

Final Rules as Filed with the Oregon Secretary of State Office

RATS 2015-1

Part 70.50(c)(2)

333-102-0350(3)(b)

333-102-0350

Special Requirement for a Specific License to Manufacture, Assemble, Repair or Distribute Commodities, Products or Devices Which Contain Radioactive Material: Reporting Requirements

(1) Immediate report. Each licensee must notify the Authority as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(2) Twenty-four hour report. Each licensee must notify the Authority within 24 hours after the discovery of any of the following events involving licensed material:

(a) An unplanned contamination event that:

(A) Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(B) Involves a quantity of material greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001–20.2401 of 10 CFR part 20 for the material; and

(C) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(b) An event in which equipment is disabled or fails to function as designed when:

(A) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(B) The equipment is required to be available and operable when it is disabled or fails to function; and

(C) No redundant equipment is available and operable to perform the required safety function.

(c) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(d) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(A) The quantity of material involved is greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001–20.2401 of 10 CFR part 20 for the material; and

(B) The damage affects the integrity of the licensed material or its container.

(3) Preparation and submission of reports. Reports made by licensees in response to the requirements of this rule must be made as follows:

(a) Licensees must make reports required by sections (1) and (2) of this rule by telephone to the Authority. To the extent that the information is available at the time of notification, the information provided in these reports must include:

NOTE: The 24-hour telephone number for the Authority is 971-673-0490.

(A) The caller's name and call back telephone number;

(B) A description of the event, including date and time;

(C) The exact location of the event;

(D) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(E) Any personnel radiation exposure data available.

(b) Written report. Each licensee who makes a report required by sections (1) or (2) of this rule must submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be faxed or sent to the Department with Attention to Manager, Radiation Protection Services, Center for Health Protection, 800 NE Oregon Street, Suite 640, Portland, OR 97232. The reports must include the following:

(A) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(B) The exact location of the event;

(C) The isotopes, quantities, and chemical and physical form of the licensed material involved;

(D) Date and time of the event;

(E) Corrective actions taken or planned and the results of any evaluations or assessments; and

(F) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(4) The provisions of this rule apply to licensees subject to the notification requirements in OAR 333-102-0200(5).

Statutory/Other Authority: ORS 453.635 & 453.665

Statutes/Other Implemented: ORS 453.605 - 453.807

History:

PH 14-2008, f. & cert. ef. 9-15-08

PH 4-2007, f. & cert. ef. 3-1-07

PH 12-2006, f. & cert. ef. 6-16-06

PH 36-2004, f. & cert. ef. 12-1-04

PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

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RATS – 2015-2

37.29(a)(10)

333-125-0085

333-125-0085

Background Investigations and Access Control Program: Relief from Fingerprinting, Identification, and Criminal History Record Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

(1) Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:

(a) An employee of the Commission or of the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;

(b) A member of Congress;

(c) An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;

(d) The Governor of a state or his or her designated state employee representative;

(e) Federal, state, or local law enforcement personnel;

(f) State Radiation Control Program Directors and State Homeland Security Advisors or their designated state employee representatives;

(g) Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;

(h) Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S. and IAEA Safeguards Agreement who have been certified by the NRC;

(i) Emergency response personnel who are responding to an emergency;

(j) Commercial vehicle drivers for road shipments of category 1 and 2 quantities of radioactive material;

(k) Package handlers at transportation facilities such as freight terminals and railroad yards;

(L) Any individual who has an active federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency or employer that

granted the federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and

(m) Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

(2) Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last five years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency or employer that reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

(a) National Agency Check;

(b) Transportation Worker Identification Credentials (TWIC) under 49 CFR Part 1572;

(c) Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR Part 555;

(d) Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR Part 73;

(e) Hazardous Material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR Part 1572; and

(f) Customs and Border Protection's Free and Secure Trade (FAST) Program.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.635

History:

PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

RATS – 2015-2
Part 37.43(d)(1)
333-125-0120

333-125-0120

Physical Protection Requirements During Use: Security Program, Protection of Information

