

1 **DIVISION 27**

2 **EXPIRATION, AMENDMENT AND TERMINATION OF SITE CERTIFICATES, AND DEPARTMENT OF**  
 3 **ENERGY APPROVAL OF GAS STORAGE TESTING PIPELINES**

4  
 5 **345-027-0011**

6 **Applicability**

7 The rules in this division apply to all facilities under the Council's jurisdiction except those  
 8 facilities described in ORS 469.410(1), including the Trojan energy facility, and except that rules  
 9 345-027-0050, -0060, -0070, -0080, -0090 and -0100 that were in effect prior to Month XX,  
 10 2017 apply to proposed changes that have been included in requests for amendment to site  
 11 certificates and change requests that have been received by the Department prior to Month XX,  
 12 2017.

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 14 **345-027-000013**

15 **Certificate Expiration**

16 If the certificate holder does not begin construction of the facility by the construction beginning  
 17 date specified in the site certificate or amended site certificate, the site certificate expires on  
 18 the construction beginning date specified, unless expiration of the site certificate is suspended  
 19 pending final action by the Council on a request for amendment to a site certificate pursuant to  
 20 OAR 345-027-0085(2).

21  
 22 **345-027-0050**

23 **Changes Requiring an Amendment**

24 Except for changes allowed under OAR 345-027-0053 of this rule, an amendment to a site  
 25 certificate is required to:

- 26 (1) Transfer ownership of the facility or the certificate holder as described in OAR 345-027-  
 27 0100;  
 28 (2) Apply later-adopted law(s) as described in OAR 345-027-0090;  
 29 (3) Extend the construction beginning or completion deadline as described in OAR 345-027-  
 30 0085;  
 31 (4) Add area to the site boundary; and  
 32 (5) Design, construct or operate a facility in a manner different from the description in the site  
 33 certificate if the proposed change:  
 34 (a) Could result in a significant adverse impact that the Council has not addressed in an  
 35 earlier order and the impact affects a resource or interest protected by a Council  
 36 standard;  
 37 (b) Could impair the certificate holder's ability to comply with a site certificate condition; or  
 38 (c) Could require a new condition or a change to a condition in the site certificate.

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 40 **345-027-0051**

41 **Requests for Amendment Process**

- 42 (1) The transfer process, described in 345-027-0100, shall apply to the Council's review of a  
 43 request for amendment to a site certificate to transfer a site certificate.

- 1 (2) The standard process, consisting of rules 345-027-0059, -0060, -0063, -0065, -0067, -0069  
 2 and -0071, shall apply to the Council's review of a request for amendment proposing a  
 3 change described in 345-027-0050(2), (3), (4) and (5).
- 4 (3) The Council may act concurrently on any combination of proposed changes included in a  
 5 request for amendment. Concurrent proposed changes are subject to the substantive  
 6 requirements applicable to each respective proposed change and the Council shall review  
 7 all proposed changes through the process with the more procedural steps applicable to any  
 8 one of the proposed changes.

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 10 **345-027-0053**

11 **Changes Exempt from Requiring an Amendment**

12 An amendment to a site certificate is not required if the proposed change in the design,  
 13 construction or operation of a facility is in substantial compliance with the terms and conditions  
 14 of the site certificate, and is a change:

- 15 (1) To an electrical generation facility that would increase the electrical generating capacity and  
 16 would not increase the number of electric generators at the site, change fuel type, increase  
 17 fuel consumption by more than 10 percent or enlarge the facility site;
- 18 (2) To the number or location of pipelines for a surface facility related to an underground gas  
 19 storage reservoir that would not result in the facility exceeding permitted daily throughput  
 20 or a change to the site boundary;
- 21 (3) To the number, size or location of pipelines for a geothermal energy facility that would not  
 22 result in a change to the site boundary;
- 23 (4) To a pipeline that is a related or supporting facility that delivers natural gas to the energy  
 24 facility if the change would extend or modify the pipeline or expand the right-of-way, when  
 25 the change is exclusively to serve gas users other than the energy facility;
- 26 (5) To a transmission line that is a related or supporting facility if the change would extend or  
 27 modify the transmission line or expand the right-of-way, when the change is exclusively to  
 28 serve the transmission needs of a separate energy facility or energy user; or
- 29 (6) To construct a pipeline less than 16 inches in diameter and less than five miles in length to  
 30 test or maintain an underground gas storage reservoir. If the proposed pipeline would  
 31 connect to a surface facility related to an underground gas storage reservoir for which the  
 32 Council has issued a site certificate or to a gas pipeline for which the Council has issued a  
 33 site certificate, the certificate holder must obtain, prior to construction, the approval of the  
 34 Department of Energy for the construction, operation and retirement of the proposed  
 35 pipeline. To obtain Department approval, the certificate holder must submit a request as  
 36 described in OAR 345-027-0210 through OAR 345-027-0240.

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 38 **345-027-0055**

39 **Written Evaluations for Changes Not Requiring Amendment**

- 40 (1) If the certificate holder concludes that a proposed change to the facility does not require an  
 41 amendment to the site certificate, the certificate holder must complete a written evaluation  
 42 if the change:
- 43 (a) Could be included in and governed by the site certificate, but the certificate holder has  
 44 concluded the change is not described in 345-027-0050; or

- 1 (b) Is exempt from requiring an amendment under 345-027-0053.
- 2 (2) The written evaluation must explain why an amendment is not required, must be  
3 completed before implementing any change, and must be included in the next semiannual  
4 construction progress report or the Facility Modification Report required under 345-026-  
5 0080. The written evaluation must be retained for the life of the facility.
- 6 (3) The Department of Energy may, at any time, inspect the changes made to the facility and  
7 may inspect the certificate holder's written evaluation concluding that the change did not  
8 require an amendment.
- 9 (4) When the certificate holder implements a change without an amendment, the Department  
10 may initiate an enforcement action as described in Division 29 if the Department  
11 determines the change required an amendment to the site certificate.

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### 13 **345-027-0057**

#### 14 **Amendment Determination Request**

- 15 (1) The certificate holder may request a written determination of whether an amendment to  
16 the site certificate is required by OAR 345-027-0050 by submitting the following information  
17 in a written request to the Department of Energy:
- 18 (a) A narrative description of the proposed change(s);
- 19 (b) Maps and/or geospatial data layers representing the effects and/or location of the  
20 proposed change;
- 21 (c) The certificate holder's evaluation of whether the proposed change requires an  
22 amendment as described in OAR 345-027-0050 or OAR 345-027-0053; and
- 23 (d) Any additional information the certificate holder believes will assist the Department's  
24 evaluation.
- 25 (2) Upon receiving a request for a written determination described in section (1), the  
26 Department shall, as promptly as possible, issue a written determination indicating whether  
27 the proposed change requires an amendment or refer the request to the Council for a  
28 written Council determination.
- 29 (3) At the request of the certificate holder, the Department must refer its determination to the  
30 Council for concurrence, modification or rejection.

