

# Chapter 453

## 1979 REPLACEMENT PART

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**DEFINITIONS**

**453.001 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Assistant director" means the Assistant Director for Health.

(2) "Division" means the Health Division of the Department of Human Resources. [1973 c.829 §15b]

**HAZARDOUS SUBSTANCES****(General Provisions)**

**453.005 Definitions for ORS 453.005 to 453.135.** As used in ORS 453.005 to 453.135 and subsection (2) of 453.990 unless the context requires otherwise:

(1) "Combustible" means any substance which has a flash point above 80 degrees Fahrenheit to and including 140 degrees, as determined by the Tagliabue Open Cup Tester.

(2) "Commerce" means any and all commerce within the State of Oregon and subject to the jurisdiction thereof and includes the operation of any business or service establishment.

(3) "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action, but does not refer to action on inanimate surfaces.

(4) "Electrical hazard" means an article which because of its design or manufacture may cause personal injury or illness by electric shock when in normal use or when subjected to reasonably foreseeable damage or abuse.

(5) "Extremely flammable" means any substance which has a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester.

(6) "Flammable" means any substance which has a flash point of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester.

(7) "Hazardous substance" means:

(a) Any substance which is toxic, corrosive, an irritant, a strong sensitizer, flammable, combustible, or generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate

result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children or any substance which the Assistant Director for Health finds, pursuant to the provisions of ORS 453.005 to 453.135 and subsection (2) of 453.990, comes within the definition of this paragraph.

(b) Any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the Assistant Director for Health determines that the substance is sufficiently hazardous to require labeling in accordance with ORS 453.005 to 453.135 and subsection (2) of 453.990 in order to protect the public health. However, the term "hazardous substance" does not include any source material, special nuclear material, or by-product material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

(c) Any toy or other article intended for use by children which the Assistant Director for Health determines in accordance with ORS 453.095 presents an electrical, thermal or mechanical hazard.

(d) Any article which is not pesticide within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act or regulated under ORS 573.001 to 573.260 or 616.335 to 616.385, but which is a hazardous substance within the meaning of paragraph (a) of this subsection by reason of bearing or containing pesticide.

(8) "Highly toxic" means any substance which falls within any of the following categories:

(a) Produces death within 14 days in one-half or more of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered; or

(b) Produces death within 14 days in one-half or more of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of one hour or less at an atmosphere concentration of 200 parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or

(c) Produces death within 14 days in one-half or more of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

(9) "Immediate container" does not include package liners.

(10) "Irritant" means any substance not corrosive within the meaning of subsection (3) of this section, but which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(11) "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance, or in the case of an article which is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of such matter directly on the article involved or on a tag or other suitable material affixed thereto, and a requirement made by or under authority of ORS 453.005 to 453.135 and subsection (2) of 453.990 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, unless it is easily legible through the outside container or wrapper and on all accompanying literature where there are directions for use, written or otherwise.

(12) "Mechanical hazard" means an article which in normal use or when subjected to reasonably foreseeable damage or abuse presents an unreasonable risk of personal injury or illness, by its design or manufacture:

(a) From fracture, fragmentation, or disassembly of the article;

(b) From propulsion of the article or any part or accessory thereof;

(c) From points or other protrusions, surfaces, edges, openings, or closures;

(d) From moving parts;

(e) From lack or insufficiency of controls to reduce or stop motion;

(f) As a result of self-adhering characteristics of the article;

(g) Because the article or any part or accessory thereof may be aspirated or ingested;

(h) Because of instability; or

(i) Because of any other aspect of the article's design or manufacture.

(13) "Misbranded hazardous substance" means a hazardous substance that does not meet the labeling requirements of ORS 453.035.

(14) "Poison" means:

(a) Arsenic and its preparations;

(b) Corrosive sublimate;

(c) Cyanides and preparations, including hydrocyanic acid;

(d) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCL) in a concentration of 10 percent or more;

(e) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO<sub>3</sub>) in a concentration of five percent or more;

(f) Strychnine;

(g) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H<sub>2</sub>SO<sub>4</sub>) in a concentration of 10 percent or more.

