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PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 345
DEPARTMENT OF ENERGY
ENERGY FACILITY SITING COUNCIL

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FILING CAPTION: Updates to rules for the Trojan Independent Spent Fuel Storage Installation

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RULES:

345-026-0170, 345-026-0300, 345-026-0330, 345-026-0340, 345-026-0350, 345-026-0370, 345-026-0390, 345-070-0005, 345-070-0015, 345-070-0020

AMEND: 345-026-0170

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: The revised rule removes the requirements for the Trojan Independent Spent Fuel Storage Installation to notify the Department of accidents and incidents. These requirements have been added to the revised OAR 345-026-0390. Additional changes are made for clarity and consistency of rules.

CHANGES TO RULE:

345-026-0170

Notification of Incidents ¶

- (1) The certificate holder shallmust notify the Department of Energy within 72 hours of any occurrence involving the facility if:¶
- (a1) There is an attempt by anyone to interfere with its safe operation.¶
- (b2) There is a significant natural event such as a fire, earthquake, flood, tsunami or tornado, or human-caused event such as a fire or explosion.¶
- (€3) There is any fatal injury at the facility.¶
- (2) For the Trojan Independent Spent Fuel Storage Installation:¶
- (a) In the event of incidents or accidents requiring notification of the Nuclear Regulatory Commission by telephone, the certificate holder also shall notify the Department on the same time schedule.¶
- (b) The certificate holder shall notify the Department of all incidents in accordance with the Emergency Plan, Security Plan, and other agreements as established.

Statutory/Other Authority: ORS 469.470

Statutes/Other Implemented: ORS 469.310, 469.410, 469.430, 469.507, 469.530

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: The revised rule clarifies the applicability of OAR 345-026-0300 to 345-026-0390 to the Trojan Independent Spent Fuel Storage Installation. The rule clarifies that these rules do not apply to "nuclear installations." Additional changes are made for clarity and consistency of rules.

CHANGES TO RULE:

345-026-0300

Regulations Applicable to Nuclearthe Trojan Independent Spent Fuel Storage Installations ¶

- (1) The requirements of OAR 345-026-0300 through $\underline{345-026-0390}$ apply exclusively to nuclear installations in Oregon as defined in ORS 469.300.¶
- (2) OAR 345-026-0300 through 0390 do not apply to research reactors as described in OAR 345-030-0005 the Trojan Independent Spent Fuel Storage Installation (ISFSI).¶
- (2) The purpose of these rules is to cooperate with the federal government in accordance with Oregon's siting policy in ORS 469.310 to ensure the safety of interim on-site storage and to ensure spent nuclear fuel and related radioactive materials and waste will not be an undue financial burden to utilities or people of Oregon.¶
- (3) References to the Code of Federal Regulations in these rules refer to regulations in place as of August 9, 2019. Statutory/Other Authority: ORS 469.470

Statutes/Other Implemented: ORS 469.410, 469.501

REPEAL: 345-026-0330

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: The rule is repealed. Rules for environmental monitoring are moved to the revised OAR 345-026-

0390.

CHANGES TO RULE:

345-026-0330

Radiological Environmental Monitoring

- (1) The certificate holder shall establish a radiological environmental monitoring program.¶
- (2) The certificate holder shall maintain a written radiological environmental monitoring program that describes applicable quality assurance measures.¶
- (3) The certificate holder shall not make any changes to the radiological environmental monitoring program that involve a reduction in the number of environmental monitoring locations or associated monitoring data collection periodicity as approved in the Department of Energy "Staff Evaluation of Holtec Design for Portland General Electric's Independent Spent Nuclear Fuel Installation (ISFSI)," September 2002, without Department approval prior to implementation.¶
- (4) Except as required by section (3), the certificate holder may make modifications to the radiological environmental monitoring program without prior Department approval. The certificate holder shall notify the Department of these changes within 60 days after implementation of the change. The Department shall promptly notify the Council of any such changes at a scheduled meeting of the Council.