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### 32 **345-027-0059**

#### 33 **Pre-Amendment Conference**

- 34 (1) Prior to submitting a preliminary request for amendment to the site certificate as described  
35 in OAR 345-027-0060, the certificate holder may request a pre-amendment conference  
36 with the Department of Energy to discuss the scope, timing, and applicable laws and Council  
37 standards associated with the request for amendment. If the certificate holder is requesting  
38 an amendment to add area to the site boundary, the certificate holder must request a pre-  
39 amendment conference before submitting a preliminary request for amendment.
- 40 (2) A pre-amendment conference request must be in writing and must include a description of  
41 the proposed change and, if applicable, maps or geospatial data layers representing the  
42 location of the proposed change.
- 43 (3) Upon receipt of a request as described in section (1), the Department must, as promptly as  
44 possible, set a date and time for a pre-amendment conference.

1 **345-027-0060**

2 **Preliminary Request for Amendment**

- 3 (1) To request an amendment to the site certificate required by OAR 345-027-0050(3) – (5), the  
 4 certificate holder shall submit a written preliminary request for amendment to the  
 5 Department of Energy that includes the following:
- 6 (a) The name of the facility, the name and mailing address of the certificate holder, and the  
 7 name, mailing address, email address and phone number of the individual responsible  
 8 for submitting the request.
- 9 (b) A detailed description of the proposed change, including:
- 10 (A) a description of how the proposed change affects the facility,  
 11 (B) a description of how the proposed change affects those resources or interests  
 12 protected by applicable laws and Council standards, and  
 13 (C) the specific location of the proposed change, and any updated maps and/or  
 14 geospatial data layers relevant to the proposed change.
- 15 (c) References to any specific Division 21 information that may be required for the  
 16 Department to make its findings.
- 17 (d) The specific language of the site certificate, including conditions, that the certificate  
 18 holder proposes to change, add or delete through the amendment.
- 19 (e) A list of the Council standards and all other laws - including statutes, rules and  
 20 ordinances - applicable to the proposed change, and an analysis of whether the facility,  
 21 with the proposed change, would comply with those applicable laws and Council  
 22 standards. For the purpose of this rule, a law or Council standard is “applicable” if the  
 23 Council would apply or consider the law or Council standard under OAR 345-027-  
 24 0071(2).
- 25 (f) An updated list of the owners of property located within or adjacent to the site of the  
 26 facility, as described in OAR 345-021-0010(1)(f).
- 27 (2) For any Council standard that requires evaluation of impacts within an analysis area, the  
 28 analysis area shall be the larger of either the study area(s) as defined in OAR 345-001-  
 29 0000(59) or the analysis area(s) described in the project order for the application for site  
 30 certificate, unless otherwise approved in writing by the Department following a pre-  
 31 amendment conference.
- 32 (3) The certificate holder may incorporate, by specific reference, evidence previously submitted  
 33 to the Department in the application for site certificate or previous request for amendment,  
 34 or evidence that is otherwise included in the Department’s record on the facility.

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36 **345-027-0063**

37 **Determination of Completeness for a Request for Amendment**

- 38 (1) Until the Department of Energy determines the request for amendment to the site  
 39 certificate is complete, it is a preliminary request for amendment. After receiving a  
 40 preliminary request for amendment, the Department may seek comments from reviewing  
 41 agencies to determine whether that request is complete.
- 42 (2) Unless the certificate holder agrees to additional time, within 60 days after receipt of a  
 43 preliminary request for amendment, the Department shall notify the certificate holder  
 44 whether the request for amendment is complete. In the notification, the Department shall:

- 1 (a) State that the request for amendment is complete; or  
2 (b) State that the request for amendment is incomplete and:  
3 (A) Describe any additional information needed to complete the request for  
4 amendment to the extent known to the Department at the time of the notification,  
5 including identification of applicable laws and Council standards not addressed in  
6 the preliminary request for amendment,  
7 (B) Ask the certificate holder to submit the additional information by the due dates  
8 described in section (4), and  
9 (C) Estimate the additional time the Department will need to make a determination of  
10 completeness following the submittal of the additional information by the certificate  
11 holder.
- 12 (3) If the Department does not notify the certificate holder as described in section (2), the  
13 request for amendment is deemed complete 60 days after receipt of a preliminary request  
14 for amendment. Otherwise, the request for amendment is complete as determined under  
15 section (5).
- 16 (4) The Department may specify a date by which the certificate holder must submit additional  
17 information needed to complete the request for amendment. If follow-up requests for  
18 additional information are needed, the Department may specify dates by which the  
19 certificate holder must submit the information. At the request of the certificate holder, the  
20 Department may allow additional time for submission of the information. If the certificate  
21 holder does not submit the information by the deadline specified by the Department,  
22 including any allowed extension, the Council may reject the preliminary request for  
23 amendment. The rejection of a preliminary request for amendment is subject to appeal  
24 under ORS 469.403(3).
- 25 (5) A request for amendment is complete when the Department finds that the certificate holder  
26 has submitted information adequate for the Council to make findings or impose conditions  
27 on all applicable laws and Council standards. The Department shall notify the certificate  
28 holder when the Department finds that the request for amendment is complete.
- 29 (6) After receiving notification from the Department that the preliminary request for  
30 amendment is complete, the Department may require the certificate holder to prepare a  
31 consolidated request for amendment that includes all revisions to the preliminary request  
32 for amendment and all additional information requested by the Department before the  
33 determination of completeness. Upon a request by the Department, the certificate holder  
34 shall submit paper and non-copy-protected electronic copies of the consolidated request  
35 for amendment to the Department as specified by the Department.
- 36 (7) If, after a determination that a request for amendment is complete, the Department  
37 identifies a need for additional information during its review of the request for amendment,  
38 the Department may request additional information from the certificate holder.  
39  
40

1 **345-027-0065**

2 **Draft Proposed Order for a Request for Amendment**

- 3 (1) Within 15 days after a request for amendment to the site certificate described in OAR 345-  
 4 027-0050(3) – (5) or a request for amendment to apply later-adopted laws described in OAR  
 5 345-027-0090 is determined to be complete, the Department of Energy shall:  
 6 (a) Send notice to the certificate holder specifying a date for issuance of a draft proposed  
 7 order that is no later than 120 days after the date of the notice.  
 8 (b) Post an announcement on the Department’s website to notify the public that a complete  
 9 request for amendment has been received. The announcement shall include:  
 10 (A) A copy of the complete request for amendment;  
 11 (B) The date the draft proposed order will be issued, as specified in the notice required  
 12 by subsection (1)(a); and  
 13 (C) A statement that the public comment period begins upon issuance of the draft  
 14 proposed order.  
 15 (2) No later than the date specified in the notice required by subsection (1)(a), the Department  
 16 shall issue a draft proposed order recommending approval, modification, or denial of the  
 17 requested amendment. The Department may issue the draft proposed order at a later date,  
 18 but the Department shall, no later than the date the Department has specified in the notice  
 19 required by subsection (1)(a), notify the certificate holder in writing of the reasons for the  
 20 delay. The draft proposed order may include, but is not limited to draft proposed findings of  
 21 fact, conclusions of law, and conditions concerning the facility’s compliance with applicable  
 22 laws and Council Standards.