- (1) Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall secure from public disclosure and limit access to their security plan and implementation procedures, and the list of individuals that have been approved for unescorted access.
- (2) Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of the security and implementation plans.
- (3) Before granting an individual access to the security plan or implementation plans, the licensee shall:
 - (a) Evaluate an individual's need to know of the security or implementation plans; and
 - (b) If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in OAR 333-125-0060(2)(b) through (2)(e)(B).
- (4) Licensees need not subject the following individuals to the background investigation elements for protection of information:
 - (a) The categories of individuals listed in OAR 333-125-0085(1)(a) through (m); or
 - (b) Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in OAR 333-125-0060(2)(b) through (2)(e)(B) has been provided by the security service provider.
- (5) The licensee shall document the basis for concluding that an individual is trustworthy and reliable and allowed access to the security and implementation plans.
- (6) Licensees shall maintain a list of persons currently approved for access to the security and implementation plans. When a licensee determines that a person no longer needs access to the security and implementation plans, or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementation procedures.

(7) When not in use, the licensee shall store its security and implementation plans in a manner to prevent unauthorized access. Information stored in non-removable electronic form must be password protected.

(8) The licensee shall retain as a record for three years after the document is no longer needed:

(a) A copy of the information protection procedures; and

(b) The list of individuals approved for access to the security plan or implementing procedures.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.635

History:

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RATS – 2015-2

Part 37.29(a)(10)

333-125-0180

333-125-0180

Physical Protection in Transit: Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

(1) As specified in sections (1) and (2) of this rule, each licensee shall provide advance notification to the Authority and the Governor of a state, or the Governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the state, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

(a) Procedures for submitting advance notification. The notification must be made to the Authority and to the office of each appropriate Governor or Governor's designee. The contact information, including telephone and mailing addresses, of Governors and Governors' designees, is available on the NRC's website at <https://scp.nrc.gov/special/designee.pdf>. . A list of the contact information is also available upon request from the Director, Division of Material Safety, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

(b) A notification delivered by mail must be postmarked at least seven days before transport of the shipment commences at the shipping facility.

(c) A notification delivered by any means other than mail must reach NRC at least four days before the transport of the shipment commences and must reach the office of the Governor or the Governor's designee at least four days before transport of a shipment within or through the state.

(2) Information to be furnished in advance notification of shipment. Each advance notification of shipment of category 1 quantities of radioactive material must contain the following information, if available at the time of notification:

(a) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;

(b) The license numbers of the shipper and receiver;

(c) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;

(d) The point of origin of the shipment and the estimated time and date that shipment will commence;

(e) The estimated time and date that the shipment is expected to enter each state along the route;

(f) The estimated time and date of arrival of the shipment at the destination; and

(g) A point of contact, with a telephone number, for current shipment information.

(3)(a) Revision notice. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the Governor of the state or the Governor's designee and to the Authority.

(b) A licensee shall promptly notify the Governor of the state or the Governor's designee of any changes to the information provided in accordance with sections (2) and (3) of this rule. The licensee shall also immediately notify the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 of any such changes.

(4) Cancellation notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the Governor of each state or to the Governor's designee previously notified and to the Authority. The licensee shall send the cancellation notice before the shipment has commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.

(5) Records. The licensee shall retain a copy of the advance notification, any revision and cancellation notices as a record for three years after the notification has been made.

(6) Protection of information. State officials, state employees, and other individuals, whether or not licensees of the U.S. Nuclear Regulatory Commission or an Agreement State, who receive schedule information of the kind specified in section (2) of this rule shall protect that information against unauthorized disclosure as specified in OAR 333-125-0120(1).

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.635

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Part 71.4

333-118-0020

333-118-0020

Definitions

As used in this division, the following definitions apply:

(1) "A1" means the maximum activity of special form radioactive material permitted in a Type A package. This value is either listed in Appendix A to 10 CFR Part 71, Table A-1, or may be derived in accordance with the procedures prescribed in Appendix A to 10 CFR Part 71.

