of such information are not within the definition of "security program" combined in rule 345-70-015(5), and promptly arrange for the physical segregation and public availability of all information not entitled to confidential treatment.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 10, f. & ef. 12-23-75

**Public Statement Vs. Security Program**

**345-70-030** Upon completing their review and approval of a security program and modifications to the program, the Council and Director shall promptly issue a joint statement which describes, without directly or indirectly breaching the confidentiality of the security program:

(a) the nature and scope of the review conducted,

(2) the adequacy of the security program, and

(3) a general description of the security measures.

In the event of discovery of noncompliance with approved security programs, the Council and Director will issue a joint statement describing the general nature of the noncompliance. However, this statement shall not directly or indirectly breach the confidentiality of the security program.

**Stat. Auth.:** ORS Ch.
**Hist:** EFSC 10, f. & ef. 12-23-75

## DIVISION 75

## GENERAL STANDARDS FOR ISSUANCE OF SITE CERTIFICATES

**Purpose**

**345-75-010** The purpose of these rules is to establish general standards that applicants for site certificates must meet. The council will apply the general standards in reaching a decision for or against issuance of a site certificate for the construction and operation of an "energy facility" and its "related or supporting facilities", as those terms are defined in ORS 469.300(10) and (13), respectively. The same general standards will be applied by the Council in deciding whether an existing site certificate should be amended to the extent and in the manner amendment is authorized by the site certificate. When the Council deems necessary and appropriate, it will adopt additional or more specific standards. Rules will be adopted sufficiently in advance of the close of testimony at a hearing to allow the parties to address the rule, or if after the close of testimony, in sufficient time to allow the parties and opportunity to supplement their testimony to offer evidence relating to the new rule.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 18, f. & ef. 9-2-77

**Interpretation and Definitions**

**345-75-015** (1) Interpretation:

(a) These rules shall be interpreted so as to effectuate the purposes of ORS 469.300 through 469.570, 469.990, and 469.992 governing energy facility siting in Oregon. The fundamental policy of the law is set out in ORS 469.310.

(b) For the purposes of sections 345-75-025(2), (3), and (4), in determining what is "reasonably practicable", the Council will reach a conclusion in most cases by finding whether a proposed facility complies with the requirement of other agencies, such as the Federal Nuclear Regulatory Commission of the Oregon Department of Environmental Quality. See ORS 469.400.

(2) Definitions:

(a) The definitions set out in ORS 469.300 (1975), as amended by Section 1 of B-Engrossed Senate Bill 272, are hereby incorporated as the definitions to be used in interpreting these rules, unless a particular term is otherwise specifically defined within the terms of these rules.

(b) The term "facility" means an energy facility and its related or supporting facilities.

(c) The term "operation" of a facility includes the accumulation, storage, transportation and disposal of waste and by-products from such facility.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 18, f. & ef. 9-2-77

**Affirmative Recommendation — Criteria**

**345-75-020** The Council will make a determination as to whether each of its applicable standards, including any additional or more specific standards than those contained herein, has been met by an applicant for a site certificate. If such standards are met, the Council will approve the application for a site certificate.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 18, f. & ef. 9-2-77; EFSC 6-1978, f. & ef. 5-22-78

**Mandatory Findings**

**345-75-025** In order to carry out the policy directive of ORS 469.310, the Council shall approve the application for the site certificate only if it finds that:

(1) There will be a need for the proposed energy facility based, upon evidence that:

(a) There will be a demand for the energy to be supplied by the proposed energy facility, demonstrated by demand forecasting evidence which:

(A) Identifies the contribution of major customer classes to total demand; and

(B) Explains how total demand results from assumptions made regarding various factors which influence energy demand including, but not limited to, population levels, personal income levels, employment levels, energy prices and the effects of conservation and alternative energy programs likely to be in effect during the demand forecasting period.

(b) The proposed facility is a prudent method of meeting all or a part of the demand from an economic cost standpoint, taking into account the energy supply system of which it will be a part and other alternatives reasonably available to the applicant. For the purposes of this rule, alternatives include but are not limited to conservation and energy production and generation methods or facilities not regulated by the Council.

(2) Risk of injury to the public health and safety in Oregon, or in adjacent areas that might be directly impacted, from the construction, operation, or retirement of the facility will be reduced to that extent which is reasonably practicable. For the purposes of this section, "operation" of the facility includes:

(a) Those items specified in rule 345-75-015(2)(c);

(b) Abnormal operation or malfunction of the facility's systems or equipment;

(c) Adverse impacts upon the facility resulting from reasonably foreseeable natural events;

(d) Acts of theft from or sabotage at the facility;

(e) Interaction of the facility with existing activities carried on in its vicinity.

(3)(a) Reasonably foreseeable disruption to and adverse impacts upon the environment in Oregon, or in adjacent areas that might be directly impacted, including, but not limited to, those caused by discharges of chemicals, waste, heat, moisture, sanitary wastes, and radioactivity from the construction, operation, and retirement of the facility will be reduced to that extent which is reasonably practicable.