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 24 **345-027-0067**

25 **Public Comment and Hearing on the Draft Proposed Order for a Request for Amendment**

- 26 (1) After issuance of the draft proposed order as described in OAR 345-027-0065, the Council  
 27 shall conduct a public hearing on the request for amendment to the site certificate in the  
 28 vicinity of the facility. The public hearing must be held at least 20 days after the draft  
 29 proposed order is issued. The public hearing is not a contested case hearing.  
 30 (2) Concurrent with the issuance of the draft proposed order as described in OAR 345-027-  
 31 0065, the Department of Energy shall:  
 32 (a) Send the notice described in section (3) of this rule by mail or email to:  
 33 (A) Persons on the Council’s general mailing list as defined in OAR 345-011-0020;  
 34 (B) Persons on any special mailing list established for the facility;  
 35 (C) The reviewing agencies as defined in OAR 345-001-0010(52); and  
 36 (D) The updated property owner list as described in OAR 345-021-0010(1)(f) Exhibit F,  
 37 (b) Post the complete request for amendment, draft proposed order, and the notice of the  
 38 draft proposed order and public hearing on the Department website, and  
 39 (c) Make physical copies of the draft proposed order available to the public for inspection.  
 40 (3) Notice of the complete request for amendment, draft proposed order and public hearing  
 41 shall include:  
 42 (a) A description of the facility and the facility’s general location.  
 43 (b) The date, time and location of the public hearing described in this rule.

- 1 (c) The name, address, email address and telephone number of the Department  
2 representative to contact for additional information.
- 3 (d) Addresses of the physical location(s) and the website where the public may review  
4 copies of the complete request for amendment and draft proposed order.
- 5 (e) The deadline for the public to submit written comments to be included in the record of  
6 the public hearing and how such comments should be submitted.
- 7 (f) A statement that:
- 8 (A) A complete request for amendment has been received and reviewed by the  
9 Department.
- 10 (B) The Department has issued a draft proposed order.
- 11 (C) To raise an issue on the record of the public hearing, a person must raise the issue in  
12 person at the public hearing or in a written comment submitted after the date of the  
13 notice of the public hearing and received by the Department before the close of the  
14 record of the public hearing.
- 15 (D) A person's failure to raise an issue in person or in writing on the record of the public  
16 hearing precludes the Council's consideration of whether to grant that person's  
17 subsequent contested case request.
- 18 (E) Failure to raise an issue with sufficient specificity to afford the Council, the  
19 Department, and the certificate holder an opportunity to respond to the issue  
20 precludes the Council from considering whether that issue justifies a contested case  
21 proceeding.
- 22 (F) To raise an issue with sufficient specificity, a person must present facts, on the  
23 record of the public hearing, that support the person's position on the issue.
- 24 (G) The Council will not accept or consider any further public comment on the request  
25 for amendment or on the draft proposed order after the close of the record of the  
26 public hearing.
- 27 (4) During the public hearing, the Department shall explain the amendment process, including  
28 the means and opportunities for the general public to participate in the process. The  
29 Department may provide this explanation by a written handout.
- 30 (5) At the commencement of the public hearing, the presiding officer shall read aloud the  
31 following:
- 32 (a) A person who intends to request a contested case on the proposed order for a site  
33 certificate amendment must comment in person or in writing on the record of the public  
34 hearing.
- 35 (b) A person who intends to raise an issue that may be the basis for granting a contested  
36 case proceeding must raise that issue on the record of the public hearing with sufficient  
37 specificity to afford the Council, the department and the certificate holder an adequate  
38 opportunity to respond to the issue. To raise an issue with sufficient specificity, a person  
39 must present facts, on the record of the public hearing, that support the person's  
40 position on the issue.
- 41 (6) At the public hearing, any person may present information regarding the pending request  
42 for amendment without administration of an oath. The presiding officer shall record all  
43 presentations made during the public hearing. The presentations are part of the decision  
44 record for the request for amendment.

- 1 (7) Following the close of the record of the public hearing on the draft proposed order, the  
 2 Council shall review the draft proposed order, shall consider all comments received on the  
 3 record of the hearing, and may provide comments to the Department regarding the draft  
 4 proposed order. When the Council meets to review a draft proposed order, the Council  
 5 does not permit the certificate holder, reviewing agencies or the public to comment on any  
 6 issue that may be the basis for a contested case request.

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 8 **345-027-0069**

9 **Proposed Order, Requests for Contested Case and Council's Final Decision**

- 10 (1) No later than 30 days after the Council has reviewed the draft proposed order and  
 11 considered all comments received on the record of the public hearing under 345-027-0067,  
 12 the Department of Energy shall issue a proposed order recommending approval,  
 13 modification or denial of the request(s) for amendment to the site certificate. The  
 14 Department must consider any oral comments made at the public hearing, written  
 15 comments received before the close of the record of the public hearing, agency  
 16 consultation, and any Council comments. The Department may issue the proposed order at  
 17 a later date, but the Department shall, no later than 30 days after the Council has reviewed  
 18 the draft proposed order and considered all comments received on the record of the public  
 19 hearing, notify the certificate holder in writing of the reasons for the delay.
- 20 (2) Concurrent with issuing the proposed order, the Department shall issue public notice of the  
 21 proposed order by posting public notice as an announcement on its website and by sending  
 22 public notice by mail or email to:
- 23 (a) Persons on the Council's general mailing list as defined in OAR 345-011-0020,
  - 24 (b) Persons on any special list established for the facility,
  - 25 (c) The reviewing agencies as defined in OAR 345-001-0010(52), and
  - 26 (d) The updated property owner list as described in OAR 345-021-0010(1)(f) Exhibit F.
- 27 (3) Notice of the proposed order shall include:
- 28 (a) A description of the facility and the facility's general location.
  - 29 (b) A description of the process for requesting a contested case.
  - 30 (c) The physical and website addresses of where the public may review copies of the  
 31 proposed order.
  - 32 (d) The name, address, email address and telephone number of the Department  
 33 representative to contact for more information.
- 34 (4) On the same date the notice of proposed order as described in section (2) is issued, the  
 35 Department shall send a notice of the opportunity to request a contested case to the  
 36 certificate holder and to all persons who commented in person or in writing on the record  
 37 of the public hearing as described in OAR 345-027-0067. The notice shall include the  
 38 deadline for requesting a contested case and restatements of sections (5), (6), (7), (8) and  
 39 (9).
- 40 (5) Only those persons, including the site certificate holder, who commented in person or in  
 41 writing on the record of the public hearing described in OAR 345-027-0067 may request a  
 42 contested case proceeding on the proposed order for an amendment to the site certificate.  
 43 To properly raise an issue in a request for a contested case proceeding on the proposed  
 44 order for an amendment, the issue must be within the jurisdiction of the Council, and the



1 person must have raised the issue in person or in writing on the record of the public  
 2 hearing, unless the Department of Energy did not follow the requirements of OAR 345-027-  
 3 0067, or unless the action recommended in the proposed order differs materially from the  
 4 draft proposed order, including any recommended conditions of approval, in which case the  
 5 person may raise only new issues within the jurisdiction of the Council that are related to  
 6 such differences. If a person has not raised an issue at the public hearing with sufficient  
 7 specificity to afford the decision maker an opportunity to respond to the issue, the Council  
 8 shall not grant a contested case proceeding for that issue. To have raised an issue with  
 9 sufficient specificity, the person must have presented facts at the public hearing that  
 10 support that person's position on the issue.