(2) "A2" means the maximum activity of radioactive material, other than special form material, LSA, and SCO material, permitted in a Type A package. This value is either listed in Appendix A to 10 CFR Part 71, Table A-1, or may be derived in accordance with the procedures prescribed in Appendix A to 10 CFR Part 71.

(3) "Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

(4) "Closed transport vehicle" means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be either temporary or permanent but shall limit access from top, sides, and ends. In the case of packaged materials, it may be of the "see-through" type.

(5) "Consignment" means each shipment of a package or groups of packages or load of radioactive material offered by a shipper for transport.

(6) Contamination means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm² (1×10^{-5} μ Ci/cm²) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm² (1×10^{-6} μ Ci/cm²) for all other alpha emitters.

(a) Fixed contamination means contamination that cannot be removed from a surface during normal conditions of transport.

(b) Non-fixed contamination means contamination that can be removed from a surface during normal conditions of transport.

(7) "Conveyance" means for transport by public highway or rail any transport vehicle or large freight container; or for transport by water any vessel, or any hold, compartment, or defined deck area of a vessel including any transport vehicle on board the vessel; or for transport by aircraft.

(8) "Criticality Safety Index (CSI)" means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks or freight containers containing fissile material during transportation. Determination of criticality safety index is described in 10 CFR 71.22, 71.23, and 71.59. The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.

(9) "Deuterium" means for the purposes of 10 CFR Parts 71.15 and 71.22, deuterium and any deuterium compounds, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

(10) "Exclusive use" means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

NOTE: The term "exclusive use" is used interchangeably with the terms "sole use" or "full load" in other regulations, such as Title 49 of the Code of Federal Regulations.

(11) "Fissile material" means the radionuclides plutonium-239, plutonium-241, uranium-233, and uranium-235, or any combination of these radionuclides. Fissile material means the fissile nuclides themselves, not material containing fissile nuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only, are not included in this definition. Certain exclusions from fissile material controls are provided in 10 CFR 71.15.

NOTE: Authority jurisdiction is limited to special nuclear material in quantities not sufficient to form a critical mass as defined in division 100 of this chapter.

(12) "Fissile material package" means a fissile material packaging together with its fissile material contents.

(13) "Graphite" means for the purposes of OAR 333-118-0053 and OAR 333-118-0110, graphite with a boron equivalent content less than five parts per million and density greater than 1.5 grams per cubic centimeter.

(14) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(15) "Licensed material" means radioactive or special nuclear material received, possessed, used, or transferred under a general or specific license issued by the Authority.

NOTE: The definition of licensed material in this division is used in the same way as in 49 CFR 173.403.

(16) "Low specific activity (LSA) material" means radioactive material with limited specific activity that is nonfissile or is excepted under OAR 333-118-0053, and that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(a) LSA-I:

(A) Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;

(B) Natural uranium, depleted uranium, natural thorium, or their compounds or mixtures; provided they are unirradiated and in solid or liquid form;

(C) Radioactive material, other than fissile material, for which the A2 value is unlimited; or

(D) Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with 10 CFR 71, Appendix A.

(b) LSA-II:

(A) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

(B) Other radioactive material in which the radioactive material is distributed throughout, and the average specific activity does not exceed 10^{-4} A2/g for solids and gases, and 10^{-5} A2/g for liquids.

(c) LSA-III. Solids (consolidated wastes, activated materials) excluding powders that satisfy the requirements of 10 CFR Part 71.77 in which:

(A) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, and ceramic);

(B) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for seven days, shall not exceed 0.1 A₂; and

(C) The estimated average specific activity of the solid does not exceed 2×10^{-3} A₂ per gram.

(17) "Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

(18) "Natural thorium" means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

(19) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material."

(20) "Package" means the packaging together with its radioactive contents as presented for transport.

(a) Fissile material package or Type AF package, Type BF package, Type B(U)F package, or Type B(M)F package means a fissile material packaging together with its fissile material contents.

(b) Type A package means a Type A packaging together with its radioactive contents. A Type A package is defined and must comply with the DOT regulations in 49 CFR part 173.

