

DIVISION 25
SITE CERTIFICATE CONDITIONS

345-02527-000520

Mandatory Conditions in Site Certificates

The Council shall impose the following conditions in every site certificate. The Council may impose additional conditions.

(1) The Council shall not change the conditions of the site certificate except as provided for in OAR Chapter 345, Division 27.

(2) The certificate holder shall submit a legal description of the site to the Department of Energy within 90 days after beginning operation of the facility. The legal description required by this rule means a description of metes and bounds or a description of the site by reference to a map and geographic data that clearly and specifically identify the outer boundaries that contain all parts of the facility.

(3) The certificate holder shall design, construct, operate and retire the facility:

(a) Substantially as described in the site certificate;

(b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the site certificate is issued; and

(c) In compliance with all applicable permit requirements of other state agencies.

(4) The certificate holder shall begin and complete construction of the facility by the dates specified in the site certificate.

(5) Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, “construction rights” means the legal right to engage in construction activities. For wind energy facilities, transmission lines or pipelines, if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and:

(a) The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of a transmission line or pipeline occurs during the certificate holder’s negotiations to acquire construction rights on another part of the site; or

(b) The certificate holder would construct and operate part of a wind energy facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built.

(6) If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible,

1 submit a written report to the Department describing the impact on the facility and any
2 affected site certificate conditions.

3 (7) The certificate holder shall prevent the development of any conditions on the
4 site that would preclude restoration of the site to a useful, non-hazardous condition to
5 the extent that prevention of such site conditions is within the control of the certificate
6 holder.

7 (8) Before beginning construction of the facility, the certificate holder shall submit
8 to the State of Oregon, through the Council, a bond or letter of credit in a form and
9 amount satisfactory to the Council to restore the site to a useful, non-hazardous
10 condition. The certificate holder shall maintain a bond or letter of credit in effect at all
11 times until the facility has been retired. The Council may specify different amounts for
12 the bond or letter of credit during construction and during operation of the facility.

13 (9) The certificate holder shall retire the facility if the certificate holder
14 permanently ceases construction or operation of the facility. The certificate holder
15 shall retire the facility according to a final retirement plan approved by the Council, as
16 described in OAR 345-027-0110. The certificate holder shall pay the actual cost to
17 restore the site to a useful, non-hazardous condition at the time of retirement,
18 notwithstanding the Council's approval in the site certificate of an estimated amount
19 required to restore the site.

20 (10) The Council shall include as conditions in the site certificate all representations
21 in the site certificate application and supporting record the Council deems to be
22 binding commitments made by the applicant.

23 (11) Upon completion of construction, the certificate holder shall restore vegetation
24 to the extent practicable and shall landscape all areas disturbed by construction in a
25 manner compatible with the surroundings and proposed use. Upon completion of
26 construction, the certificate holder shall remove all temporary structures not required
27 for facility operation and dispose of all timber, brush, refuse and flammable or
28 combustible material resulting from clearing of land and construction of the facility.

29 (12) The certificate holder shall design, engineer and construct the facility to avoid
30 dangers to human safety presented by seismic hazards affecting the site that are
31 expected to result from all maximum probable seismic events. As used in this rule
32 "seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading,
33 tsunami inundation, fault displacement and subsidence.

34 (13) The certificate holder shall notify the Department, the State Building Codes
35 Division and the Department of Geology and Mineral Industries promptly if site
36 investigations or trenching reveal that conditions in the foundation rocks differ
37 significantly from those described in the application for a site certificate. After the
38 Department receives the notice, the Council may require the certificate holder to
39 consult with the Department of Geology and Mineral Industries and the Building
40 Codes Division and to propose mitigation actions.

41 (14) The certificate holder shall notify the Department, the State Building Codes
42 Division and the Department of Geology and Mineral Industries promptly if shear

1 zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of
2 the site.

3 (15) Before any transfer of ownership of the facility or ownership of the site
4 certificate holder, the certificate holder shall inform the Department of the proposed
5 new owners. The requirements of OAR 345-027-0100 apply to any transfer of
6 ownership that requires a transfer of the site certificate.