- 11 (6) Contested case requests must be submitted in writing and must be received by the  
 12 Department by a specified deadline that is at least 30 days from the date of notice in  
 13 section (4). Contested case requests must include:
- 14 (a) The person's name, mailing address and email address and any organization the  
 15 person represents;
  - 16 (b) A short and plain statement of the issue or issues the person desires to raise in a  
 17 contested case proceeding;
  - 18 (c) A statement that describes why the Council should find that the requester properly  
 19 raised each issue, as described in section (7), including a specific reference to the  
 20 person's prior comments to demonstrate that the person raised the specific issue or  
 21 issues on the record of the public hearing, if applicable;
  - 22 (d) A statement that describes why the Council should determine that each identified  
 23 issue justifies a contested case, under the evaluation described in section (9).
  - 24 (e) A detailed description of the person's interest in the proceeding and how that interest  
 25 may be affected by the outcome of the proceeding.
  - 26 (f) Name and address of the person's attorney, if any;
  - 27 (g) A statement of whether the person's request to participate in a contested case is as a  
 28 party or a limited party, and if as a limited party, the precise area or areas in which  
 29 participation is sought;
  - 30 (h) If the person seeks to protect a personal interest in the outcome of the proceeding, a  
 31 detailed statement of the person's interest, economic or otherwise, and how such  
 32 interest may be affected by the results of the proceeding;
  - 33 (i) If the person seeks to represent a public interest in the results of the proceeding, a  
 34 detailed statement of such public interest, the manner in which such public interest  
 35 will be affected by the results of the proceeding, and the person's qualifications to  
 36 represent such public interest; and
  - 37 (j) A statement of the reasons why others who commented on the record of the public  
 38 hearing cannot adequately represent the interest identified in subsections (h) or (i).
- 39 (7) Before considering whether an issue justifies a contested case proceeding under section (9),  
 40 the Council must determine that the person requesting a contested case commented in  
 41 person or in writing on the record of the public hearing and properly raised each issue  
 42 included in the request. To determine that a person properly raised each issue included in  
 43 the request, the Council must find that:

- 1 (a) The person making the contested case request raised the issue on the record of the  
2 public hearing described in OAR 345-027-0067 with sufficient specificity to afford the  
3 Council, the Department and the certificate holder an adequate opportunity to respond  
4 to the issue;
- 5 (b) The Department did not follow the requirements of OAR 345-027-0067; or  
6 (c) If the action recommended in the proposed order, including any recommended  
7 conditions of approval, differs materially from the action recommended in the draft  
8 proposed order, the contested case request identified new issues that are related to  
9 such material differences.
- 10 (8) If the Council finds that the person requesting a contested case failed to comment in person  
11 or in writing on the record of the public hearing or failed to properly raise any issue, as  
12 described in section (7), the Council must deny that person's contested case request. If the  
13 Council finds that the person requesting a contested case commented in person or in  
14 writing on the record of the public hearing and properly raised one or more issues, the  
15 Council's determination of whether an issue justifies a contested case, as described in  
16 section (9), shall be limited to those issues the Council finds were properly raised.
- 17 (9) After identifying the issues properly raised the Council shall determine whether any properly  
18 raised issue justifies a contested case proceeding on that issue. To determine that an issue  
19 justifies a contested case proceeding, the Council must find that the request raises a  
20 significant issue of fact or law that may affect the Council's determination that the facility,  
21 with the change proposed by the amendment, meets the applicable laws and Council  
22 standards included in chapter 345 divisions 22, 23 and 24. If the Council does not have  
23 jurisdiction over the issue raised in the request, the Council must deny the request.
- 24 (10) The Council must take one of the following actions when determining if a request  
25 identifying one or more properly raised issues justifies a contested case proceeding:
- 26 (a) If the Council finds that the request identifies one or more properly raised issues that  
27 justify a contested case proceeding, the Council shall conduct a contested case  
28 proceeding according to the applicable provisions of OAR 345-015-0012 to -0014 and  
29 345-015-0018 to -0085. The Council shall identify the contested case parties and shall  
30 identify the issues each contested case party may participate on. The parties to a  
31 contested case proceeding shall be limited to those persons who commented on the  
32 record of the public hearing and who properly raised issues in their contested case  
33 request that the Council found sufficient to justify a contested case, except that the  
34 certificate holder is an automatic party to a contested case. The issues a party to a  
35 contested case proceeding may participate on shall be limited to those issues that party  
36 properly raised in its contested case request that the Council found sufficient to justify a  
37 contested case, except that the certificate holder may participate on any issue the  
38 Council found sufficient to justify a contested case proceeding.
- 39 (b) If the Council finds that the request identifies one or more properly raised issues that an  
40 amendment to the proposed order, including modification to conditions, would settle in  
41 a manner satisfactory to the Council, the Council may deny the request as to those  
42 issues and direct the Department to amend the proposed order and send a notice of the  
43 amended proposed order to the persons described in section (4). Only the certificate  
44 holder and those persons who commented on the record of the hearing may, in a

1 writing received by the Department within 30 days after the Department issues the  
 2 notice of the amended proposed order, request a contested case proceeding limited to  
 3 issues related to the amendment to the proposed order. As described in section (9), the  
 4 Council shall determine whether any issue identified in the request for a contested case  
 5 proceeding justifies a contested case proceeding. A person's contested case request  
 6 under this subsection shall include:

7 (A) The person's name, mailing address and email address;

8 (B) A statement of the contested issues related to the amendment to the proposed  
 9 order, including facts believed to be at issue; and

10 (C) A statement that describes why the Council should find an issue justifies a contested  
 11 case, as described in section (8).

12 (c) If the Council finds that the request does not identify a properly raised issue that  
 13 justifies a contested case proceeding, the Council shall deny the request. In a written  
 14 order denying the request, the Council shall state the basis for the denial. The Council  
 15 shall then adopt, modify or reject the proposed order based on the considerations  
 16 described in OAR-345-027-0071. In a written order the Council shall either grant or deny  
 17 issuance of an amended site certificate. If the Council grants issuance of an amended  
 18 site certificate, the Council shall issue an amended site certificate, which is effective  
 19 upon execution by the Council Chair and by the certificate holder.