(c) Type B package means a Type B packaging together with its radioactive contents. On approval, a Type B package design is designated by NRC as B(U) unless the package has a maximum normal operating pressure of more than 700 kPa (100 lbs/in²) gauge or a pressure relief device that may allow the release of radioactive material to the environment under the tests specified in 10 CFR 71.73 (hypothetical accident conditions), in which case it shall receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, see DOT regulations in 49 CFR Part 173. A Type B package approved before September 6, 1983, was designated only as Type B. Limitations on its use are specified in 10 CFR 71.19.

(21) "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 10 CFR Part 71.4. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for

cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

(22) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(23) "Regulations of the U.S. Nuclear Regulatory Commission" means the regulations in 10 CFR 71.

(24) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch.); and

(c) It satisfies the requirements of 10 CFR Part 71.75. A special form encapsulation designed in accordance with the requirements of 10 CFR Part 71.4 in effect on June 30, 1983 (see 10 CFR Part 71, revised as of January 1, 1983), and constructed before July 1, 1985; a special form encapsulation designed in accordance with the requirements of 10 CFR Part 71.4 in effect on March 31, 1996 (see 10 CFR Part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form materials that were successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR Part 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

(25) "Specific activity" of a radionuclide means the radioactivity of a radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(26) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(27) "Surface contaminated object (SCO)" means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

(a) SCO-I: a solid object on which:

(A) The non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 Bq/cm² (10⁻⁴ microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 0.4 Bq/cm² (10⁻⁵ microcurie/cm²) for all other alpha emitters;

(B) The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4x10⁴ Bq/cm² (1.0 microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 4x10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters; and

(C) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4x10⁴ Bq/cm² (1 microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 4x10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters.

(b) SCO-II: a solid object on which the limits for SCO-I are exceeded and on which:

(A) The nonfixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 400 Bq/cm² (10⁻² microcurie/cm²) for beta and gamma and low toxicity alpha emitters or 40 Bq/cm² (10⁻³ microcurie/cm²) for all other alpha emitters;

(B) The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 8 x 10⁵ Bq/cm² (20 microcuries/cm²) for beta and gamma and low toxicity alpha emitters, or 8 x 10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters; and

(C) The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 8 x 10⁵ Bq/cm² (20 microcuries/cm²) for beta and gamma and low toxicity alpha emitters, or 8 x 10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters.

(28) "Transport index (TI)" means the dimensionless number, (rounded up to the next tenth) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at one meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 ft)).

(29) "Tribal official" means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.

(30) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A1 for special form radioactive material or A2 for normal form radioactive material, where A1 and A2 are given in 10 CFR Part 71 Appendix A or may be determined by procedures described in 10 CFR Part 71 Appendix A.

(31) "Type A package" means a packaging that, together with its radioactive contents limited to A1 or A2 as appropriate, meets the requirements of 49 CFR 173.410 and 173.412 and is designed to retain the integrity of containment and shielding under normal conditions of transport as demonstrated by the tests set forth in 173.465 or 173.466, as appropriate.

(32) "Type B package" means a Type B packaging together with its radioactive contents.

NOTE: A Type B package design is designated as B(U) or B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to 49 CFR Part 173. A Type B package approved prior to September 6, 1983, was designated only as Type B. Limitations on its use are specified in OAR 333-118-0035.

(33) "Type B packaging" means a packaging designed to retain the integrity of containment and shielding when subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR Part 71.

(34) "Type B quantity" means a quantity of radioactive material greater than Type A quantity.

NOTE: 10 CFR Part 71 Appendix A referred to or incorporated by reference in this rule is attached to this division or available from the Authority.

(35) "Unirradiated uranium" means uranium containing not more than $2E+3$ Bq of plutonium per gram of uranium-235, not more than $9E+6$ Bq of fission products per gram of uranium-235, and not more than $5E-3$ g of uranium-236 per gram of uranium-235.