(h) Solution of ammonia, U.S.P. 28 percent.

(i) Carboic acid.

(15) "Radioactive substance" means a substance which emits ionizing radiation.

(16) "Strong sensitizer" means a substance which will cause on normal living tissue, through an allergic or photodynamic process, a hypersensitivity which becomes evident on reapplication of the same substances and which is designated as such by the Assistant Director for Health.

(17) "Thermal hazard" means an article which, in normal use or when subjected to reasonably foreseeable damage or abuse, because of its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances or surfaces.

(18) "Toxic substance" means any substance, other than radioactive substance, which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface. [1971 c.409 §1]

453.010 [Amended by 1969 c.631 §1; repealed by 1971 c.409 §16]

**453.015 Application.** ORS 453.005 to 453.135 and subsection (2) of 453.990 do not apply to:

(1) Articles such as chemical sets which by reason of functional purpose require the inclusion of the hazardous substance involved or necessarily present an electrical, mechanical or thermal hazard, and which bear labeling giving adequate directions and warnings for safe use, and are intended for use by children who have attained sufficient maturity and may reasonably be expected to read and heed these directions and warnings.

(2) Common fireworks regulated under ORS 480.110 to 480.170.

(3) Pesticides subject to the Federal Insecticide, Fungicide and Rodenticide Act or regulated by ORS 573.001 to 573.260 or 616.335 to 616.385.

(4) Substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house.

(5) Foods or drugs otherwise regulated by this state.

(6) Poisons sold to the ultimate consumer for agricultural or industrial uses in amounts of 10 pounds or more.

(7) Any substance for use in a scientific laboratory. [1971 c.409 §3]

**453.020** [Amended by 1953 c.64 §2; 1969 c.514 §50; renumbered 689.865]

**453.025 Certain practices not affected by ORS 453.005 to 453.135.** (1) Nothing in ORS 453.005 to 453.135 and subsection (2) of 453.990 is intended to interfere with or prevent the legitimate sale of completely denatured alcohol or methyl alcohol (methanol) by garages and filling stations, when used for antifreeze purposes and poured directly into the radiator of any automobile or motor vehicle by the seller thereof.

(2) Stores and shops other than pharmacies may sell completely denatured alcohol or methyl alcohol (methanol) in quantities of not less than one gallon only in original containers and only when properly labeled by distiller or wholesale distributor and bearing also seller's label. The name and address of seller must be applied by label on the container. The record of such wholesale quantities must be kept by the seller and information including date, means of identification and purported use must also be kept.

(3) Sellers of denatured alcohol or methyl alcohol (methanol) only are not required to obtain a shopkeepers' license under ORS 689.305.

(4) (a) Subject to the exemption under paragraph (b) of this subsection, retail sales of completely denatured alcohol, methyl alcohol (methanol), heating fuel mixtures and other forms of denatured alcohol except heating fuel mixtures and other forms of denatured alcohol containing less than five percent methanol by weight and containing additives that render them unpalatable for human consumption, in quantities of less than one gallon, shall be confined to pharmacists and registration of the sales must be made in their poison register.

(b) Hotel, restaurant or food catering wholesalers or suppliers of heating fuel mixtures and other forms of denatured alcohol are exempt from paragraph (a) of this subsection when the supplying of these products is restricted for use solely in the preparation of commercially prepared foods in businesses supplying food needs directly to the public for immediate consumption. Products so classified when purchased shall be used only for this specified purpose and shall not be resold, given away or in any way made available to the public.

(5) Distributors and transporters, stores and shops, other than pharmacies, may deliver, or sell carbolic acid (phenol), for commercial use only in quantities of at least one pound but only when the container is properly labeled by the manufacturer or wholesaler and also bears a label containing the name and address of the seller or deliverer. Record of sales or deliveries of quantities of one pound or more of carbolic acid (phenol) shall be kept by the seller and deliverer. The record shall contain information, including the date, name of purchaser or person receiving the delivery and purported use.

(6) A distributor, transporter, store or shop shall not by reason of the delivery or sale of carbolic acid (phenol) in quantities of at least one pound be required to obtain a shopkeepers' license under ORS 689.305. Retail sales of carbolic acid (phenol) in quantities of less than one pound shall be confined to pharmacies and registration of such sales shall be made on their poison register.