20 (11) If there is no request for a contested case proceeding as described in section (6) or  
 21 subsection (10)(b), the Council, may adopt, modify or reject the proposed order based on  
 22 the considerations described in OAR 345-027-0071. In a written order, the Council shall  
 23 either grant or deny issuance of an amended site certificate. If the Council grants issuance  
 24 of an amended site certificate, the Council shall issue an amended site certificate, which is  
 25 effective upon execution by the Council Chair and by the certificate holder.

26 (12) Judicial review of the Council's final order either granting or denying an amended site  
 27 certificate shall be as provided in ORS 469.403.

28  
 29 **OAR 345-027-0071 Scope of Council's Review**

30 (1) In making a decision to grant or deny issuance of an amended site certificate, the Council  
 31 shall apply the applicable laws and Council standards required under section (2) and in  
 32 effect on the dates described in section (3).

33 (2) To issue an amended site certificate, the Council shall determine that the preponderance of  
 34 evidence on the record supports the following conclusions:

35 (a) For a request for amendment proposing to add new area to the site boundary, the  
 36 portion of the facility within the area added to the site by the amendment complies with  
 37 all laws and Council standards applicable to an original site certificate application.

38 (b) For a request for amendment to extend the deadlines for beginning or completing  
 39 construction, after considering any changes in facts or law since the date the current  
 40 site certificate was executed, the facility complies with all laws and Council standards  
 41 applicable to an original site certificate application. However, for requests to extend  
 42 completion deadlines, the Council need not find compliance with an applicable law or  
 43 Council standard if the Council finds that:

- 1 (A) The certificate holder has spent more than 50 percent of the budgeted costs on  
2 construction of the facility;
- 3 (B) The inability of the certificate holder to complete the construction of the facility by  
4 the deadline in effect before the amendment is the result of unforeseen  
5 circumstances that are outside the control of the certificate holder;
- 6 (C) The standard, if applied, would result in an unreasonable financial burden on the  
7 certificate holder; and
- 8 (D) The Council does not need to apply the standard to avoid a significant threat to the  
9 public health, safety or the environment;
- 10 (c) For any other requests for amendment not described above, the facility, with the  
11 proposed changes, complies with the applicable laws or Council standards that protect a  
12 resource or interest that could be affected by the proposed changes.
- 13 (d) For all requests for amendment, the amount of the bond or letter of credit required  
14 under OAR 345-022-0050 is adequate.
- 15 (3) In making the findings required to grant an amendment under section (2), the Council shall  
16 apply the applicable law and Council standards in effect on the following dates:
- 17 (a) For the applicable substantive criteria under the Council's land use standard, as  
18 described in OAR 345-022-0030, the date the certificate holder submitted the request  
19 for amendment, and
- 20 (b) For all other applicable laws and Council standards, the date the Council issues the  
21 amended site certificate.

22  
23 **345-027-003085**

24 **Request for Amendment to Extend Construction Deadlines**

- 25 (1) The certificate holder may request an amendment to the site certificate to extend the  
26 deadlines for beginning or completing construction of the facility that the Council has  
27 specified in a site certificate or an amended site certificate by submitting a preliminary  
28 request for amendment in accordance with 345-027-0060. The preliminary request for  
29 amendment must include an explanation of the need for an extension and must be  
30 submitted to the Department of Energy before the applicable construction deadline, but no  
31 earlier than the date twelve months before the applicable construction deadline.
- 32 (2) A preliminary request for amendment received by the Department within the time allowed  
33 under section (1) to extend the deadlines for beginning and completing construction  
34 suspends expiration of the site certificate or amended site certificate until the Council acts  
35 on the request for amendment. If the Council denies the extension request after the  
36 applicable construction deadline, the site certificate is deemed expired as of the applicable  
37 construction deadline specified in the site certificate or amended site certificate.
- 38 (3) If the Council grants an amendment under this rule, the Council shall specify new deadlines  
39 for beginning or completing construction that are the later of:
- 40 (a) Three years from the deadlines in effect before the Council grants the amendment, or  
41 (b) Following a contested case proceeding conducted pursuant to OAR 345-027-0069, two  
42 years from the date the Council grants the amendment.
- 43 (4) The Council shall not grant more than two amendments to extend the deadline for  
44 beginning construction of a facility or a phase of a facility.

1 **345-027-0090**

2 **Request by Any Person for Amendment to Apply Later-Adopted Laws**

- 3 (1) Any person may request an amendment of a site certificate to apply a law(s), including local  
4 government ordinances, statutes, rules or Council standards, adopted after the date the site  
5 certificate was executed, if the person contends failure to apply the law(s) results in a  
6 significant threat to the public health or safety or to the environment. The Department of  
7 Energy itself may initiate such a request.
- 8 (2) To request an amendment to apply later-adopted law(s) under this rule, the person shall  
9 submit a preliminary request for amendment to the Department with the information  
10 described in 345-027-0060(1)(a),(c),(d) and the following:  
11 (a) Identification of the law(s) that the person seeks to apply to the facility; and  
12 (b) The particular facts that the person believes clearly show a significant threat to the  
13 public health, safety or the environment that requires application of the later adopted  
14 law(s).
- 15 (3) If the Department receives a preliminary request for amendment to apply later-adopted  
16 law(s) as described in this rule from any person other than the certificate holder, the  
17 Department shall send a copy of the request to the certificate holder. The transmittal shall  
18 include a deadline by which the certificate holder must submit a response to the  
19 Department. In its response, the certificate holder shall state whether it agrees that there is  
20 a clear showing of a significant threat to the public health, safety or the environment that  
21 requires application of the later-adopted law(s).  
22 (a) If the certificate holder concludes the later-adopted law(s) should be applied to the  
23 facility, the Council shall review the request to apply later-adopted law(s) as a complete  
24 request for amendment in accordance with section (5).  
25 (b) If the certificate holder concludes that the law(s) should not be applied to the facility, or  
26 if the certificate holder does not respond with its conclusion before the specified  
27 deadline, the Department shall ask the Council to determine whether the request  
28 clearly shows a significant threat to the public health, safety or the environment that  
29 requires application of the later-adopted law(s).  
30 (A) If the Council determines there is not a clear showing of a significant threat to the  
31 public health, safety or the environment that requires application of the later  
32 adopted law(s), the Council shall deny the request to apply later-adopted law(s).  
33 (B) If the Council determines there is a clear showing of a significant threat to the public  
34 health, safety or the environment that requires application of the later adopted  
35 law(s), the Council shall review the request to apply later-adopted law(s) as a  
36 complete request for amendment in accordance with section (5)
- 37 (4) A preliminary request for amendment to apply later-adopted law(s) under this rule is  
38 considered a complete request for amendment for purposes of OAR 345-027-0063 on:  
39 (a) If the request to apply later-adopted law(s) is made by the certificate holder, the date  
40 the request is received by the Department.  
41 (b) If the request to apply later-adopted law(s) is made by a person other than the  
42 certificate holder, and if the certificate holder responds as described in subsection  
43 (3)(a), the date the response described in subsection (3)(a) is received by the  
44 Department.