Statutory/Other Authority: ORS 469.470

Statutes/Other Implemented: ORS 469.501, 469.507

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: The revised rule clarifies its applicability of the rule to the Trojan Independent Spent Fuel Storage Installation and provides revised criteria for when notification of changes must be provided to the Council and Director based on current federal regulations in 10 CFR Part 73. Additional changes are made for clarity and consistency of rules.

CHANGES TO RULE:

345-026-0340

Security Plans for Nuclear Installations ¶

- (1) The operator of a nuclear installation shall establish and maintain a security plan with capabilities for protection of special nuclear material.¶
- (2) Upon assurance satisfactory to the Council and the certificate holder that confidentiality can be maintained, the certificate holder shall make the security plan for nuclear installations available to authorized Council representatives in accordance with U.S. Nuclear Regulatory Commission regulation 10 CFR 2.44(e).¶ (2) The certificate holder must establish and maintain a security plan that complies with 10 CFR 72.44(e).¶ (2) The certificate holder must make the security plan, and any revisions, available for inspection by authorized representatives of the Council and Director upon request. The certificate holder, Department, and Council must protect information in the plan that falls within the definitions of "security program" or "safeguards information" in OAR 345-070-0015 from unauthorized disclosure in accordance with 10 CFR 73.21, 73.22 and OAR chapter 345, division 070.¶
- (3) The certificate holder shallmay not make modificationchanges to the security plan that involve a reduction incould: reduce the ability to detect or prevent unauthorized entry, or a reduction inreduce the ability to detect or prevent the introduction of unauthorized material into a Protected Area, or otherwise lessen reduce the effectiveness of the physical security plan without wpritten Departmor writtent approval prior to implementation.¶
- (4) Except as required by section (3), the certificate holder may make modifications to the plan without prior Department approval from the Council and Director, as required by ORS 469.530.¶
- (4) The certificate holder may make changes to the security plan that do not reduce the effectiveness of the plan without prior approval from the Council and Director. The certificate holder shallmust notify the Department of these modificaany changes made under this sections within 60 days of their implementation and shall make the revised plan available to authorized Department representatives following implementationafter the implementation date of the changes. The Department shallmust promptly notify the Council of the plan modificationchanges at a scheduled Council meeting, subject to U.S. Nuclear Regulatory Commission regulation 10 CFR \$\mathbb{Z}73.21(c)(1)(iii).\$\mathbb{T}\$

[Publications: The publications referenced are available from the agency.] the provisions of OAR chapter 345, division 070.

Statutory/Other Authority: ORS 469.470

Statutes/Other Implemented: ORS 469.410, 469.501, 469.530

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: The revised rule clarifies its applicability of the rule to the Trojan Independent Spent Fuel Storage Installation, and provides revised criteria for when notification of changes must be provided to the Council and Director. Additional changes are made for clarity and consistency of rules.

CHANGES TO RULE:

345-026-0350

Emergency Planning for Nuclear Installations ¶

- (1) The operator of a nuclear installation shall prepare, comply with, certificate holder must follow and maintain in readiness an emergency plan. The plan must ensure adequate measures will be taken in the event of a radiological emergency.¶
- (2) Proposed modifications to the emergency plan that involve one of the following require Council approval prior to implementation:¶
- (a) A change (other than editorial) in the Emergency Action Levels; or¶
- (b) A that is approved by the Council.¶
- (2) The certificate holder may not make changes to the emergency plan that would decrease in the planned staff augmentation capabilitieffectivenes; or ¶
- (c) A reduction inf the plan or the plan's requirements for notification of off-site agencies.¶
- (3) Except as required by section (2), t without the Council's prior approval.¶
- (3) The certificate holder may make modificationchanges to the plan without prior Council that would not reduce its effectiveness without the Council's prior approval. The certificate holder shall submit copies of the revised plan to the Department must notify the Department of any changes made under this section within 30 days after the implementation date of the changes. The Department shall must promptly notify the Council of the modificationchanges at a scheduled Council meeting.

Statutory/Other Authority: ORS 469.470

Statutes/Other Implemented: ORS 469.410, 469.501, 469.530, 469.533

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: The revised rule amends submission requirements for the Decommissioning Plan for the Trojan Independent Spent Fuel Storage Installation. Additional changes are made for clarity and consistency of rules.