(b) With respect to site certificate applications filed prior to July 1, 1975, the proposed plant is not the location of an endangered plant or species, as defined in 50 CFR Part 17 as of January 20, 1978, whose continued existence would be significantly threatened by construction on the site.

(c) With respect to site certification applications filed after July 1, 1975, construction and operation of the proposed facility will not jeopardize the continued existence of any of the following species, or destroy habitat critical to continued existence of these species:

(A) Wildlife:

(i) Deer, Columbian white-tailed *(Odocoileus virginianus leucurus)*,

(ii) Wolf, Gray *(Canis lupus)*,

(iii) Eagle, Bald *(Haliaeetus leucocephalus)*,

(iv) Falcon, American peregrine *(Falco peregrinus anatum)*,

(v) Falcon, Arctic peregrine *(Falco peregrinus tundrius)*,

(vi) Goose, Aleutian Canada *(Branta canadensis leucopareia)*,

(vii) Pelican, brown *(Pelecanus occidentalis)*,

(viii) Butterfly, Oregon silverspot *(Speyeria zerene hippolyta)*;

(B) Plants;

(C) Any of the fifty-one species proposed by the Fish and Wildlife Service as endangered in Oregon by publication in the **Federal Register** (41 FR 24524; June 16, 1976).

NOTE: The species identified in subsection (c) consist of endangered and threatened wildlife and plants listed as of October 1, 1978, in 50 CFR Part 17 with a range which includes Oregon, and species in Oregon proposed by the Fish and Wildlife Service for addition to the list in 50 CFR Part 17 as published in the **Federal Register**.

(4) The applicant will make beneficial use of wastes and by-products produced by construction and operation of the proposed facility, including, but not limited to, heat, to the extent that such beneficial use is reasonably practicable.

(5)(a) With respect to site certificate applications filed after July 1, 1975, siting, construction, and operation of the proposed facility will be carried out in conformance with state-wide planning goals and in conformance with comprehensive land use plans and zoning ordinances of political subdivisions in which the facility is to be located in effect on the date of filing of the notice of intent or the application for the facility, whichever is earlier.

(b) With reference to any site certificate application filed prior to July 1, 1975, siting, construction, and operation of the proposed facility will be carried out in conformance with state-wide planning goals and in conformance with comprehensive land use plans and zoning ordinances of political subdivisions in which the facility is to be located in effect on the effective date of this rule.

(6) Construction and operation of the proposed facility will be conducted in a manner to avoid adverse impacts upon historic or archaeological sites, to the extent that relocation of the facility on the site can be accomplished consistent with the Council's other standards.

(7) The requirements for water used in construction and operation of the facility can be met without infringing upon the existing water rights of other persons.

(8) The applicant has the organizational, managerial, and technical expertise to construct, operate, and retire the proposed facility. To this end, the applicant shall present evidence relating to:

(a) The applicant's previous experience, if any, in constructing, operating, and retiring similar facilities;

(b) The qualifications of the applicant's personnel who will be responsible for constructing, operating, and retiring the facility; and

(c) The qualifications of any architect-engineer, major component vendor, or prime contractor upon whom the applicant will rely in constructing, operating, and retiring the facility.

(9) The applicant, together with all co-owners, possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs, operating costs for the design lifetime of the facility, including, but not limited to, related fuel cycle costs, and the estimated costs of retiring the facility.

(10)(a) The applicant has identified the major and reasonably foreseeable socio-economic impacts on individuals and communities located in the vicinity of the proposed facility resulting from construction and operation, including, but not limited to, anticipated need for increased governmental services or capital expenditures.

(b) The affected area can absorb the projected industrial and population growth resulting from construction and operation of the facility.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 18, *f. & ef.* 9-2-77; EFSC 19, *f. & ef.* 12-30-77; EFSC 6-1978, *f. & ef.* 5-22-78; EFSC 7-1978, *f. & ef.* 7-21-78; EFSC 2-1979, *f. & ef.* 8-1-79

## DIVISION 76

## SPECIFIC STANDARDS FOR THE SITING OF THERMAL ENERGY FACILITIES IN OREGON

**Purpose**

**345-76-010** These rules supplement general standards previously adopted by the Council for the siting of energy facilities, OAR 345-75-010 through 345-75-025.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 20, f. & ef. 12-30-77

**Applicability**

**345-76-012** (1) These rules are applicable to site certificate applications for all types of thermal energy facilities, except in those instances where a specific rule, by its own terms, is made applicable to a specified type of thermal energy facility.

(2) These rules will be applied by the Council, in conjunction with the general standards previously adopted, in reaching a decision whether to grant or deny issuance of a site certificate for a thermal energy facility or whether an existing site certificate should be amended, to the extent and in the manner amendment is authorized by the terms of the site certificate.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 20, f. & ef. 12-30-77

**Interpretation**

**345-76-015** (1) These rules shall be interpreted so as to carry out the purposes of ORS 469.300 through 469.570, 469.990, and 469.992 governing energy facility siting in Oregon. The fundamental policy of that law is set out in ORS 469.310.

(2) In the event of a conflict between these rules and the General Standards set out in OAR 345-75-010 through 345-75-025, the requirement of these rules shall prevail.