(7) Except as specifically provided by law, the provisions of laws governing the sale and distribution of poisons do not apply to the sale

or distribution of compounds, preparations or remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if solid or semisolid preparations, in one avoirdupois ounce; or to liniments, ointments or other preparations which are prepared for external use only, when sold or distributed for use as medicines.

(8) (a) Whenever poisons are dispensed in accordance with a written prescription by a practitioner, and such written prescription is filed and retained by the pharmacist as required by law, all of the requirements of ORS 453.005 to 453.135 and subsection (2) of 453.990 are satisfied.

(b) A pharmacist shall affix a poison label to a prescription when the prescribing practitioner so directs.

(9) Nothing in ORS 453.005 to 453.135 and subsection (2) of 453.990 applies to the manufacture or wholesale of any poisons. However, each box, vessel or package, other than prescriptions, in which any poison is contained must be labeled as provided in ORS 453.035. [1971 c.409 §4; 1979 c.777 §48; 1977 c.785 §4]

453.030 [Amended by 1969 c.631 §2; renumbered 453.175]

### (Regulation; Prohibited Acts)

**453.035 Labeling for sale.** (1) The Assistant Director for Health shall adopt standards for the labeling of hazardous substances. He may permit or require the use of a recognized generic name or may require the common or usual name or the chemical name, if there is no common or usual name, of the hazardous substance or of each component which the Assistant Director for Health finds contributes substantially to its hazard.

(2) The Assistant Director for Health shall require:

(a) The word "Danger" on substances which are extremely flammable, corrosive or highly toxic;

(b) The word "Warning" or "Caution" on other hazardous substances;

(c) An affirmative statement of the principal hazard or hazards, such as "Flammable," "Combustible," "Vapor Harmful," "Causes

Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard;

(d) Precautionary measures describing the action to be followed or avoided, except when modified by rule of the Assistant Director for Health pursuant to subsection (4) of this section;

(e) Instruction, when necessary or appropriate, for first-aid treatment;

(f) The word "Poison" for any hazardous substance which is defined as "highly toxic" in ORS 453.005;

(g) Instructions for handling and storage of packages which require special care in handling or storage;

(h) Adequate directions for the protection of children from the hazard if the article is intended for use by children and is not a banned hazardous substance, or the statement "Keep out of the reach of children," or its practical equivalent, if the article is not intended for use by children; and

(i) The name and place of business of the manufacturer, packer, distributor or seller.

(3) Any statement required by this section must be in the English language, located prominently and in conspicuous and legible type in contrast by typography, layout or color with other printed matter on the label.

(4) If the Assistant Director for Health finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under ORS 453.005 to 453.135 and subsection (2) of 453.990 is impracticable or is not necessary for the adequate protection of the public health and safety, he may authorize the exemption of such substance from the requirements, to an extent consistent with adequate protection of the public health and safety. [1971 c.409 §5]

453.040 [Amended by 1969 c.631 §3; repealed by 1971 c.409 §16]

**453.045 Poison registers; contents.** (1) Every person who purchases poison shall be registered in a poison register, kept solely for that purpose, stating the date and hour of the sale, the name and address and the signature of the purchaser, the kind and quantity of the poison sold, a statement by the purchaser of the purpose for which it is required, and the name of the dispenser, who must be a pharmacist.

(2) Official poison registers shall be furnished by the State Board of Pharmacy only to pharmacists and shall be in the form of columns with the following headings:

- (a) Date and hour.
- (b) Name of purchaser.
- (c) Residence address.
- (d) Kind and quantity.
- (e) Purpose of use.
- (f) Means of identification.
- (g) Signature of purchaser.
- (h) Signature of pharmacist.

(3) Each official poison register shall be open for inspection by the proper authorities at all times and shall be preserved for at least five years after the date of the last entry therein. [1971 c.409 §14]

**453.050** [Amended by 1969 c.631 §4; repealed by 1971 c.409 §16]

**453.055 Hazardous, banned hazardous, misbranded hazardous substances; declaration; removal from commerce.** (1) The Assistant Director for Health shall declare to be a hazardous substance any substance or mixture of substances which he finds to be within the definition of hazardous substance in ORS 453.005.

