

**INFORMATION NOTICE  
CLARIFICATION OF THE REPORTING REQUIREMENTS IN  
OAC 3701:1-38-21**

**ADDRESSEES**

All Ohio Department of Health (ODH) licensees authorized to possess licensed material.

**INTENT**

The Department is issuing this Information Notice (IN) to clarify the reporting requirements regarding lost, stolen, or missing licensed material in Ohio Administrative Code (OAC) 3701:1-38-21. This IN does not transmit any new requirements or new staff positions. No specific action or written response is required.

**BACKGROUND**

There has been an increased interest in ensuring the security of ODH licensed material during the last several years. In addition, every radiation protection program, to be both efficient and effective, requires accountability of its licensed material. For these reasons the reporting requirements for lost, stolen, or missing sources as specified in OAC 3701:1-38-21 are being clarified.

**SUMMARY OF ISSUE**

OAC 3701:1-38-21 mandates that each licensee report, by telephone, its discovery of any lost, stolen, or missing licensed material, including sources. OAC 3701:1-38-21(A)(1)(b)(i) requires an immediate report by telephone if the material in question is equal to or greater than 100 (one hundred) times the quantity specified in Appendix A to OAC 3701:1-38-18, under such circumstances that an exposure could result to persons in unrestricted areas. In accordance with OAC 3701:1-38-21(A)(1)(b)(ii) each licensee shall report by telephone, within 30 days after the occurrence of any lost, stolen, or missing licensed material becomes known to the licensee, licensed material that is greater than 10 times the quantity specified in Appendix A to OAC 3701:1-38-18, that is still missing at the time. A written report is required by OAC 3701:1-38-21(A)(2) within 30 days of either telephone call; the information required in the written report is described in OAC 3701:1-38-21(A)(2)(a). Subsequent to the written report, OAC 3701:1-38-21(A)(2)(b) requires the licensee to report any additional substantive information on the loss or theft of the licensed material within 30 days after the licensee learns of such information.

This Information Notice clarifies the term *immediately* in the context of reporting the occurrence of lost, stolen, or missing licensed material, how the term *exposure could result* is used, and the licensee's responsibility to inform the Department of the recovery of lost or stolen licensed material.

ODH staff has reviewed the reporting requirements for OAC 3701:1-38-21 and has included clarifications for the following requirements:

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**OAC 3701:1-38-21**

OAC 3701:1-38-21, Reports

*(A) The licensee or registrant shall report stolen, lost, or missing licensed or registered sources of radiation to the department in accordance with the following:*

*(1) Telephone reports shall be made as follows:*

*(a) To the bureau of radiation protection point of contact (POC) in accordance with the form "Notice to Employees" issued by the director.*

*(b) In the case of a licensee, he or she shall make contact:*

*(i) **Immediately** after the licensee determines that licensed radioactive material is stolen, lost, or missing in an aggregate quantity equal to or greater than one hundred times the quantity specified in appendix A to rule 3701:1-38-18 of the Administrative Code under such circumstances that it appears to the licensee that an **exposure could result** to individuals in unrestricted areas;*

OAC 3701:1-40-20, 3701-39-02.1 inclusion of 10 CFR 40.60(a), and 3701:1-56-09 indicate reporting requirements for an event that involves exposure to byproduct, source, and special nuclear material, respectively, in excess of applicable limits. These paragraphs require an immediate report, and each licensee shall notify the ODH as soon as possible, but not later than 4 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 materials that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.). Therefore, for the immediate reporting requirements of OAC 3701:1-38-21, ODH expects notification within 4 hours after the occurrence becomes known to the licensee of any lost, stolen, or missing licensed material, including sources.

In the context above, the phrase "exposure could result" connotes having the possibility to result in exposure to a person, and a licensee would be required to report unless exposure to a person was not possible.

*(ii) Within thirty days after its occurrence becomes known to the licensee, lost, stolen, or missing licensed radioactive material in an aggregate quantity greater than ten times the quantity specified in appendix A to rule 3701:1-38-18 of the Administrative Code that is still missing.*

OAC 3701:1-40-05, and 3701-39-02.1 inclusion of 10 CFR 40.9(a) require that information provided to the Department by a licensee shall be complete and accurate in all material respects. Thus, when licensed material is recovered that has been reported under OAC

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3701:1-38-21 as lost, stolen, or missing, the licensee must notify the Department of the recovery.

ODH expects that licensees make a telephone report within 4 hours regarding the recovery of any lost, stolen, or missing licensed material that is equal to or greater than Category II levels. Category II material and level are defined in the International Atomic Energy Agency, "Code of Conduct on the Safety and Security of Radioactive Sources" 2004, and in the NRC proposed rule for the National Source Tracking of Sealed Sources (70 FR 43646; July 28, 2005). Below is a table that provides the thresholds for Category II material and level:

Radionuclide	Quantity of Concern (TBq)	Quantity of Concern (Ci )
Am-241	0.6	16
Am-241/Be	0.6	16
Cf-252	0.2	5.4
Cm-244	0.5	14
Co-60	0.3	8.1
Cs-137	1	27
Gd-153	10	270
Ir-192	0.8	22
Pm-147	400	11,000
Pu-238	0.6	16
Pu-239/Be	0.6	16
Se-75	2	54
Sr-90 (Y-90)	10	270
Tm-170	200	5,400
Yb-169	3	81

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OAC 3701:1-38-21, Reports - continued

*(A)(2) Written reports shall be made as follows:*

- (a) Each licensee or registrant required to make a report pursuant to paragraph (A)(1) of this rule shall, within thirty days after making the telephone report, make a written report to the department setting forth the following information, where applicable:
  - (i) A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form, and in the case of radiation-generating equipment, the manufacturer, model and serial number, type and maximum energy of the radiation emitted;*
  - (ii) A description of the circumstances under which the loss or theft occurred;*
  - (iii) A statement of disposition, or probable disposition, of the licensed or registered source of radiation involved;*
  - (iv) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;*
  - (v) Actions that have been taken, or will be taken, to recover the source of radiation; and*
  - (vi) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.**
- (b) Subsequent to filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within thirty days after the licensee or registrant learns of such information.*
- (c) The licensee or registrant shall prepare any report filed with the department pursuant to this rule so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.*

The above paraphrases most of OAC 3701:1-38-21, and additional information was cited to help clarify what is meant by the terms *immediately* and *exposure could result*. Consult the regulations for the full text.

This clarification of the requirements from OAC 3701:1-38-21 does not exempt licensees from meeting the requirements from other sections in the regulations in regards to reporting.