(3) An applicant who satisfies the standards set forth herein on the subjects of public health and safety, ability to construct and operate, and financial ability shall be deemed to have satisfied the General Standards of such subjects.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 20, f. & ef. 12-30-77

**Definitions**

**345-76-020** (1) The definitions set out in ORS 469.300 (1975), as amended by Section 1, Chapter 796 Oregon Laws 1977, are hereby incorporated as definitions for these rules, unless a particular term is otherwise specifically defined in these rules.

(2) The term "operation" of a facility includes its normal operation and the accumulation and storage of wastes generated thereby.

(3) The term "facility" means a thermal power plant and its related or supporting facilities.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 20, f. & ef. 12-30-77; EFSC 1-1978(Temp), f. & ef. 1-5-78; EFSC 3-1978, f. & ef. 2-21-78

**Economic Prudence — Cost Analysis**

**345-76-025** In determining whether a proposed thermal energy facility meets the requirements of OAR 345-75-025(1)(b), the Council will require a cost analysis demonstrating the economic prudence of the proposed facility or its alternative. The cost analysis must:

(1) Include an analysis of the load characteristics of the applicant and its co-owners' customers using a monthly load duration curve or weekly load duration curves characteristic of a month and of the impact upon load characteristics of the customers of the applicant and co-owners expected to result from the following factors during the demand forecast period:

(a) Changing end uses of energy,

(b) Load management practices,

(c) Conservation,

(d) Economic and demographic trends, and

(e) Impacts of composite West Group load profiles.

(2) Include a demonstration that the resources of the applicant and co-owners including the proposed facility or an alternative are designed to:

(a) Meet the applicant and co-owners' energy requirements during the critical water periods, as defined in Section 2, Part I., of the Agreement for Co-Ordination and Operations Among Power Systems of the Pacific Northwest, Contract No. 14-02-4822; and

(b) Maintain sufficient peak load capacity so that the planned annual loss of load probability for the system on which the applicant and the co-owners contractually rely shall not be greater than the equivalent of one day in 20 years.

The demonstration must address the following variables:

(A) load characteristics including the impact of factors listed in (1) above;

(B) characteristics of existing and proposed generating units, including unit sizes, maintenance schedules, forced outage rates and other operating constraints;

(C) the availability of purchases or exchanges or power;

(D) possible delays in the proposed facility and other planned generation.

(3) Include incremental production and investment costs attributable to the proposed facility, or alternative, including:

(a) Incremental fuel, operations and maintenance costs over at least the first ten years of the lifetime of the proposed facility with the following items individually addressed:

(A) fixed and variable fuel and operating and maintenance costs of individual generating units;

(B) purchase and sale of power;

(C) availability of hydrogeneration using an historic range of water flow conditions;

(D) standard operating constraints;

(E) estimated transmission losses;

(F) mitigation costs for identifiable social, health, safety, and environmental impacts.

(b) Incremental capital costs as borne by the applicant and co-owners' ratepayers over at least the first ten years of the facility's lifetime, with the following items individually addressed:

(A) the initial capital cost of the facility or alternative, including mitigation costs for identifiable social, health, safety, and environmental impacts;

(B) costs of retirement or decommissioning;

(C) capital costs for transmission facilities.

(c) Mitigation costs discussed in (3)(a)(F) and (3)(b)(A) above shall be considered for the applicants and co-owners' system.

[**Publications:** The publication(s) referred to or incorporated by reference in this rule is available from the office of Secretary of State or Energy Facility Siting Council.]

**Stat. Auth.:** ORS Ch. 469.
**Hist:** EFSC 20, f. & ef. 12-30-77; EFSC 1-1978(Temp), f. & ef. 1-5-78; EFSC 3-1978, f. & ef. 2-21-78

**Economic Prudence — Calculational Techniques**

**345-76-026** In determining and assigning economic costs as required in preparing the cost analysis required under rule 345-76-025, the method shall contain:

(1) A calculation of the present worth of costs determined under rule 345-76-025 using the standard method of present worthing;

(2) A weighting of costs determined under OAR 345-76-025(3)(a) by the probability of occurrence of historical stream flow conditions; and

(3) A summation of the annual production and capital costs over at least the first ten years of operation.

Stat. Auth.: ORS Ch. 496
Hist: EFSC 20, f. & ef. 12-30-77; EFSC 1-1978(Temp), f. & ef. 1-5-78; EFSC 3-1978, f. & ef. 2-21-78

**Economic Prudence — Available Alternative**

345-76-027 (1) An alternative will be considered reasonably available within the terms of General Standards OAR 345-75-025(1)(b) if suppliers exist who can provide the necessary materials and equipment to enable construction of the alternative facility to be completed, and for the alternative to become operational within that time period allotted for construction and commencement of operation of the applicant's and co-owners' proposed facility, and the alternative can meet all or part of the requirements of the applicant's and co-owners' demand forecast. If the alternative does not involve construction, it will be considered reasonably available if it can be implemented within the time allotted for construction and commencement of operations of the applicant's and co-owners' proposed facility.

(2) The applicant and co-owners shall discuss in detail in the site certificate application the reason for its determination that an alternative is not reasonably available.