(2) If the Assistant Director for Health finds that any hazardous substance is a misbranded hazardous substance, he shall require such reasonable variations or labeling requirements in addition to those required by ORS 453.035 as he finds necessary for the protection of the public health and safety. However, if the Assistant Director for Health finds that any hazardous substance cannot be labeled adequately to protect the public health and safety, or the article presents an imminent danger to the public health and safety, he may declare the article to be a banned hazardous substance and require its removal from commerce.

(3) If the Assistant Director for Health finds that a toy or other article intended for use by children is a hazardous substance, bears or contains a hazardous substance in a manner as to be susceptible of access by a child to whom the toy or other article is entrusted or presents an electrical, mechanical or thermal hazard, he shall declare a toy or other article to be a banned hazardous substance and require its removal from commerce.

(4) If the Assistant Director for Health finds that any hazardous substance intended, or packaged in a form suitable, for use in a household, notwithstanding cautionary labeling as required under ORS 453.005 to 453.135 and subsection (2) of 453.990, involves a degree or nature of the hazard by its presence or use in households that the protection of the public health and safety can be adequately served only by keeping the substance out of the channels of commerce, he shall declare the hazardous substance to be a banned hazardous substance and require its removal from commerce.

(5) Any hazardous substance intended, or packaged in a form suitable for use in the household or by children, which fails to bear a label in accordance with ORS 453.035 and the standards of the Assistant Director for Health shall be deemed to be a misbranded hazardous substance.

(6) Any hazardous substance contained in a reused food, drug or cosmetic container is a misbranded hazardous substance. [1971 c.409 §6]

**453.060** [Amended by 1969 c.631 §5; repealed by 1971 c.409 §16]

**453.065 Detention of suspected substances; petition for label of condemnation; decree, relabeling or destruction of substances; expenses.** (1) Whenever the Assistant Director for Health or his designated representative finds or has probable cause to believe that any hazardous household substance is misbranded, or is a banned hazardous substance, he shall affix to such article a tag or other appropriate marking, giving notice that such article is or is suspected of being misbranded or is a banned hazardous substance, and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court.

(2) When an article detained or embargoed under subsection (1) of this section has been found to be misbranded or a banned hazardous substance, the Assistant Director for Health shall petition the circuit court of the county within which the article is detained or embargoed for a label of condemnation of such article. However, if the Assistant Director for Health or his designated representative finds that an article so detained or embargoed is not misbranded or a banned hazardous substance, he shall remove the tag or other marking.

(3) If the court finds that a detained or embargoed article is misbranded or a banned hazardous substance, after entry of the decree, the article shall be destroyed at the expense of the owner or claimant thereof, under supervision of the Assistant Director for Health or his designated representative, and all court costs and fees, and storage and other proper expenses, shall be taxed against the owner or claimant of such article or his agent. However, when the misbranding can be corrected by proper labeling of the article, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled, has been executed, the court may order that such article be delivered to the owner or claimant thereof for such labeling under the supervision of an agent of the Assistant Director for Health. The expense of such supervision shall be paid by claimant. The article shall be returned to the claimant on the representation to the court by the Assistant Director for Health that the article is no longer in violation of ORS 453.005 to 453.135 and subsection (2) of 453.990, and that the expenses of such supervision have been paid. [1971 c.409 §8]

453.070 [Amended by 1969 c.631 §17; renumbered 453.185]

**453.075 Repurchase of banned hazardous substances previously sold; refund of purchase price.** (1) Any article or substance sold by its manufacturer, distributor, or dealer which is a banned hazardous substance, whether or not it was such at the time of its sale, shall, in accordance with rules of the Assistant Director for Health, be repurchased as provided in this section.