- 1 (c) If the request to apply later-adopted law(s) is made by a person other than the  
 2 certificate holder, and if the certificate holder responds as described in subsection (3)(b)  
 3 or does not respond before the specified deadline under section (3), the date of the  
 4 Council's determination under paragraph (3)(b)(B).
- 5 (5) After receiving a complete request for amendment under section (4) of this rule, the Council  
 6 shall review the request for amendment as described in OAR 345-027-0065, 345-027-0067,  
 7 345-027-0069 and 345-027-0071, except that:
- 8 (a) If the Department recommends approval or modified approval of the requested  
 9 amendment, the Department shall include in the proposed order described in OAR 345-  
 10 027-0069 any new or modified site certificate conditions necessary to assure  
 11 compliance with the law(s) applied to the facility under the proposed order;
- 12 (b) If the Department in its proposed order recommends approval or modified approval of  
 13 the requested amendment, the certificate holder may, by written request submitted to  
 14 and received by the Department within 30 days after the Department issues the  
 15 proposed order, ask the Council to hold a contested case proceeding on the proposed  
 16 order. In the request, the certificate holder shall provide a description of the issues to  
 17 be contested and a statement of the facts believed to be at issue. If the certificate  
 18 holder requests a contested case proceeding, the Council shall conduct a contested case  
 19 proceeding according to the applicable provisions of OAR 345-015-0012 to -0014, and  
 20 345-015-0018 to 345-015-0085 limited to the issues stated by the certificate holder; and
- 21 (c) The Council shall include new conditions in a site certificate amended under this rule  
 22 only if the Council finds that the conditions are necessary based upon a clear showing of  
 23 a significant threat to the public health, safety or the environment.

### 25 **345-027-0100**

#### 26 **Request for Amendment to Transfer Ownership, Possession or Control of the Facility or the** 27 **Certificate Holder**

- 28 (1) For the purpose of this rule:
- 29 (a) A request for amendment to a site certificate to transfer the site certificate is required  
 30 for a transaction that results in a change in the ownership, possession or control of the  
 31 facility or the certificate holder.
- 32 (b) "New owner" means the person or entity that will gain ownership, possession or control  
 33 of the facility or the certificate holder.
- 34 (2) When the certificate holder has knowledge that a transaction that requires a transfer of the  
 35 site certificate as described in section (1)(a) is or may be pending, the certificate holder shall  
 36 notify the Department of Energy. In the notice, the certificate holder shall include the name  
 37 and contact information of the new owner, and the date of the transfer of ownership. If  
 38 possible, the certificate holder shall notify the Department at least 60 days before the date  
 39 of the transfer of ownership.
- 40 (3) A transaction that would require a transfer of the site certificate as described in subsection  
 41 (1)(a) does not terminate the transferor's duties and obligations under the site certificate  
 42 until the Council approves a transfer request and issues an amended site certificate. The  
 43 new owner is not allowed to construct or operate the facility until an amended site

- 1 certificate as described in section (10) or a temporary amended site certificate as described  
2 in section (11) becomes effective.
- 3 (4) To request an amendment to transfer the site certificate, the new owner shall submit a  
4 written request to the Department that includes the information described in OAR 345-021-  
5 0010(1)(a), (d), (f) and (m), a certification that the new owner agrees to abide by all terms  
6 and conditions of the site certificate currently in effect and, if known, the expected date of  
7 the transaction. If applicable, the new owner shall include in the request the information  
8 described in OAR 345-021-0010(1)(y)(O)(iv).
- 9 (5) The Department may require the new owner to submit a written statement from the  
10 current certificate holder, or a certified copy of an order or judgment of a court of  
11 competent jurisdiction, verifying the new owner's right, subject to the provisions of ORS  
12 Chapter 469 and the rules of this chapter, to possession or control of the site or the facility.
- 13 (6) Within 15 days after receiving a request for amendment to transfer the site certificate, the  
14 Department shall send a notice of the request by mail or email to the reviewing agencies as  
15 defined in OAR 345-001-0010, to all persons on the Council's general mailing list as defined  
16 in OAR 345-011-0020, to any special list established for the facility and to the updated  
17 property owner list submitted by the new owner under section (4). In the notice, the  
18 Department shall describe the transfer request, specify a date by which comments are due  
19 and state that the date of the Council's transfer hearing will be announced on the  
20 Department's website.
- 21 (7) Before acting on the request for amendment to transfer the site certificate, the Council shall  
22 hold a transfer hearing. The Council shall hold the transfer hearing during a Council meeting  
23 and shall provide notice of the hearing on its meeting agenda, which will be sent by mail or  
24 email to the Council's general mailing list in advance of the meeting. The transfer hearing is  
25 not a contested case hearing. During the hearing the Council will accept comments from the  
26 public, reviewing agencies and new owner regarding the new owner's compliance with the  
27 Council standards described in section (8)(a).
- 28 (8) At the conclusion of the transfer hearing or at a later meeting, the Council may issue an  
29 order approving the transfer request if the Council finds that:
- 30 (a) The new owner complies with the Council standards described in OAR 345-022-0010,  
31 345-022-0050 and, if applicable, OAR 345-024-0710(1); and
- 32 (b) The new owner is or will be lawfully entitled to possession or control of the site or the  
33 facility described in the site certificate.
- 34 (9) Except as described in section (12), the Council shall not otherwise change the terms and  
35 conditions of the site certificate in an order approving the transfer request.
- 36 (10) Upon issuing the order described in section (8), the Council shall issue an amended site  
37 certificate that names the new owner as the new certificate holder or as the new owner of  
38 the certificate holder. The amended site certificate is effective upon execution by the  
39 Council chair and the new owner. The Council shall issue the amended site certificate in  
40 duplicate counterpart originals and each counterpart, upon signing, will have the same  
41 effect.
- 42 (11) If the Council chair determines that special circumstances justify emergency action, the  
43 Council chair may, upon a written request from the new owner that includes a showing that  
44 the new owner can meet the requirements of section (8), issue a temporary amended site

1 certificate that names the new owner as the new certificate holder or as the new owner of  
 2 the certificate holder. The temporary amended site certificate is effective upon execution  
 3 by the Council chair and the new owner. The temporary amended site certificate expires  
 4 when an amended site certificate as described in section (10) becomes effective or as the  
 5 Council otherwise orders.