7 (16) If the Council finds that the certificate holder has permanently ceased
8 construction or operation of the facility without retiring the facility according to a final
9 retirement plan approved by the Council, as described in OAR 345-027-0110, the
10 Council shall notify the certificate holder and request that the certificate holder submit
11 a proposed final retirement plan to the Office within a reasonable time not to exceed 90
12 days. If the certificate holder does not submit a proposed final retirement plan by the
13 specified date, the Council may direct the Department to prepare a proposed final
14 retirement plan for the Council's approval. Upon the Council's approval of the final
15 retirement plan, the Council may draw on the bond or letter of credit described in
16 section (8) to restore the site to a useful, non-hazardous condition according to the final
17 retirement plan, in addition to any penalties the Council may impose under OAR
18 Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to
19 pay the actual cost of retirement, the certificate holder shall pay any additional cost
20 necessary to restore the site to a useful, non-hazardous condition. After completion of
21 site restoration, the Council shall issue an order to terminate the site certificate if the
22 Council finds that the facility has been retired according to the approved final
23 retirement plan.

24 Stat. Authority: ORS 469.470

25 Stat. Implemented: ORS 469.401, 469.501

26 **345-02527-001023**

27 **Site-Specific Conditions**

28 The Council may include the following conditions, as appropriate, in the site
29 certificate:

30 (1) If the facility uses coal, the certificate holder shall take all necessary steps to
31 ensure that surface and groundwater are not contaminated by run-off or seepage
32 associated with coal or ash storage, transport or disposal. The certificate holder shall
33 handle coal and ash so as to minimize the likelihood of coal dust and ash being
34 windblown and causing an environmental or public health problem. If the certificate
35 holder permanently disposes of ash on the facility site, the certificate holder shall cover
36 the ash with a layer of topsoil and revegetate the area.

37 (2) If the energy facility or related or supporting facility is a natural gas pipeline,
38 the certificate holder shall submit to the Department copies of all incident reports
39 involving the pipeline required under 49 CFR Sec. 191.15.

40 (3) If the facility includes any pipeline under Council jurisdiction:

41 (a) The certificate holder shall design, construct and operate the pipeline in
42 accordance with the requirements of the U.S. Department of Transportation as set forth
43 in Title 49, Code of Federal Regulations, Part 192, in effect on August 15, 2011; and

1 (b) The certificate holder shall develop and implement a program using the best
2 available practicable technology to monitor the proposed pipeline to ensure protection
3 of public health and safety.

4 (4) If the facility includes any transmission line under Council jurisdiction:

5 (a) The certificate holder shall design, construct and operate the transmission
6 line in accordance with the requirements of the 2012 Edition of the National Electrical
7 Safety Code approved on June 3, 2011, by the American National Standards Institute;
8 and

9 (b) The certificate holder shall develop and implement a program that provides
10 reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or
11 structures of a permanent nature that could become inadvertently charged with
12 electricity are grounded or bonded throughout the life of the line.

13 (5) If the proposed energy facility is a pipeline or a transmission line or has, as a
14 related or supporting facility, a pipeline or transmission line, the Council shall specify
15 an approved corridor in the site certificate and shall allow the certificate holder to
16 construct the pipeline or transmission line anywhere within the corridor, subject to the
17 conditions of the site certificate. If the applicant has analyzed more than one corridor
18 in its application for a site certificate, the Council may, subject to the Council's
19 standards, approve more than one corridor.

20 (6) If the facility is a surface facility related to an underground gas storage
21 reservoir, the Council shall, in the site certificate, specify the site boundary and total
22 permitted daily throughput of the facility.

23 (7) If the facility is subject to a carbon dioxide emissions standard adopted by the
24 Council or enacted by statute, the Council shall include in the site certificate
25 appropriate conditions as described in OAR 345-024-0550, 345-024-0560, 345-024-
26 0590, 345-024-0600, 345-024-0620, 345-024-0630 and 345-024-0710.

27 Stat. Authority: ORS 469.470

28 Stat. Implemented: ORS 469.401, 469.501, 469.503

29 **345-02527-001528**

30 **Monitoring and Mitigation Conditions**

31 In the site certificate, the Council shall include conditions that address monitoring and
32 mitigation to ensure compliance with the standards contained in OAR Chapter 345,
33 Division 22 and Division 24. The site certificate applicant, or for an amendment, the
34 certificate holder, shall develop proposed monitoring and mitigation plans in
35 consultation with the Department and, as appropriate, other state agencies, local
36 governments and tribes. Monitoring and mitigation plans are subject to Council
37 approval. The Council shall incorporate approved monitoring and mitigation plans in
38 applicable site certificate conditions.

39 Stat. Authority: ORS 469.470

40 Stat. Implemented: ORS 469.401, 469.501, 469.503, 469.507