(2) The manufacturer or distributor of any such article shall repurchase it from the person to whom he sold it, and shall:

(a) Refund to that person the purchase price paid for such article or substance; and

(b) If that person has repurchased such article or substance pursuant to this paragraph or paragraph (a) of this subsection, reimburse him for any amounts paid in accordance with this section for the return of such article or substance in connection with its repurchase; and

(c) If the manufacturer requires the return of such article or substance in connection with his repurchase of it, reimburse that person for any reasonable and necessary ex-

penses incurred in returning it to the manufacturer.

(3) In the case of any such article or substance sold at retail by a dealer, if the person who purchased it from the dealer returns it to him, the dealer shall refund to the purchaser the purchase price paid for it and reimburse him for any reasonable and necessary transportation charges incurred in its return.

(4) As used in this section:

(a) "Manufacturer" includes an importer for resale.

(b) "Distributor" includes a dealer who sells at wholesale an article or substance with respect to that sale. [1971 c.409 §13]

453.080 [Repealed by 1969 c.631 §17]

**453.085 Prohibited acts.** It shall be unlawful for any person to perform any of the following acts:

(1) The introduction or delivery for introduction into commerce of any misbranded hazardous substance or banned hazardous substance.

(2) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of a hazardous substance.

(3) The doing of any act with respect to a hazardous substance while the substance is in commerce, or while the substance is held for sale or resale after shipment in commerce, which results in the hazardous substance being a misbranded hazardous substance or a banned hazardous substance.

(4) The receipt of or delivery into commerce of any misbranded hazardous substance or banned hazardous substance for pay or otherwise.

(5) The giving of a guarantee or undertaking which is false, except as a person who relied upon a guarantee or undertaking to the same effect signed by, and containing the name and address of, a person residing in the United States from whom he received in good faith the hazardous substance.

(6) The failure to permit entry or inspection as authorized by ORS 453.005 to 453.135 and subsection (2) of 453.990 or to permit access to and copying of any record as authorized by ORS 453.005 to 453.135 and subsection (2) of 453.990.

(7) The introduction or delivery for introduction into commerce, or the receipt in commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous

substance in a reused food, drug or cosmetic container or in a container which, though not a reused container, is identifiable as a food, drug or cosmetic container by its labeling or by other identification.

(8) The use by any person to his own advantage, or the revealing other than to the Assistant Director for Health or his authorized representative or to a court of any information acquired under authority of ORS 453.005 to 453.135 and subsection (2) of 453.990 concerning any method or process which is a trade secret entitled to protection.

(9) The sale or delivery of any poison to a minor under 18 years of age without the written order of a person 21 years of age or over, which written order shall be retained in the records of the seller and the poison register of the seller shall show by the name of the purchaser the fact that the sale or delivery was to a minor on order of an adult and show the adult's name and address.

(10) The sale or delivery of completely denatured alcohol, methyl alcohol (methanol), canned heat or other solidified forms of denatured alcohol, or any preparation containing those substances, to be used for beverage purposes.

(11) The sale or delivery of any poison without making or causing to be made an entry in a poison register of the seller in the manner required by law.

(12) The sale or delivery to any person of any poison without having learned by due inquiry that such person is aware of the poisonous character thereof and that it is desired for a lawful purpose.

(13) The giving of a fictitious name or making any false representations to the seller or dealer when buying any of the poisons.

(14) The sale or delivery to any person by anyone other than a pharmacist of a poison.

(15) The removal or disposal of any detained or embargoed article without permission of the Assistant Director for Health or his designated representative. [1971 c.409 §2]

**453.090** [Amended by 1953 c.351 §2; 1969 c.631 §7; repealed by 1971 c.409 §16]

### (Administration)

**453.095 Rules; determination of combustibility, flammability; designating strong sensitizers.** (1) The authority to adopt rules for the administration and enforcement of ORS 453.005 to 453.135 and subsection (2) of 453.990 is vested in the Assistant Director for Health pursuant to ORS 183.310 to 183.500.

(2) The Assistant Director for Health shall cause the rules adopted under ORS 453.005 to 453.135 and subsection (2) of 453.990 to be no less strict than rules established pursuant to the Federal Hazardous Substances Act.

(3) The combustibility, and extreme flammability of solids and of the contents of self-pressurized containers shall be determined by methods found by the Assistant Director for Health to be generally applicable to such materials or containers, respectively, and established by the Assistant Director for Health.