### 7 **345-027-0110**

#### 8 **Termination of a Site Certificate**

- 9 (1) A certificate holder may apply to the Council to terminate a site certificate at any time,  
 10 subject to the requirements of this rule.
- 11 (2) A certificate holder must apply to the Council to terminate a site certificate within two years  
 12 following cessation of construction or operation of the facility.
- 13 (3) If the certificate holder fails to apply to the Council to terminate the site certificate and the  
 14 Council finds that the certificate holder has permanently ceased construction or operation  
 15 of the facility, then the Council may terminate the site certificate according to the  
 16 procedure described in OAR 345-~~027-0020(16)~~025-0006(16).
- 17 (4) In an application for termination of the site certificate, the certificate holder shall include a  
 18 proposed final retirement plan for the facility and site. The certificate holder shall submit an  
 19 original and two printed copies of the application for termination and the proposed final  
 20 retirement plan to the Department of Energy. Upon a request by the Department, the  
 21 certificate holder must submit printed copies of the application for termination and the  
 22 proposed final retirement plan for members of the Council. In addition to the printed  
 23 copies, the certificate holder shall submit the full copies of the application for termination  
 24 and the proposed final retirement plan in a non-copy-protected electronic format  
 25 acceptable to the Department.
- 26 (5) In the proposed final retirement plan, the certificate holder shall include:
- 27 (a) A plan for retirement that provides for completion of retirement without significant  
 28 delay and that protects public health, safety and the environment.
- 29 (b) A description of actions the certificate holder proposes to take to restore the site to a  
 30 useful, non-hazardous condition, including information on how impacts to fish, wildlife  
 31 and the environment would be minimized during the retirement process.
- 32 (c) A current detailed cost estimate and a plan for ensuring the availability of adequate  
 33 funds for completion of retirement.
- 34 (d) An updated list of the owners of property located within or adjacent to the site of the  
 35 facility, as described in OAR 345-021-0010(1)(f).
- 36 (6) Within 15 days after receiving an application for termination of a site certificate, the  
 37 Department of Energy shall:
- 38 (a) Send a notice of the application by mail or email to all persons on the Council's general  
 39 mailing list as defined in OAR 345-011-0020, to any special list established for the facility  
 40 and to the updated property owner list submitted by the certificate holder under  
 41 subsection (5) specifying a date by which comments on the application are due.
- 42 (b) Send copies of the application for termination by mail or email to the reviewing agencies  
 43 as defined in OAR 345-001-0010 and shall ask those agencies to comment by a specified  
 44 date.



- 1 (c) Post an announcement of the application for termination on the Department’s website.  
 2 (7) The Council shall review the proposed final retirement plan and shall consider any  
 3 comments received from the public and the reviewing agencies. The Council may approve  
 4 the proposed final retirement plan or modify the plan to comply with the rules of this  
 5 chapter and applicable conditions in the site certificate. The Council shall issue an order  
 6 authorizing retirement according to the approved or modified final retirement plan and  
 7 subject to any conditions the Council finds appropriate. The Council's order may be  
 8 appealed as described in ORS 183.480.  
 9 (8) When the Council finds that the certificate holder has completed the retirement of the  
 10 facility according to the Council's order authorizing retirement, the Council shall issue an  
 11 order terminating the site certificate.  
 12 (9) When the Council finds that the site certificate has expired as described in OAR 345-027-  
 13 ~~0000~~0013, the Council shall issue an order terminating the site certificate.  
 14  
 15

### 16 Department of Energy Approval of Gas Storage Testing Pipelines

#### 17 345-027-0210

#### 18 General

- 19 (1) A person shall not construct a gas storage testing pipeline unless the certificate holder of the  
 20 Council certified facility to which the pipeline would connect obtains, before construction,  
 21 the approval of the Department of Energy for the construction, operation and retirement of  
 22 the proposed pipeline as required under ORS 469.405(3).  
 23 (2) For the purposes of OAR 345-027-0210 through 345-027-0240:  
 24 (a) “Gas storage testing pipeline” means a pipeline, but not a temporary pipeline, that is less  
 25 than 16 inches in diameter and less than five miles in length, that is used to test or  
 26 maintain an underground gas storage reservoir and that would connect to a Council  
 27 certified facility if the storage reservoir proves feasible for operational use;  
 28 (b) “Temporary pipeline” means a pipeline that has no potential for operational use;  
 29 (c) “Council certified facility” means an energy facility for which the Council has issued a site  
 30 certificate that is either a surface facility related to an underground gas storage  
 31 reservoir or a gas pipeline;  
 32 (d) “Connect” means join for the purpose of operational use;  
 33 (e) “Test or maintain” means transporting gas to an underground gas storage reservoir for  
 34 the purposes of determining whether the reservoir is feasible for operational use or  
 35 maintaining the gas storage capacity of the reservoir but does not include operational  
 36 use;  
 37 (f) “Operational use” means transporting gas to an underground gas storage reservoir for  
 38 the purpose of storing gas until it is needed for sale or for withdrawing gas from an  
 39 underground gas storage reservoir for the purpose of sale;  
 40 (g) “Council substantive standards” means the following standards:  
 41 (A) Structural Standard, OAR 345-022-0020;  
 42 (B) Soil Protection, OAR 345-022-0022;  
 43 (C) Protected Areas, OAR 345-022-0040(1) but excluding (2) and (3);  
 44 (D) Retirement and Financial Assurance, OAR 345-022-0050;

- 1 (E) Fish and Wildlife Habitat, OAR 345-022-0060;
- 2 (F) Threatened and Endangered Species, OAR 345-022-0070
- 3 (G) Scenic Resources, OAR 345-022-0080;
- 4 (H) Historic, Cultural and Archaeological Resources, OAR 345-022-0090;
- 5 (I) Recreation, 345-022-0100;
- 6 (J) Public Services, OAR 345-022-0110;
- 7 (K) Waste Minimization, OAR 345-022-0120; and
- 8 (L) Public Health and Safety, OAR 345-024-0030(2), (3) and (4);

9 (h) "Information requirements" means information that would support the findings  
 10 described in OAR 345-024-0030(2) and the information described in 345-021-0010(1)(h),  
 11 (i), (j), (L), (m), (p), (q), (r), (s), (t), (u), (v), and (w).