(3) If a party to a site certification proceeding believes that alternatives other than those set forth in the site certificate application are reasonably available to the applicant and co-owners, it has the burden of going forward with evidence to establish that such alternatives are in fact reasonably available to the applicant and co-owners, and, by using the method of analysis specified in rules 345-76-025 and 345-76-026, that such alternatives are economically prudent.

Stat. Auth.: ORS Ch. 496
Hist: EFSC 20, f. & ef. 12-30-77

**Specific Standards Relating to OAR 345-75-025(2), Public Health and Safety — Assumptions and Methods for Nuclear-Fueled Thermal Power Plants**

345-76-029 In determining whether a proposed nuclear-fueled thermal power plant satisfies the requirements of the standards set forth herein on the subject of risk to public health and safety, the Council will accept, where applicable, the assumptions and methods used or approved by the NRC in evaluating compliance with NRC regulations in the absence of clear and convincing evidence that the use of such assumptions and methods will not adequately protect the health and safety of the citizens of Oregon.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 2-1978, f. & ef. 1-20-78

**Specific Standards Relating to OAR 345-75-025(2), Public Health and Safety — Nuclear Safety Requirements**

345-76-030 In order to find that a proposed nuclear-fueled thermal power plant satisfies the requirements of OAR 345-75-025(2) the Council must find that:

(1) During normal operations of the facility the radiation dose to any individual in an unrestricted area from all pathways will not exceed 3 millirem per year, total body dose, from liquid effluents; 5 millirem per year, total body dose, from gaseous effluents; or 15 millirem per year to any organ from radioactive iodine or particulate releases in gaseous effluents.

(2) Security measures at the facility will be capable of providing protection against industrial sabotage, which could result in uncontrolled release of radioactivity, by a determined violent extended assault, attack by stealth, or deception of several persons with the following attributes, assistance, and equipment:

(a) Well-trained and dedicated individuals,

(b) Inside assistance,

(c) Automatic weapons,

(d) Hand-held equipment, including incapacitating agents and explosives.

(3) The facility will be provided with an emergency core-cooling system which will be designed so that its calculated cooling performance, following a postulated loss of coolant accident, will ensure the maximum fuel element cladding temperature does not exceed 2200° F. A loss-of-coolant accident is defined as a break in coolant pipes up to and including a break equivalent to the double-ended rupture of the largest pipe in the reactor coolant system.

(4) In the event of an abnormal occurrence resulting in the release of radioactive material from the facility, an individual continuously located at any point on the outer boundary of the low-population zone will not receive a whole body radiation dose in excess of 25 rem or a dose to the thyroid in excess of 300 rem, due to iodine exposure, assuming that 25% of the radioactive iodine and 100% of the radioactive noble gas developed from maximum power operation are released into the nuclear containment.

(5) The applicant will possess an emergency plan for coping with emergencies within the boundaries of the facility site and in the environs of the site. The emergency plan will assign responsibility for emergency action inside the site boundary to the applicant. The emergency plan will assign responsibility for emergency action outside the facility site boundary to appropriate local, state, and federal agencies in cooperation with the applicant.

(6) Spent fuel storage systems will be designed to:

(a) Prevent loss of water from the fuel pool that would uncover fuel,

(b) Protect fuel from mechanical damage,

(c) Provide the capability for limiting the potential off-site exposure so that an individual continuously located at any point on the outer boundary of the low-population zone will not receive a whole-body dose in excess of 25 rem or a dose to the thyroid in excess of 300 rem, due to iodine exposure, assuming all the activity in the fuel rod gaps has been released from one fuel assembly.

(7) Spent fuel will be shipped in a container such that, if the following hypothetical accident occurs, radiation levels 3 feet from the external surface of the container will not exceed 1 rem per hour, no more than 0.1 percent of the total radioactivity of the container will be released, no more than 1000 curies of inert gases will be released, and the contents of the container will remain subcritical:

(a) A free drop of 30 feet onto a flat unyielding surface, striking the surface in a position for which maximum damage is expected,

(b) A free drop of 40 inches onto a vertical six-inch diameter rod which is at least 8 inches long,

(c) Exposed to a heat equivalent of an oil fire (defined to be 1475° F. for at least 30 minutes), then,

(d) All portions immersed under at least 3 feet of water for at least 8 hours.

(8) The facility can be dismantled and removed from the site in a manner consistent with OAR 345-75-025(2) and (3).