(4) Before designating any substance as a strong sensitizer, the Assistant Director for Health, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity. [1971 c.409 §10]

**453.100** [Amended by 1969 c.631 §8; repealed by 1971 c.409 §16]

### (Enforcement)

**453.105 Authority to enter premises; inspections; taking samples; payment.** (1) For the purposes of enforcement of ORS 453.005 to 453.135 and subsection (2) of 453.990, the Assistant Director for Health or his designated representative upon presenting appropriate credentials to the owner, operator or agent in charge, may:

(a) Enter, at reasonable times, any factory, warehouse or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such hazardous substances in commerce.

(b) Inspect, at reasonable times, and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle, and all pertinent equipment, finished

and unfinished materials, and labeling there-in.

(c) Obtain samples of such materials or packages thereof, or of such labeling.

(2) If the Assistant Director for Health or his designated representative obtains any sample, prior to leaving the premises, he shall pay or offer to pay the owner, operator, or agent in charge for such sample and give a receipt describing the sample obtained. [1971 c.409 §11]

453.110 [Amended by 1953 c.351 §2; 1965 c.90 §1; 1967 c.381 §1; 1969 c.631 §9; repealed by 1971 c.409 §16]

**453.115 Access to records of persons carrying, receiving or storing in commerce; use as evidence limited; exemption for carriers.** (1) For the purpose of enforcing the provisions of ORS 453.005 to 453.135 and subsection (2) of 453.990, carriers engaged in commerce, and persons receiving hazardous substances in commerce or holding such hazardous substances so received shall, upon request, permit the Assistant Director for Health or his designated representative at reasonable times, to have access to and to copy all records showing the movement in commerce of any such hazardous substances, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. Such request must be accompanied by a statement in writing specifying the nature or kind of such hazardous substance to which such request relates.

(2) Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained.

(3) Carriers shall not be subject to the other provisions of ORS 453.005 to 453.135 and subsection (2) of 453.990 by reason of their receipt, carriage, holding or delivery of hazardous substances in the usual course of business as carriers. [1971 c.409 §12]

453.120 [Amended by 1969 c.631 §10; repealed by 1971 c.409 §16]

**453.125 Enjoining violations.** In addition to the remedies provided in ORS 453.005 to 453.135 and subsection (2) of 453.990, the Assistant Director for Health may apply to the circuit court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of ORS 453.085. [1971 c.409 §7]

453.130 [Amended by 1969 c.631 §11; repealed by 1971 c.409 §16]

**453.135 Notice required prior to institution of criminal proceedings.** Before any violation of ORS 453.005 to 453.135 and subsection (2) of 453.990 is reported to any district attorney or police official for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the Assistant Director for Health or his designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding. [1971 c.409 §9]

453.140 [Amended by 1969 c.631 §12; repealed by 1971 c.409 §16]

453.150 [Amended by 1969 c.631 §13; repealed by 1971 c.409 §16]

453.160 [Repealed by 1971 c.409 §16]

453.170 [Amended by 1969 c.631 §14; repealed by 1971 c.409 §16]

#### (Miscellaneous)

**453.175 Necessity for poison label; content.** Except as otherwise specifically provided by law, no person shall sell or dispense at retail any poison without affixing to the box, bottle, vessel or package containing the poison, a clear and legible label, either printed or written, bearing the name of the poison in English with the name and the place of business of the pharmacist, owner or manager by whom it is sold. [Formerly 453.030; 1977 c.582 §50]

**453.185 False representation by purchaser prohibited.** It is unlawful for any person to give a fictitious name or make any false representations to the seller or dealer when buying any of the poisons or any caustic or corrosive substances specified in subsection (14) of ORS 453.005 or in the rules of the State Board of Pharmacy. [Formerly 453.070; 1977 c.582 §51]

453.210 [Repealed by 1971 c.409 §16]

453.220 [Repealed by 1971 c.409 §16]

453.230 [Repealed by 1971 c.409 §16]

453.240 [Repealed by 1971 c.409 §16]