### 13 **345-027-0220**

#### 14 **Request for Approval**

- 15 (1) Before submitting a request for approval to construct, operate and retire a gas storage  
 16 testing pipeline, the certificate holder shall:
- 17 (a) Inform the Department of Energy of the proposed pipeline, including its diameter,  
 18 length, location, capacity and maximum operating pressure; and
  - 19 (b) Provide to the Department a map showing the location of the proposed pipeline.
- 20 (2) After receiving the information described in section (1), the Department shall confer with  
 21 the certificate holder about the Council substantive standards and information  
 22 requirements that might apply to the proposed pipeline and any extraordinary  
 23 circumstances that might affect the time requirements for completing the approval process.  
 24 Within 7 days after conferring with the certificate holder, the Department shall send a letter  
 25 to the certificate holder that includes the following:
- 26 (a) Identification of the Council substantive standards that are applicable to the request for  
 27 approval of the proposed pipeline;
  - 28 (b) Identification of the information requirements that are applicable to the request for  
 29 approval of the proposed pipeline;
  - 30 (c) The time requirements for the approval process, if different from the time requirements  
 31 described in OAR 345-027-0230.
- 32 (3) The certificate holder shall submit to the Department a written request for approval to  
 33 construct, operate and retire a gas storage testing pipeline with the fee required by the fee  
 34 schedule established under ORS 469.441. The certificate holder shall submit the original and  
 35 two paper copies of the request to the Department. The certificate holder shall provide  
 36 additional copies to the Department upon request and copies or access to copies to any  
 37 person requesting copies. In addition to the printed copies of the request for approval, the  
 38 certificate holder shall submit the full request in a non-copy-protected electronic format  
 39 acceptable to the Department.
- 40 (4) In a request for approval, the certificate holder shall include:
- 41 (a) The name and mailing address of the certificate holder and the name, mailing address,  
 42 email address and phone number of the individual responsible for submitting the  
 43 request;

- 1 (b) A description of the purpose and operation of the proposed pipeline and a discussion of  
 2 whether the use of the gas storage testing pipeline for reservoir testing or maintenance  
 3 will require an increase in the compression available in the Council certified facility to  
 4 which the proposed pipeline would connect in addition to the compression that is  
 5 permitted under the site certificate;  
 6 (c) Identification of the Council certified facility to which the proposed pipeline would  
 7 connect;  
 8 (d) A description of the proposed pipeline, including its diameter, length, location, capacity  
 9 and maximum operating pressure;  
 10 (e) A map showing the location of the proposed pipeline;  
 11 (f) A list of the names and mailing addresses of all owners of record, as shown on the most  
 12 recent property tax assessment role, of property where the proposed pipeline is located  
 13 and within 500 feet of the location of the proposed pipeline;  
 14 (g) The information that the Department has identified in the letter described in section (2);  
 15 and  
 16 (h) Any other information that the Department requests as needed to make the findings  
 17 described in the applicable standards.

18

19 **345-027-0230**20 **Review of a Request for Approval**

- 21 (1) Within 7 days after receiving a request for approval to construct, operate and retire a gas  
 22 storage testing pipeline, the Department of Energy shall:  
 23 (a) Send copies of the request by mail, email or any other form of electronic delivery to the  
 24 following agencies with a notice asking the agencies to submit written comments on the  
 25 request within 14 days from the date of the notice:  
 26 (A) Oregon Department of Fish and Wildlife;  
 27 (B) Oregon Department of Geology and Mineral Industries;  
 28 (C) Oregon Public Utility Commission;  
 29 (D) Oregon Department of Agriculture;  
 30 (E) Division of State Lands; and  
 31 (F) State Historic Preservation Office.  
 32 (b) Send a notice of the request, including a map showing the location of the proposed  
 33 pipeline, by mail, email or any other form of electronic delivery to the following stating  
 34 that the agencies and planning authority may submit written comments on the request  
 35 within 14 days from the date of the notice:  
 36 (A) Oregon Department of Forestry;  
 37 (B) Oregon Department of Environmental Quality; and  
 38 (C) The planning authority of the county or counties where the proposed pipeline is  
 39 located.  
 40 (c) Send a notice of the request, including a map showing the location of the proposed  
 41 pipeline, by mail or email to the property owners the certificate holder has listed in the  
 42 request stating that property owners may submit written comments on the request  
 43 within 14 days from the date of the notice.  
 44 (d) Post an announcement of the request on the Department's website.

- 1 (2) Within 21 days from the deadline for comments described in section (1) or such longer  
2 period as the Department has specified in the letter described in OAR 345-027-0220(2), the  
3 Department shall issue a final order stating its findings on the applicable Council substantive  
4 standards and its approval or disapproval of the request. In an order approving a request,  
5 the Department shall include conditions that the Department finds necessary to ensure  
6 compliance with the applicable standards and conditions required by 345-027-0240.
- 7 (3) The Department shall send a notice of the final order to the certificate holder, to the  
8 property owners the certificate holder listed in the request and to any person who  
9 commented on the request. In the notice, the Department shall state that judicial review of  
10 the order is as provided in ORS 469.403.
- 11 (4) The Department may amend an order approving the construction, operation and retirement  
12 of a gas storage testing pipeline.
- 13 (5) Notwithstanding ORS 469.503(3), the Department shall not review the proposed pipeline for  
14 compliance with other state standards.
- 15 (6) Notwithstanding ORS 469.401(3), the approval of a gas storage testing pipeline by the  
16 Department does not bind any state or local agency.

17

**18 345-027-0240****19 Conditions**

20 In an order approving the construction, operation and retirement of a gas storage testing  
21 pipeline, the Department of Energy may impose conditions it finds necessary to ensure  
22 compliance with the Council substantive standards it identified as applicable in the letter  
23 described in OAR 345-027-0220(2). In addition, the Department shall impose the following  
24 conditions:

- 25 (1) The certificate holder shall design, construct, operate and retire the gas storage testing  
26 pipeline in compliance with applicable Council rules and applicable federal, state and local  
27 laws, rules and ordinances in effect at the time the Department issues the order;
- 28 (2) The certificate shall design, construct, operate and retire the gas storage testing pipeline  
29 substantially as described in representations in the request for approval and supporting  
30 record that the Department finds to be binding commitments made by the certificate  
31 holder;
- 32 (3) The certificate holder shall prevent the development of any conditions in the area of the gas  
33 storage testing pipeline that would preclude restoration of the area to a useful, non-  
34 hazardous condition to the extent that prevention of such conditions is within the control of  
35 the certificate holder;
- 36 (4) Upon completion of construction of the pipeline, the certificate holder shall dispose of all  
37 refuse and remove all temporary structures not needed to test or maintain an underground  
38 gas storage reservoir;
- 39 (5) The certificate holder shall notify the Department of Energy, the State Building Codes  
40 Division and the Department of Geology and Mineral Industries promptly if investigations or  
41 trenching in the area of the pipeline reveal soil or geological conditions that differ  
42 significantly from those described in the request for approval;
- 43 (6) The certificate holder shall submit to the Department copies of all incident reports involving  
44 the gas storage testing pipeline required under 49 CFR Sec. 191.15;

- 1 (7) The certificate holder shall allow properly identified representatives of the Council or the  
2 Department of Energy to inspect the pipeline at any time, including all materials, activities,  
3 premises and records pertaining to design, construction, operation or retirement of the  
4 pipeline;
- 5 (8) The certificate holder shall notify the Department when it begins construction, shall keep  
6 the Department informed of construction progress and any unusual events or  
7 circumstances and shall notify the Department when it begins to use the pipeline for  
8 reservoir testing or maintenance;
- 9 (9) The certificate holder shall notify the Department if it terminates use of the gas storage  
10 testing pipeline; and
- 11 (10) If the certificate holder decides to convert the gas storage testing pipeline to operational  
12 use, the certificate holder shall notify the Department and, if required under OAR 345-027-  
13 0050, submit a request to amend the site certificate.