(36) "Uranium — natural, depleted, enriched":

(a) "Natural uranium" means uranium (which may be chemically separated) with the naturally occurring distribution of uranium, isotopes (which is approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

(b) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(c) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.605 - 453.807

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PH 4-2010, f. & cert. ef. 2-16-10

PH 14-2008, f. & cert. ef. 9-15-08

PH 4-2007, f. & cert. ef. 3-1-07

PH 36-2004, f. & cert. ef. 12-1-04

PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

PH 3-2003, f. & cert. ef. 3-27-03
HD 1-1991, f. & cert. ef. 1-8-91

RATS – 2015-3

Part 71.14

333-118-0052

333-118-0052

General Regulatory Provisions: Exemption for Low Level Materials

A licensee is exempt from all the requirements of division 118 with respect to shipment or carriage of the following low-level materials:

(1) Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in 10 CFR Parts 71, Appendix A, Table A-2 or Table A-3.

(2) Materials for which the activity concentration is not greater than the activity concentration values specified in 10 CFR Parts 71, Appendix A, Table A-2 or Table A-3, or for which the consignment activity is not greater than the limit for an exempt consignment found in 10 CFR Parts 71, Appendix A, Table A-2 or Table A-3.

(3) Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in OAR 333-118-0020.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.605 - 453.807

History:

PH 12-2017, amend filed 10/25/2017, effective 10/25/2017

PH 4-2010, f. & cert. ef. 2-16-10

RATS 2015-3

Part 71.15

333-118-0053

333-118-0053

General Regulatory Provisions: Exemption from Classification as Fissile Material

Fissile material meeting the requirements of at least one section of this rule are exempt from classification as fissile material and from the fissile material package standards of 10 CFR Parts 71.55 and 71.59, but are subject to all other requirements of this rule, except as noted.

- (1) Individual package containing two grams or less fissile material.
- (2) Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.
- (3) Low concentrations of solid fissile material commingled with solid nonfissile material, provided that:
 - (a) There is at least 2000 grams of solid nonfissile material for every gram of fissile material; and
 - (b) There is no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material.
- (4) Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass of solid nonfissile material.
- (5) Uranium enriched in uranium-235 to a maximum of one percent by weight, and with total plutonium and uranium-233 content of up to one percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than five percent of the uranium mass and the fissile material is distributed homogeneously and does not form a lattice arrangement within the package.
- (6) Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of two percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of two. The material must be contained in at least a DOT Type A package.
- (7) Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.605 - 453.807

History:

PH 12-2017, amend filed 10/25/2017, effective 10/25/2017

PH 4-2010, f. & cert. ef. 2-16-10

RATS – 2015-3
Part 71.17
333-118-0070

333-118-0070

General License: Nuclear Regulatory Commission-Approved Packages

- (1) A general license is hereby issued to any licensee of the Authority to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, Certificate of Compliance (CoC), or other approval has been issued by the U.S. Nuclear Regulatory Commission.
- (2) This general license applies only to a licensee who has a quality assurance program approved by the Authority as satisfying the provisions of 10 CFR Part 71, subpart H and any applicable requirements in OAR 333-118-0200.
- (3) Each licensee issued a general license under section (1) of this rule shall:
- (a) Maintain a copy of the Certificate of Compliance, or other approval of the package, and the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;
 - (b) Comply with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of 10 CFR Parts 71, subparts A, G, and H; and
 - (c) Submit in writing before the first use of the package to: ATTN: Radiation Protection Services, 800 NE Oregon St. Suite 640, Portland Oregon 97232, using an appropriate method listed in 10 CFR Parts 71.1(a), the licensee's name and license number and the package identification number specified in the package approval.
- (4) This general license applies only when the package approval authorizes use of the package under this general license.
- (5) For a Type B or fissile material package, the design of which was approved by the U.S. Nuclear Commission before April 1, 1996, the general license is subject to the additional restrictions of 10 CFR Parts 71.19.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.605 - 453.807

History:

PH 12-2017, amend filed 10/25/2017, effective 10/25/2017

PH 4-2010, f. & cert. ef. 2-16-10

PH 14-2008, f. & cert. ef. 9-15-08

PH 4-2007, f. & cert. ef. 3-1-07

PH 36-2004, f. & cert. ef. 12-1-04

PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

PH 3-2003, f. & cert. ef. 3-27-03
HD 1-1991, f. & cert. ef. 1-8-91

333-118-0080 repealed. Rules reference 10 CFR Part 71.19

RATS – 2015-3

Part 71.21

333-118-0100

333-118-0100

General License: Use of Foreign Approved Package

(1) A general license is issued to any licensee of the Authority to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by the U.S. Department of Transportation as meeting the applicable requirements of 49 CFR Part 171.23.