453.305 [1971 c.609 §2; 1975 c.606 §21; renumbered 469.300]

453.310 [Amended by 1969 c.514 §51; renumbered 689.855]

453.315 [1971 c.609 §1; 1975 c.606 §22; renumbered 469.310]

453.320 [Amended by 1969 c.514 §52; renumbered 689.860]

453.325 [1971 c.609 §3; 1975 c.606 §23; renumbered 469.320]

453.335 [1971 c.609 §7a; 1975 c.606 §25; renumbered 469.330]

453.345 [1971 c.609 §8; 1973 c.80 §57; 1975 c.606 §26; renumbered 469.350]

453.355 [1971 c.609 §9; 1975 c.606 §27; renumbered 469.360]

453.365 [1971 c.609 §10; 1975 c.552 §38; 1975 c.606 §28; renumbered 469.370]

453.375 [1971 c.609 §22; 1975 c.606 §29; renumbered 469.380]

453.385 [1971 c.609 §11; 1975 c.606 §30; renumbered 469.390]

453.395 [1971 c.609 §12; 1975 c.606 §31; renumbered 469.400]

453.405 [1971 c.609 §21; 1973 c.687 §2; 1975 c.606 §32; renumbered 469.420]

453.415 [1971 c.609 §13; 1975 c.606 §33; renumbered 469.430]

453.425 [1971 c.609 §23; renumbered 469.440]

453.435 [1971 c.609 §5; 1975 c.606 §34; renumbered 469.450]

453.445 [1971 c.609 §19; 1975 c.606 §35; renumbered 469.460]

453.455 [1971 c.609 §6; 1975 c.606 §36; renumbered 469.470]

453.465 [1971 c.609 §16; repealed by 1975 c.606 §60]

453.475 [1971 c.609 §17; 1975 c.606 §37; renumbered 469.480]

453.485 [1971 c.609 §21a; repealed by 1975 c.606 §60]

453.495 [1971 c.609 §6a; renumbered 469.490]

453.505 [1971 c.609 §14; 1975 c.606 §38; renumbered 469.500]

453.515 [1971 c.609 §7; 1975 c.606 §39; renumbered 469.510]

453.525 [1971 c.609 §18; 1975 c.606 §40; renumbered 469.520]

453.535 [1971 c.609 §15; 1975 c.606 §41; renumbered 469.530]

453.545 [1971 c.609 §25; 1975 c.606 §42; renumbered 469.540]

453.555 [1971 c.609 §26; 1975 c.606 §43; renumbered 469.550]

453.565 [1971 c.609 §20; 1975 c.606 §44; renumbered 469.560]

453.575 [1971 c.609 §24; renumbered 469.570]

453.590 [1973 c.246 §1; 1975 c.606 §45; renumbered 453.765]

453.595 [1973 c.246 §3; renumbered 453.770]

## 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:

(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 artificially. [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 utiliza-

tion 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

(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 \$15 for a dental X-ray machine and those machines used specifically for nonmedical scientific teaching purposes and shall not exceed \$40 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 \$3,000 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; 1979 c.696 §9]

**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 assistant 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 paragraph (a) of this subsection shall, if the individual so requests or if regulations of the division so require, give the indi-

vidual 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 accordance with ORS 183.310 to 183.500, 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]

**453.765** [Formerly 453.590; 1979 c.726 §1; renumbered 469.533]

**453.770** [Formerly 453.595; 1979 c.726 §2; renumbered 469.536]

## 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:

### 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.

(c) The board shall have a seal.

(d) The board shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The board shall appoint and fix the compensation of an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, and such other personnel as the board may direct, shall be bonded in such amounts as the board may require.

(e) The executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employes. Employes of the board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employe benefits as may be appropriate.

(g) The board may borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. The nature, amount and conditions, if any,

attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the board.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws, rules and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The board shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the governor of each party state, a report covering the activities of the board for the preceding year, and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the legislature of said state. The board may issue such additional reports as it may deem desirable.

### ARTICLE III FINANCES

(a) The board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

(c) The board may meet any of its obligations in whole or in part with funds available to it under Article II (h) of this compact,

provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article II (h) hereof, the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the board in attending board meetings shall be met by the board.