CHANGES TO RULE:

345-026-0370

Standards for Council Approval of ISFSI Decommissioning Plan ¶

- (1) The operator of the Trojan Independent Spent Fuel Storage Installation (ISFSI) shall submit 15 copies of acertificate holder must submit a final plan for decommissioning the ISFSI to the Department for Council approval. The plan shallmust be submitted to the Council oin a form and in a schedule consistent with that required by the U.S. Nuclear Regulatory Commission. When the Department receives a decommissioning plan, the Department shallmust:¶
- (a) Issue notice to the Council's mailing list that the decommissioning plan has been submitted. The notice shallmust include:¶
- (A) The time and place of at least one informational hearing; \P
- (B) The locations where copies of the proposed plan may be reviewed by the public; and ¶
- (C) A contact name for further information.¶
- (b) Perform a technical review, and produce a staff report containing the Department's technical conclusions and recommendations on specific issues raised in the proposed plan;¶
- (c) To the extent practicable, coordinate its technical review with that of the U.S. Nuclear Regulatory Commission:¶
- (d) Issue notice of availability of the Department report to the Council mailing list. The notice shallmust include:¶
- (A) A summary of the Department's recommendations;¶
- (B) Time and place of a hearing on the staff report; ¶
- (C) Places where the Department's staff report may be reviewed by the public; and ¶
- (D) A contact for additional information and copies of the staff report.
- (2) The Council shallmust review the proposed decommissioning plan to verify that the proposed activities will not adversely affect the health and safety of the public or the environment. The Council will ensure the following when evaluating acceptability of a proposed decommissioning plan:¶
- (a) The plan contains the radiological criteria for unrestricted release and use of the site as set forth in Title 10 of the Code of Federal Regulations, Part 20, Section 1402 (10 CFR 20.1402) in effect August 20, 1997 10 CFR 20.1402. \P
- (b) The plan contains provisions that require removal from the site of all radioactive waste as defined in ORS 469.300 on a schedule acceptable to the Council.¶
- (c) The plan contains a program for radiological monitoring to ensure the environment is not being adversely affected. This program may be incorporated by reference if it has previously been approved by the Department.¶
- (d) The plan contains provisions for removal or control of hazardous waste that are consistent with applicable federal and state regulations.¶
- (3) The certificate holder shallmust include in the plan an estimate of funding necessary for implementation. The Council shallmust determine whether provisions for funding are adequate to implement the plan.¶
- (4) The certificate holder shallmust not implement significant revisions to the decommissioning plan unless the Council has reviewed and approved the revisions. A revision is significant if it involves one of the following items:¶
- (a) The potential to prevent the release of the site for unrestricted use;¶
- (b) A change in the criteria for site release;¶
- (c) A departure in the methodology for determining background radiation levels to a method not generally accepted by the industry; \P
- (d) A change in the provisions made for hazardous or radioactive waste material removal;¶
- (e) A significant-change in the types or significant increase in the amounts of any effluents that may be released offsite; or ¶
- (f) A <u>significant</u> increase in radiological or hazardous material exposure to site workers or to members of the public, including exposure due to transport of radioactive or hazardous material.¶
- (5) The certificate holder shallmust evaluate revisions to the decommissioning plan by the criteria listed in section (4) of this rule. The certificate holder shallmust maintain records of all changes and associated evaluations for audit by the Department. The certificate holder shallmust notify the Department of revisions to the plan that are not significant within 30 days after implementation of the revision. The Department shallmust promptly notify the

Council of such revisions at a regularly scheduled meeting.¶

(6) Changes to the decommissioning plan that are mandated by the federal government may be implemented without prior Council approval. \P

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 469.470

Statutes/Other Implemented: ORS 469.410, 469.501

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: The revised rule provides updates standards and reporting requirements applicable to the Trojan Independent Spent Fuel Storage Installation. Additional requirements related to notification of incidents and environmental monitoring previously located in OAR 345-026-0170 and 345-026-0330 are incorporated into the rule. Additional changes are made for clarity and consistency of rules.