(2) Except as otherwise provided in this division, the general license applies only to a licensee who has a quality assurance program approved by the Authority as satisfying the applicable provisions of 10 CFR Part 71, subpart H.

(3) This general license applies only to shipments made to or from locations outside of the United States.

(4) Each licensee issued a general license under section (1) of this rule shall:

(a) Maintain a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and

(b) Comply with the terms and conditions of the certificate and revalidation, and with the applicable requirements of 10 CFR Part 71, subparts A, G, and H.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.605 - 453.807

History:

PH 12-2017, amend filed 10/25/2017, effective 10/25/2017

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PH 36-2004, f. & cert. ef. 12-1-04

PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

PH 3-2003, f. & cert. ef. 3-27-03

HD 1-1991, f. & cert. ef. 1-8-91

RATS – 2015-3
Part 71.85
333-118-0140

333-118-0140
Operating Controls and Procedures: Preliminary Determinations

The licensee shall ascertain that the determinations in 10 CFR Part 71.85 sections (a) through (c) have been made.

Statutory/Other Authority: ORS 453.635
Statutes/Other Implemented: ORS 453.605 - 453.807

History:

PH 12-2017, amend filed 10/25/2017, effective 10/25/2017
PH 4-2010, f. & cert. ef. 2-16-10
PH 4-2007, f. & cert. ef. 3-1-07
PH 36-2004, f. & cert. ef. 12-1-04
PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05
PH 3-2003, f. & cert. ef. 3-27-03
HD 1-1991, f. & cert. ef. 1-8-91

RATS – 2015-3
Part 71.91
333-118-0170

333-118-0170
Operating Controls and Procedures: Shipment Records

(1) Each licensee shall maintain for a period of three years after shipment, or until inspected by the Authority, a record of each shipment of licensed material not exempt under OAR 333-118-0052, showing, where applicable:

- (a) Identification of the packaging by model and serial number;
- (b) Verification that the packaging, as shipped, had no significant defects;
- (c) Volume and identification of coolant;
- (d) Type and quantity of licensed material in each package, and the total quantity of each shipment;
- (e) For each item of irradiated fissile material:
 - (A) Identification by model number and serial number;

(B) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and

(C) Any abnormal or unusual condition relevant to radiation safety;

(f) Date of the shipment;

(g) For fissile packages and for Type B packages, any special controls exercised;

(h) Name and address of the transferee;

(i) Address to which the shipment was made; and

(j) Results of the determinations required by OAR 333-118-0150 and by the conditions of the package approval.

(2) The licensee shall make available to the Authority for inspection, upon reasonable notice, all records required within this rule. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.

(3) The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by OAR 333-118-0140; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.605 - 453.807

History:

PH 12-2017, amend filed 10/25/2017, effective 10/25/2017

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PH 36-2004, f. & cert. ef. 12-1-04

PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

PH 3-2003, f. & cert. ef. 3-27-03

HD 1-1991, f. & cert. ef. 1-8-91

RATS – 2015-3

Part 71.101

333-118-0200

333-118-0200

Quality Assurance Requirements

(1) This rule applies to general licensees only, and not to certificate of compliance holders (CoC) or applicants of CoC. Each licensee shall establish and maintain a Quality Assurance program specified by the Nuclear Regulatory Commission, 10 CFR, Subpart H, Parts 71.101 through 71.137.