(e) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the board.

(f) The accounts of the board shall be open at any reasonable time for inspection to persons authorized by the board, and duly designated representatives of governments contributing to the board's support.

#### ARTICLE IV ADVISORY COMMITTEES

The board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies and officials of local, state and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

#### ARTICLE V POWERS

The board shall have power to:

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to

the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate and disseminate information relating to the peaceful uses of nuclear energy, materials and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to nonnuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety and other standards, laws, codes, rules, regulations and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states of their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of

uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the Federal Government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor or subcontractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the board by this compact.

(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the board in force pursuant to this paragraph shall provide for reports to the board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain and implement a regional plan or regional plans for carrying out the duties, powers or functions conferred upon the board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the Federal Government as are useful in connection with the fields covered by this compact.

## ARTICLE VI MUTUAL AID

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employes of any party state are rendering outside aid

pursuant to the request of another party state under this compact, the officers or employes of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employes of the state to which they are rendering aid.

(c) No party state or its officers or employes rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employes and equipment incurred in connection with such requests: provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employes and the representatives of deceased officers and employes in case officers or employes sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employe was regularly employed.

#### ARTICLE VII SUPPLEMENTARY AGREEMENTS

(a) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into

supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this Article shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this Article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions to this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

#### ARTICLE VIII OTHER LAWS AND RELATIONS

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or

any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

#### ARTICLE IX ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: Provided, that it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the board, unless it has become a full party to the compact.

#### ARTICLE X SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

[1969 c.444 §1]

Note: Section 7, chapter 290, Oregon Laws 1979, provides:

Sec. 7. ORS 453.810, 453.820, 453.830, 453.840 and 453.850 are repealed effective August 1, 1981.

**453.820 Definitions for ORS 453.810 to 453.850.** As used in ORS 453.810 to 453.850, "compact" means the Western Interstate Nuclear Compact enacted by ORS 453.810. [1969 c.444 §2]

Note: See note after 453.810.

**453.830 Appointment of person to represent state; alternate.** (1) The Governor shall appoint a person to represent this state as a member of the Western Interstate Nuclear Board created under Article II of the compact. The person appointed shall serve at the pleasure of the Governor.

(2) The appointee under subsection (1) of this section shall designate an alternate who may discharge the duties and perform the functions of the appointee under Article II of the compact. The designated alternate shall serve at the pleasure of the appointee. [1969 c.444 §3; 1979 c.750 §1]

Note: See note after 453.810.

**453.840 Copies of compact documents to be filed with Secretary of State.** Copies of bylaws, rules and regulations adopted by the Western Interstate Nuclear Board under Article II of the compact, and amendments thereto, shall be filed with the Secretary of State. [1969 c.444 §4]

Note: See note after 453.810.

**453.850 Status of persons sent to other states under compact.** ORS 656.001 to 656.794 applies with respect to individuals sent to another state pursuant to Article VI of the compact. If the aiding personnel are officers or employees of political subdivisions in this state, they are entitled to the same workmen's compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident within the jurisdiction of his regular employer. [1969 c.444 §5]

Note: See note after 453.810.

## PENALTIES

**453.990 Criminal penalties.** (1) Any violation of ORS 453.175 or 453.185 or any rules of the State Board of Pharmacy thereunder is a Class C misdemeanor.

(2) Violation of any of the provisions of ORS 453.005 to 453.135 is a Class B misdemeanor. A second and subsequent violation of any of the provisions of ORS 453.005 to 453.135 is a Class A misdemeanor.

(3) Violation of any provision of ORS 453.605 to 453.745 is a Class A misdemeanor. [Subsection (10) enacted as 1961 c.664 §15; 1969 c.631 §15; subsection (6) enacted as 1971 c.409 §15; 1977 c.582 §52]

**453.992 Jurisdiction.** Circuit courts and district courts have concurrent original jurisdiction to try cases arising out of violations of ORS 453.175 and 453.185. [Amended by 1969 c.631 §16; 1977 c.582 §53]

**453.994** [1971 c.609 §27; renumbered 469.992]

## 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