Stat. Auth.: ORS Ch. 469
Hist: EFSC 20, f. & ef. 12-30-77

**Specific Standards Relating to OAR 345-75-025(2), Public Health and Safety — Residual Risks of Nuclear-Fueled Thermal Power Plants**

345-76-032 Residual risk to the public arising from

operation of the facility after compliance with sections (1) through (7) of rule 345-76-030 will not be undue. Risks to the public will be considered to the extent that individuals residing in adjacent areas might be directly impacted. To demonstrate this, a residual risk analysis must be provided, including a generic review of pressurized water or boiling water reactor, as appropriate, safety which must:

(1) Treat various sources of risk including those arising from operation of the facility as defined in OAR 345-75-025(2)(b) through (e), and from personnel error and inadequate quality control;

(2) Assess probabilities of an adverse occurrence based on historical experience; and

(3) Assess consequences of a representative kind of adverse occurrence, taking into account meteorological conditions, population densities and distribution, and pathways for radiological exposure to man; and

(4) Relate the degree of residual risk occasioned by operation of the facility to the degree of risk posed by coal-fired thermal facilities, tornadoes, hurricanes, meteor impacts, earthquakes, airline crashes, dam failures, and accidental release of chlorine.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 2-1978, f. & ef. 1-20-78

**Specific Standards Relating to OAR 345-75-025(2), Public Health and Safety — Requirement for All Thermal Power Plants**

**345-76-035** In order for the Council to conclude that a proposed facility meets the requirements of OAR 345-75-025(2), the Council must find that:

(1) Techniques and installations will be available to assure that fuel waste or by-product material from operation of the facility can be treated and disposed of in a manner that will permit unrestricted use of the site after the useful life to the facility, and

(2) Any earthfilled dams to be built in association with an energy facility are:

(a) Capable of withstanding, without failure, reasonably expected loads; and

(b) Capable of being dewatered and refilled to permit any needed repairs to it or related cooling water systems in a manner consistent with the safety of persons and property interests downstream.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 2-1978, f. & ef. 1-20-78

**Additional Environmental Impact Standard Under OAR 345-75-025(3)**

**345-76-037** [EFSC 2-1978, f. & ef. 1-20-78; Repealed by EFSC 2-1979, f. & ef. 8-1-79]

**Specific Standards Relating to OAR 345-75-025(8), Ability to Construct, Operate, and Retire**

**345-76-040** In order for the Council to conclude that an applicant has the organizational, managerial, and technical expertise to construct, operate, and retire the proposed facility, the applicant must:

(1) In those instances where the applicant has not previously designed and constructed a nuclear facility, demonstrate to the Council that it will employ an architect-engineer that has design and construction experience with a similar facility to design and construct the proposed facility.

(2) Demonstrate that it will establish and implement a formal procedure that will document deviations from normal written operating procedure and classify those deviations as procedural, design, or personnel related, and that will require corrective action to be identified and reviewed by appropriate off-site engineering and management personnel.

(3) Demonstrate that it will establish and implement on-site radiological and quality control organizations which report directly to the plant superintendent and an off-site organization, independent of personnel responsible for power production, with authority to compel any changes at the facility it determines necessary for its operational safety, including shutdown of the facility.

(4) Demonstrate that it will establish and implement a training program for all company personnel who possess authority to override recommendations by the plant superintendent relating to safety of a nuclear facility, which consists of in-plant training or its equivalent, and relates to specific subject matter areas such as system design, operation and maintenance and safety related requirements and their bases.

(5) Demonstrate it will establish and implement a training program for facility operators and their supervisory personnel, which will include in-plant training in the subjects of system design, operation and maintenance, effluent control and safety related requirements and their bases. Operators partaking in initial facility startup and testing shall have operating experience in a similar facility.

(6) Demonstrate that it possesses or will execute a binding written agreement, in those instances where the applicant will share ownership of the facility, which commits each owner to:

(a) Comply with ORS Chapter 469, all applicable rules of the Council and all conditions and warranties in the site certificate authorizing siting of the particular facility,

(b) Assign responsibility for facility operation to a designated organization or group,

(c) Abide by a designated procedure for arbitrating disagreements among the co-owners that concern facility operation and management, and

(d) Notify the Council when arbitration is required for disputes relating to facility safety.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 2-1978, f. & ef. 1-20-78

**Specific Standards Relating to OAR 345-75-025(9), Financial Ability**

**345-76-045** The Council will find that the requirements of OAR 345-75-025(9) have been met if:

(1) Applicants and co-owners of the facility will be capable of providing funds as needed to construct, operate, and retire the facility without violating their respective bond indenture provisions, articles of incorporation, common stock covenants, or similar agreements.

(2) Investor-owned co-owners of the facility will have a capitalization containing no less than thirty percent equity, and

(3)(a) A co-owner which is a cooperative has loan commitments, Rural Electrification loan guarantees or other sources of funds sufficient to pay the cooperative's share of the estimated costs of construction of the proposed facility, and has contracts for sale of output from the proposed facility or has rate adjustment provisions in its members' contracts to provide revenue sufficient to retire debt incurred in construction and to operate and retire the facility,

(b) A co-owner which is a public body has legal authority to expend funds, or issue bonds, notes, or other evidences of indebtedness in an amount sufficient to pay its share of the estimated cost of construction, and that it has sales contracts for sale of the power output from the proposed facility or has rate covenants sufficient to retire debt incurred in construction and to operate and retire the proposed facility.

**Stat. Auth.:** ORS Ch. 469
**Hist:** EFSC 2-1978, f. & ef. 1-20-78

## DIVISION 80

## SPECIFIC STANDARDS FOR THE SITING OF TRANSMISSION LINES IN OREGON

**Purpose**

**345-80-010** These rules supplement general standards previously adopted by the Council for the siting of energy facilities, OAR 345-75-010 through 345-75-025.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Applicability**

**345-80-012** (1) These rules are applicable to site certificate applications for a "transmission line" and "related or supporting facilities", as those terms are defined in rule 345-80-025.