CHANGES TO RULE:

345-026-0390 Spent Nuclear Fuel Storage ¶

(1) Purpose:¶

- (a) Storage of spent nuclear fuel and related radioactive material and waste at a nuclear installation is an interim measure; otherwise utilities and residents of Oregon would face the financial burden of maintaining, operating, and safeguarding the on-site storage facilities indefinitely;¶
- (b) The purpose of this rule is to cooperate with the federal government in accordance with Oregon's siting policy in ORS 469.310 to ensure the safety of interim on-site storage and to ensure spent nuclear fuel and related radioactive materials and waste will not be an undue financial burden to utilities or people of Oregon.¶ (2) Capacity and Safety Standards: The certificate holder may store a maximum of 791 complete and partial fuel assemblies and storage of containers with nuclear fuel materials. Storage of spent nuclear fuel and related radioactive material and waste at the site of a nuclear i at an Independent Spent Fuel Storage Installation by a certificate holder who has executed a contract with the United States of America pursuant to the Nuclear Waste Policy Act, shall be deemed a permitted use of the site pending transfer of spent nuclear fuel to the U.S. Department of Energy provided that:¶
- (a) Storage facilities ar (ISFSI) at the site of the former Trojan Nuclear Plant, subject to the requirements of OAR 345-026-0300 through 345-026-0390.¶
- (a) The ISFSI must be designed to maintain discharges within the limits specified in applicable licenses authorized under the Atomic Energy Act of 1954, as amended, and any applicable permits issued under the National Pollutant Discharge Elimination System;¶
- (b) Storage facilities ar The ISFSI must be designed such that in case of accidents off-site radiation exposures will not exceed the Environmental Protection Agency Protective Action Guidelines (October, 1991) for off-site protective actions; and ¶
- (c) The facility is the projected dose to an individual outside of the Controlled Area Boundary will not exceed 1 rem over four days.¶
- (c) The ISFSI may not be used to store any spent nuclear fuel or radioactive materials and wastes other than that generated or used in the operation of the former Trojan Nuclear Plant.¶
- (3) The certificate holder shall perform activities related to transfer, storage and handling of fuel and other radioactive waste in accordance with a radiation protection program that complies with 10 CFR 20, including a program to maintain personnel radiation exposure As Low As Reasonably Achievable (ALARA) as that term is defined in 10 CFR 20.¶
- (42) Except as required for accident mitigation as described in the Safety Analysis Report, the certificate holder shall not transfer spent fuel from an interim spent fuel storage installation to new casks or shipping containers without approval by may not remove or transfer a multipurpose canister from its storage cask without the Council's prior to the transferapproval.¶
- (53) Reporting Requirements: The operator of an interim spent fuel storage facility shall submit every ten years and, in addition, no later than September 3, 2038, a report containing the actual or expected date when the Federal government will accept the High Level Waste and an analysis of the facility's continued acceptability for use if a Federally licensed High level Waste site remains unavailable. This report need not be submitted if the Council or its successor determines that a Federally licensed high level waste site is available and that spent nuclear fuel from the facility will be accepted prior to September 3, 2043. The certificate holder must notify the Department of incidents and accidents in accordance with the Emergency Plan required under OAR 345-026-0340, the Security Plan required under OAR 345-026-0350, and other agreements as established, and must:¶

 (a) Notify the Oregon Emergency Response System immediately upon declaration of an emergency under the approved Emergency Plan for the facility:¶
- (b) Notify the Department of non-emergency incidents or accidents as described in 10 CFR 72.75.¶
- (4) The certificate holder must operate the ISFSI consistent with a Safety Analysis Report submitted in compliance