(2) Licensees shall submit their Quality Assurance program or plans for review and approval to:
Attn: Radiation Protection Services, 800 NE Oregon St., Suite 640, Portland Oregon, 97232.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.605 - 453.807

History:

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PH 4-2010, f. & cert. ef. 2-16-10

PH 4-2007, f. & cert. ef. 3-1-07

PH 36-2004, f. & cert. ef. 12-1-04

PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

PH 3-2003, f. & cert. ef. 3-27-03

HD 1-1991, f. & cert. ef. 1-8-91

RATS – 2015-4

Part 37.23(b)(2)

333-125-0025

333-125-0025

Background Investigations and Access Control Program: Access Authorization Program Requirements

(1) Granting unescorted access authorization. Licensees shall implement the following requirements under OAR 333-125-0020 through 333-125-0095 for granting initial or reinstated unescorted access authorization:

(a) Individuals who have been determined to be trustworthy and reliable, shall complete the security training required by OAR 333-125-0105 before being allowed unescorted access to category 1 or category 2 of radioactive material.

(b) Reviewing officials shall be the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 of radioactive material possessed by the licensee.

(c) Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, federal or state agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a state to take fingerprints. The licensee shall recertify that

the reviewing official is deemed trustworthy and reliable every 10 years in accordance with OAR 333-125-0070.

(2) Reviewing officials must be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials and access to the licensee's safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.

(3) Reviewing officials cannot approve other individuals to act as reviewing officials.

(4) A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

(a) The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or

(b) The individual is subject to a category listed in OAR 333-125-0085.

Statutory/Other Authority: ORS 453.635

Statutes/Other Implemented: ORS 453.635

History:

PH 12-2017, amend filed 10/25/2017, effective 10/25/2017

PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

RATS 2015-4

Part 40.61(a)(2)

333-102-0355

333-102-0355

Special Requirement for a Specific License to Manufacture, Assemble, Repair or Distribute Commodities, Products or Devices Which Contain Radioactive Material: Records

(1) Each person who receives radioactive material pursuant to a license issued in accordance with the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter must keep records showing the receipt, transfer, and disposal of the radioactive material as follows:

(a) The licensee must retain each record of receipt of radioactive material as long as the material is possessed and for three years following transfer or disposal of the material.

(b) The licensee who transferred the material shall retain each record of transfer of radioactive material until the Authority terminates each license that authorized the activity that is subject to the record keeping requirement.

(c) The licensee who disposed of the material must retain each record of disposal of radioactive material until the Authority terminates each license that authorizes disposal of the material.

(2) The licensee must retain each record that is required by the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter or by license condition for the period specified by the appropriate rule or license condition. If a retention period is not otherwise specified by rule or license condition, the record must be retained until the Authority terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(3)(a) Records that must be maintained pursuant to this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Authority rules. The record also may be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, or specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

(b) If there is a conflict between the Authority's rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter, license condition, or other written Authority approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter for such records must apply unless the Authority, pursuant to OAR 333-102-0003, has granted a specific exemption from the record retention requirements specified in the rules in this division or divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(4) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, must forward the following records to the program office:

(a) Records of disposals of licensed material made prior to January 28, 1981; and

(b) Records required by OAR 333-120-0620(2)(d).

NOTE: Prior to Oregon Department of Energy's Energy Facility Siting Council rules for burial of small quantities of licensed materials in soil was permitted without specific Authority authorization.

(5) If licensed activities are transferred or assigned in accordance with OAR 333-102-0305(2), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, must transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) Records of disposal of licensed material made under OAR 333-120-0510 (including burials authorized before January 28, 1981), 333-120-0520, 333-120-0530, 333-120-0540; and

(b) Records required by OAR 333-120-0620(2)(d).

(6) Prior to license termination, each licensee must forward the records required by OAR 333-102-0200(6) to the Authority.

Statutory/Other Authority: ORS 453.635 & 453.665

Statutes/Other Implemented: ORS 453.605 - 453.807

History:

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PH 36-2004, f. & cert. ef. 12-1-04

PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05

PH 3-2003, f. & cert. ef. 3-27-03