(2) These rules shall be applied by the Council, in conjunction with the general standards previously adopted, in reaching a decision whether to grant or deny issuance of a site certificate for a transmission line and related facilities, or whether an existing site certificate should be amended, to the extent and in the manner amendment is authorized by the terms of the site certificate, and ORS 469.300 to 469.580, 469.990, and 469.992.

(3) "Existing corridor" as used in ORS 469.300(10)(c) means the right-of-way of an existing transmission line.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Interpretation**

**345-80-015** (1) These rules are authorized under ORS 469.470(3) and shall be interpreted so as to carry out the purposes of ORS 469.300 through 469.570, 469.990, and 469.992 governing energy facility siting in Oregon. The fundamental policy of that law is set out in ORS 469.310. All references to Oregon Revised Statutes (ORS) are to the 1977 Replacement Part.

(2) In the event of a conflict between these rules and the general standards set out in OAR 345-75-010 through 345-75-025, the requirement of these rules shall prevail.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Application Form and Other Administrative Requirements**

**345-80-020** (1) With the exception of maps, an application for a site certificate for a transmission line shall be prepared generally on paper sheets 8-1/2 inches by 11 inches, in loose-leaf form within a hard binder. Thirty-five (35) copies shall be provided.

(2) Information presented in an application shall be preceded by the text of the rule, or section thereof, being addressed.

(3) If portions of the information required by this rule are not applicable or not available, the application shall indicate the reason for the failure to provide the requested information. As such information becomes available or changes occur in information presented in the application, appropriate amendments to the application shall be provided to the Council. Amendments shall be in the form of page-for-page substitution.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Approvals by Other Governmental Agencies**

**345-80-021** An applicant for a site certificate for a transmission line shall:

(1) Provide a listing of federal permits, licenses, and certificates necessary to construction and operation of the transmission line, and the status thereof. Copies of all such documents, if issued, shall be appended to the application.

(2) Identify and categorize as follows all state and local government permits, licenses, and certificates required for the construction and operation of the transmission line:

(a) Required prior to the expiration of the 12-month statutory time period for state evaluation of a site certificate application (ORS 469.370(3)(d)).

(b) Required concurrent with state site certification.

(c) Required subsequent to state site certification.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Definitions**

**345-80-025** (1) The definitions set out in ORS 469.300 are hereby incorporated as the definitions to be used in interpreting these rules, unless the context requires otherwise or a term is specifically defined within these rules.

(2) "Transmission line" means a high voltage transmission line of more than 10 miles in length with a capacity in excess of 230,000 volts, to be constructed in more than one political subdivision in this state; but excluding lines proposed for construction entirely within 500 feet of an existing corridor occupied by high voltage transmission lines with a capacity in excess of 230,000 volts (ORS 469.300(10)(c)).

(3) "Related or supporting facilities" means any structure adjacent to and associated with an energy facility, including associated transmission lines, reservoirs, intake structures, road and rail access, pipelines, barge basins, office or public buildings, and commercial and industrial structures proposed to be built in connection with the energy facility (ORS 469.300(14)). As used in this rule, structures adjacent to and associated with a transmission line include substations, switching stations, and storage areas proposed to be built in connection with the transmission line; but exclude existing electrical transmission systems, existing facilities generating power that would be carried by the line, and generating facilities covered by a separate concurrent site certificate application.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Additional Standards Under OAR 345-75-025(1)(a), Demand for Energy**

**345-80-030** In order to find that there will be a demand for the energy to be supplied by the proposed transmission line the Council must find, in addition to the required findings of OAR 345-75-025(1)(a), that:

(1) The proposed transmission facility is needed in order to carry peak demand on applicant's system, which is reasonably expected to occur, while maintaining a prudent level of reliability for applicant's service area.

(2) That no alternative terminal points would result in clearly superior system reliability.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Specific Standards Relating to OAR 345-75-025(1)(b), Economic Prudence**

**345-80-031** In determining whether a proposed facility meets the requirements of OAR 345-75-025(1)(b), the Council shall require a cost analysis demonstrating the economic prudence of the proposed facility compared with the following alternatives, or combinations thereof, to meet the power needs of the area:

(1) Local power generation.

(2) Upgrading existing facilities.
(3) Load management.
(4) Conservation.
(5) Technical alternatives to the type of transmission proposed.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Specific Standards Relating to OAR 345-75-025(2), Public Health and Safety**

**345-80-035** In order for the Council to conclude that a proposed facility meets the requirements of OAR 345-75-025(2), the Council must find that:

(1) Noise resulting from operation of the transmission lines and related facilities will not violate standards specified by the Oregon Department of Environmental Quality in Oregon Administrative Rules, Chapter 340, Division 35, Noise Control Regulation as of the effective date of these rules.

(2) Electrical fields resulting from the transmission line and related facilities in areas accessible to the public will be as low as reasonably achievable.

(3) Design and operation of the line and related facilities will result in induced currents as low as reasonably achievable, and that there is a program which provides reasonable assurance that all fences, gates, cattleguards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity will be grounded through the life of the line.