with 10 CFR 72.70 and the following requirements: ¶

- (a) The Safety Analysis Report must provide for the following programs: ¶
- (6<u>A</u>) The Council approves the plan, as may be amended under Part (c) below, for an Independent Spent Fuel Storage Installation (ISFSI) as described in the ISFSI Safety Analysis Report (SAR) (PGE-1069), Revision 2. In addition to the criteria in OAR 345-026-0390(2)(a), (b), and (c), and (3) and (4), the plan is subject to the following criteria:¶
- (a) Programs: Portland General Electric (PGE) shall establish and maintain programs for Temperature Monitoring and Air Vent Inspection and Structural Inspection that are consistent with maintaining exposures to ionizing radiation A Temperature Monitoring and Air Vent Inspection Program. The program must include daily readings of Concrete Cask air outlet and ambient temperatures. The program must include provisions for more frequent measurements if temperatures approach Technical Specification limits. The program must also include a requirement to check air inlet and outlet vents for blockage weekly. The certificate holder may extend individual surveillance intervals by up to 25 percent to accommodate minor variations in work scheduling. ¶
- (B) A Radiation Protection Program that complies with 10 CFR 20.1101 and ensures exposures to ISFSI personnel and the public are As Low As Reasonably Achievable (ALARA) and with the assumptions and conclusions in the Department "Staff Evaluation of Holtec Design for Portland General Electric's Independent Spent Nuclear Fuel Installation (ISFSI)," September 2002.¶
- (b) Contingency Plans: PGE shall establish and maintain a planas that term is defined in 10 CFR 20.1003.¶ (C) A Radiological Environmental Monitoring Program that ensures the ISFSI complies with the Radiation Protection Program required under paragraph (4)(a)(B) of this rule.¶
- (D) An Aging Management Program for management of issues associated with aging that could adversely affect ISFSI components that are important to safety.¶
- (E) A program for maintaining equipment onsite and having equipment available within a reasonable time period to respond to credible accident scenarios as required by the Safety Analysis Report and a plan for construction of new concrete casks.¶
- (eb) Changes to Commitments: PGE may The certificate holder may not make changes to the ISFSI-as described in the, or Safety Analysis Report without prior Council approval if such changes do not reduce commitments or change the assumptions and conclusions in the Department "Staff Evaluation of Holtec Design for Portland General Electric's Independent Spent Nuclear Fuel Installation (ISFSI)," September 2002. If proposed changes would reduce commitments or change the assumptions or conclusions of the Department "Staff Evaluation of Holtec Design for Portland General Electric's Independent Spent Nuclear Fuel Installation (ISFSI)," September 2002, PGE shall obtain prior approval from the Department. Prior Department approval is not required when the proposed change would not have the above effects, that would require prior approval from the U.S. Nuclear Regulatory Commission (NRC) under 10 CFR 72.48 without requesting the Council's prior approval, unless the proposed change is required for compliance with the regulations or orders of the U.S. Nuclear Regulatory Commission NRC or is necessary to protect the health and safety of the public when there is insufficient time to obtain prior Department approval.¶
- (d<u>5</u>)-Reporting requirements: In lieu of the requirements described inof OAR 345-026-0080, within one year of the first cask loading and biennially thereafter, PGE shall the certificate holder must provide a written report to the Council on the status of the ISFSI biennially. The report shall must include, at a minimum, t:¶
- (a) A summary of changes to the ISFSI or Safety Analysis Report since the last report that did not require prior approval from the Council or NRC under section (4)(b) of this rule;¶
- (b) The results of radiation monitoring programs, a; ¶
- (c) A summary of personnel exposure related to ISFSI storage operations, a: ¶
- (d) A statement of expenses related to ISFSI storage operations, a:¶
- (e) A statement of the estimated costs of continuing ISFSI storage operations through decommissioning and the estimated costs of decommissioning, including a discussion of the methods and assumptions used to estimate operations and decommissioning costs, a:¶
- (f) An estimate of funds available for continuing ISFSI storage operations through decommissioning and funds available for ISFSI decommissioning; and $\frac{1}{2}$
- (g) A statement of any significant developments regarding the opening of a Federally licensed High Level Waste facility. \P
- (e<u>6</u>) Frequency of Temperature Monitoring and Air Vent Inspection: The Temperature Monitoring and Air Vent Inspection Program established by PGE pursuant to Section (6)(a) of this rule shall include daily readings of Concrete Cask air outlet and ambient temperatures. The program shall include provisions for more frequent measurements if temperatures approach Technical Specification limits. The program shall also include a requirement to check air inlet and outlet vents for blockage weekly. PGE may reduce these surveillance frequencies with Department approval. PGE may apply extensions of up to 25 percent of individual surveillance intervals to accommodate minor variations in work scheduling.¶