(4) The transmission line will be designed, constructed, and operated in a manner meeting the 1977 edition of the National Electrical Safety Code (American National Standards Institute, Section C2, 1977 edition).

(5) Interference with radio and television signals from local stations resulting from the proposed line near Interstate, U.S., and state highways and near existing residences will be as low as practical.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the office of Secretary of State or the Energy Facility Siting Council.]

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Specific Standards Relating to OAR 345-75-025(3), Environmental Impact — Routing**

**345-80-040** In order for the Council to conclude that a proposed facility meets the requirements of OAR 345-75-025(3), the Council must find that no alternative to the proposed route between identified terminals is considered to be superior as a result of using the following process:

(1) The applicant has evaluated reasonable alternative routes and has identified the route with the least overall environmental impact, with particular consideration given to avoiding the location of threatened and endangered species, maximizing the use of existing utility and transportation corridors, minimizing installation on or disturbance of crests and steep slopes, avoiding areas where wildlife and migratory bird flight paths would be significantly impacted, and avoiding areas of critical environmental concern as listed in subsection (4)(b) of this rule.

(2) The applicant has presented reasonable justification for every portion where the proposed route departs from the environmentally superior route identified in section (1) of this rule; factors that can be considered to justify such a departure include construction difficulty and cost, operating inefficiencies, safety concerns, and economic impact on forest and agricultural crops.

(3) As appropriate, the applicant has presented a reasonable plan for the mitigation of unavoidable adverse environmental impacts resulting from the construction and operation of the proposed transmission line. Such plan may include, but need not be limited to, restoration of previous environmental damage, creation of alternative wildlife and migratory bird habitats, restoration of alternative forest and agricultrual lands, etc. Mitigation, however, shall not be used as the sole justification for impacts which do not meet the standards in sections (1) and (2) of this rule.

(4) In support of the analyses required in sections (1), (2), and (3) of this standard, the applicant has submitted one or more maps, all to the same scale of at least 1:500,000, containing the following information for the general area between the terminal points of the proposed transmission line:

(a) Topography, including contour lines, and lakes, streams, and rivers.

(b) Natural resource areas, including U.S. Park Service lands; lands designated by the U.S. Forest Service or the U.S. Bureau of Land Management as wilderness areas, wilderness study areas, roadless areas, geologic areas, historic areas, botanical areas, research natural areas, and recreation areas; state natural area preserves; scenic waterways as described in ORS 390.825, and federal wild and scenic rivers as defined in Public Law 90-542, 1968; state-designated wildlife management areas, and national wildlife refuges designated by the U.S. Fish and Wildlife Service; experimental areas designated by the Rangeland Resources Program, School of Agriculture, Oregon State University; and state parks and waysides.

(c) Existing corridors, including but not limited to transmission lines, improved roads, railroads, and pipelines.

(d) Current and planned land uses, including but not limited to forests, agriculture, range lands, population centers, and airports.

(e) Land ownership by class — federal, state, local government, and private.

(f) Habitats of threatened and endangered species, as defined in 50 CFR Part 17, as of the effective date of these rules, whose continued existence would be significantly threatened by construction and operation of the transmission line.

(5) As a further definition of the proposed route the applicant has identified and justified the outer bounds within which the corridor can be located without need to amend the site certificate.

Stat. Auth.: ORS Ch. 469
Hist: EFSC 8-1978, f. & ef. 11-17-78

**Specific Standards Relating to OAR 345-75-025(3), Environmental Impact — Design, Construction, and Operation**

**345-80-041** In order for the Council to conclude that a proposed facility meets the requirements of OAR 345-75-025(3), the Council must find that:

(1) Where visually sensitive, transmission towers and conductors will be constructed with non-reflective surfaces and utilize shapes harmonious with surrounding environs, except that reflective surfaces will be used where required for safety.

(2) Adequate consideration has been given to the costs and benefits which would result from building portions of the line underground in urban areas, at river crossings, in scenic areas, in areas particularly noted for their recreation potential or wildlife habitat, and in areas where the impact of the line on agricultural activities is seriously adverse.

(3) The right-of-way will be constructed and maintained to reduce visual impact and provide wildlife benefits by:

(a) Encouraging the development and management of native plant communities beneficial to wildlife populations.

(b) Retaining in the right-of-way trees whose natural growth height is less than 16 feet.

(PART D: TRANSPORTATION)

(ED. NOTE: The rules of this Part were adopted by the Public Utility Commissioner effective August 23, 1979. They are included herein for reference only and may be amended, repealed, or superseded as provided under the rules of the Commissioner.)

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860-36-060 GENERAL PROVISIONS; DEFINITIONS.

(1) These rules are in addition to rules adopted by the Oregon Department of Environmental Quality (OAR 340-63-006 through 340-63-435).

(2) As used herein:

(a) "transporter" means a motor carrier engaged in the transportation of 2,000 pounds or more of hazardous waste but does not include persons who transport only empty containers or hazardous waste which is managed under OAR 340-63-135.

(b) "manifest" shall have the meaning given that term in ORS 459.410.