(f) Contractors: PGE shall Contractors: The certificate holder must require contractors who perform portions of the ISFSI storage or transporting operations to adhere to all applicable provisions of OAR 345-026-0390.¶ [Publications: Publications referenced are available from the agency.]this rule.

Statutory/Other Authority: ORS 469.470

Statutes/Other Implemented: ORS 469.410, 469.501

AMEND: 345-070-0005

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: Changes are made to clarify that security program information must be reviewed by the Council and

Director under ORS 469.530.

CHANGES TO RULE:

345-070-0005 Purpose ¶

The purpose of these rules is to protect the confidentiality of information submitted to the Energy Facility Siting Council and the Secretary Director regarding security programs for nuclear-fueled thermal power plants, nuclear installations, and the transportation of radioactive materials to and from such facilities.

Statutory/Other Authority: :ORS 469.530 Statutes/Other Implemented: ORS 469.530 AMEND: 345-070-0015

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: Revised rule clarifies the Trojan Independent Spend Fuel Storage Installation's legal status as part of the Trojan Nuclear Power Plant and revises the definition of "Safeguards Information" to align with federal regulations.

CHANGES TO RULE:

345-070-0015 Definitions \P

- (1) "Nuclear installation" ias defined in ORS 469.300.¶
- (2) "Nuclear-fueled thermal power plant" includes the Trojan Independent Spent Fuel Storage Installation at the site of the former Trojan Nuclear Plant.¶
- (3) "Security program" means any plan or procedure the primary function of which is to protect nuclear <u>fueled</u> thermal power plants, nuclear installations, transportation and storage of new or irradiated nuclear fuel elements or transportation and storage of fissile material against any deliberate act that could directly endanger the public health and safety including exposure to radiation, including, but not limited to, plans or procedures for:¶
- (a) Controlling entry to the site or portions of the site of fixed installations;¶
- (b) Deterring or discouraging penetrations of sites or carriers by unauthorized persons;¶
- (c) Detecting such penetrations in the event they occur; ¶
- (d) Apprehending in a timely manner unauthorized persons or authorized persons acting in a manner constituting a threat of sabotage or theft;¶
- (e) Providing for appropriate authorities to take custody of violators.¶
- (34) "Fissile material" means fissile plutonium, uranium-233, and uranium-235 in any combination sufficient to cause (gm Pu/200 gm) + (gm U-233/200 gm) + (gm U-235 contained in uranium enriched to more than 20 percent in U-235)/350gm) to be greater than unity.¶
- (45) "Safeguards information (SI)" means information that specifically identifies:¶
- (a) Detailed security measures for the protection of special nuclear material; or ¶
- (b) Detailed security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities as defined in 10 CFR 73.2.

Statutory/Other Authority: ORS 469.470 Statutes/Other Implemented: ORS 469.530

AMEND: 345-070-0020

NOTICE FILED DATE: 10/22/2021

RULE SUMMARY: Clarifies that the Council and Director must take all reasonable precautions to limit the number of persons having access to safeguards information, regardless of whether those persons are employees of the Oregon Department of Energy.

CHANGES TO RULE:

345-070-0020

Confidential Treatment Required ¶

The Council and the Director shall receive, and maintain as confidential, information submitted by any person pursuant to ORS 469.530 for review and approval to the extent the information falls within the definitions of "security program" or "safeguards information" in OAR 345-070-0015. The Council and Director shall take all reasonable precautions to:¶

- (1) Limit the number of persons within the Department of Energy having access to such information; and ¶
- (2) Physically safeguard such information.

Statutory/Other Authority: ORS 469.530

Statutes/Other Implemented: ORS 469.530, 192.533