(c) "generator" shall have the meaning given that term in ORS 459.410.

(d) "hazardous waste management facility" means a hazardous waste collection, treatment, or disposal site; or the solid waste landfill that has been licensed to dispose of a specified hazardous waste pursuant to ORS 459.510(3) and OAR Chapter 340, Divisions 62 and 63.

(e) "incident" includes, but is not limited to, a spill during loading, transport, or unloading of hazardous waste, breakage or leakage of a container, or fire.

(f) "hazardous wastes" include those commodities defined in ORS 459.410(6). NOTE: Tank rinsings shall be considered a hazardous waste unless exempted under OAR 340-63-100 to 63-135.

(g) "volatile material" means any fumigant or any other hazardous waste having an absolute vapor pressure of greater than 78 mm Hg at 25°C.

(h) "container" shall have the meaning given that term in OAR 340-63-011.

860-36-061 TRANSPORTER IDENTIFICATION.

(1) Upon application by a transporter, the Public Utility Commissioner shall issue a hazardous waste identification number to that transporter.

(2) The hazardous waste identification number shall be used on the manifest, the hazardous materials incident report, the transport vehicle, and all correspondence with the Public Utility Commissioner relating to hazardous waste transportation.

860-36-062 IDENTIFICATION AND PLACARDING OF VEHICLES.

(1) Any truck or truck-tractor transporting in excess of 2,000 pounds of hazardous waste shall have painted on each side thereof, or displayed by attached decals, placards or signs, the business name of the transporter and the city or community in which the transporter maintains his principal office.

(2) The decals, placards or signs required by subsection (1) above shall be letters and figures in sharp contrast to the background and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet while the vehicle is not in motion, and such display shall be kept and maintained in such manner as to remain legible.

(3) Any vehicle transporting hazardous waste identified by 49 CFR 172.101 as a hazardous material shall be placarded in accordance with 49 CFR 172.500 through 172.558.

860-36-063 WASTE MANAGEMENT.

(1) A transporter shall not accept a shipment of hazardous waste in containers, excluding reusable bulk cargo tanks placarded under 860-36-062(3), unless the containers are marked or labeled either with the generator's name or identification number and with the waste name or manifest number.

(2) A transporter shall not accept containers which are, or appear to be, damaged.

(3) Containers identified by 49 CFR 172.101 as a hazardous material shall be marked and labeled in compliance with 49 CFR 172.300 through 172.450.

(4) Hazardous waste either not identified by 49 CFR 172.101 or classified therein as ORM (other regulated material) shall be marked or labeled Ignitable, Reactive, or Toxic, as appropriate.

(5) Lost or illegible marks, labels or generator information shall be replaced immediately.

(6) A transporter shall become familiar with the hazards associated with the waste and the procedure to be followed in the event of an incident.

(7) Volatile material or any other hazardous waste that is finely powdered or may release gases or dust shall be transported in leakproof, tightly covered containers suitably equipped to facilitate filling or emptying.

(8) All containers of hazardous waste shall be reasonably secured against movement while in the transport vehicle.

(9) Hazardous wastes capable of reacting with other commodities shall be separated.

(10) A bulk tanker shall not be left unattended during the loading or unloading of hazardous waste.

(11) Hazardous waste shall not be transported in the same vehicle with food or fiber intended for human or animal use.

(12) Containers provided by the transporter shall be constructed and handled so as to prevent escapement of hazardous waste.

860-36-064 COMPLIANCE WITH MANIFEST.

(1) A transporter shall not accept a shipment of hazardous waste in excess of 2,000 pounds unless accompanied by a properly completed manifest.

(2) The transporter shall sign and date the manifest at the time he accepts a shipment of hazardous waste. At least one copy of the manifest shall be given to the generator.

(3) At least three copies of the manifest shall be retained by the transporter and be carried in the truck or truck-tractor transporting the hazardous waste.

(4) The transporter shall obtain the date and signature of a representative of the hazardous waste management facility on the manifest at the time of delivery and shall leave at least two copies with the representative.

(5) The transporter shall retain at least one copy of the manifest for at least three (3) years from the date of delivery to the management facility.

(6) If a manifest is lost, the transporter shall make a new manifest immediately and shall obtain the signatures required by subsections (2) and (4) above within 30 days.

(7) No transporter shall deliver a shipment of hazardous waste, or any part thereof, to any location other than that designated on the manifest by the generator.

860-36-065 INSPECTION.

A transporter shall inspect his vehicle after unloading to insure that it has been rinsed and cleaned, if necessary, and that all of the load has been delivered.

860-36-066 INCIDENTS.

(1) In the event of an incident, the transporter shall immediately notify all of the following:

(a) Oregon Accident Response System (Telephone: 1-800-452-0311).

(b) National Response Center (Telephone: 1-800-424-8802).

(c) Waste Generator (Telephone: see manifest or other shipping papers).

(2) The transporter shall note on the manifest the time and location of the incident and the type and amount of the hazardous waste which has spilled.

(3) Within fifteen (15) days after the incident, the transporter shall file a Hazardous Materials Incident Report (DOT form F5800.0) with the Public Utility Commissioner.