



# Oregon

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**To:** Oregon Energy Facility Siting Council  
**From:** Duane Kilsdonk, Compliance Officer  
**Date:** September 12, 2019  
**Subject:** Agenda Item L - 2019-20 Compliance Update for September 26-27, 2019 EFSC Meeting.

After a facility receives a site certificate, the Energy Facility Siting staff, on behalf of EFSC, monitor the project throughout the life cycle of the facility to verify that it is constructed, operated and retired consistent with the approved site certificate conditions. In order to establish program expectations and goals, and ensure all compliance activities are completed throughout the year, an annual compliance work plan is created.

The Compliance Update is provided to the Council once a year and outlines the specific compliance activities including process improvement work tasks.

Compliance Categories include:

- **Facility Inspections**
- **Annual Report Review**
- **Incident Notification Response**
- **Annual Fee Assessment**
- **Financial Assurance Updates**
- **Site Certificate Transitions**
- **Exempt Facilities**
- **Site Inspection Request Resolution**
- **Notice of Violation procedures**
- **Compliance Program Evaluation**

**See Attachment A:** Compliance Program Work Plan for 2019/2020 for details associated with these compliance categories.

# ATTACHMENT A

## OREGON DEPARTMENT OF ENERGY 2019/2020 SITING DIVISION – COMPLIANCE PROGRAM – WORK PLAN

After a facility receives a site certificate, Energy Facility Siting staff, on behalf of EFSC, monitor the facility throughout its life cycle to verify that it is constructed, operated and retired consistent with the approved site certificate conditions. In order to establish program expectations and goals, and ensure all compliance activities are completed throughout the year, an annual compliance work plan is created. The first part of the work plan briefly describes the categories of activities. The second part consists of three tables outlining the specific compliance activities. The first table consists of the Compliance Work Plan Tasks for 2019-2020. The second table consists of Process Improvement Work Tasks for 2019-2020. The final table is the Anticipated Inspections for 2019-2020. These tables include status update columns to track the progress of each item throughout the year.

### Compliance Categories

#### 1. Facility Inspections

Operating Facilities – It is staff's intent to inspect operating facilities annually. However, for some of the older facilities semi-annually inspections may be more suitable. Frequency is determined based on site certificate condition requirements such as wildlife monitoring and mitigation plans, revegetation plans and habitat mitigation plans. Large facilities may require several days or multiple persons to complete the inspection. Site visits for facilities located in the same geographic area are scheduled together when possible to maximize efficiency and minimize cost.

Facilities in Pre-Construction/Construction – Documents required by site certificate conditions are reviewed and approved by the Compliance Officer. The Compliance Officer relies on other Department of Energy staff, state agencies, local governments and consultants where necessary. Inspections are done as needed to ensure site certificate conditions are met. For a typical site, one or more pre-construction site visits occur prior to ground breaking activities to photograph and document conditions prior to any disturbance. During construction, inspections occur as needed or monthly to verify that conditions in the site certificate are being complied with. Photos, document review, interviews and direct observation are the methods to verify compliance of the conditions. Each inspection results in a report for the record.

#### 2. Annual Report Review

Consistent with OAR 345-026-0080, most site certificate holders are required to submit annual reports no later than April 30 of each year, except for OAR 345-026-0080 (1) (a) the certificate holder shall submit a semiannual construction progress report to the department within 6 months after the start of construction and every 6 months thereafter. The annual report is an overview of the calendar year preceding the date of the report and includes the

status of the facility, reliability and efficiency of power productions, fuel use, financial surety status, monitoring/mitigation report and a compliance report.

Prior to reviewing an annual report, staff familiarizes themselves with the operation conditions in the site certificate. The report is reviewed and identified issues noted. A semi-annually or annual site visit is conducted to verify information in the annual report and resolve any identified issues. A response letter is generated and sent to the site certificate holder. If corrective action is required, a corrective action plan and schedule is requested and monitored.

Per OAR 345-030-0010, the research reactors at Oregon State University and Reed College must submit annual reports associated with their research reactors by August 1 of each year that details any environmental effects, as specified in rule, which occurred during the prior calendar year.

### **3. Incident Notification Response**

Consistent with OAR 345-026-0170 and facility conditions, a site certificate holder is required to notify Siting staff within 72 hours of any occurrence involving an attempt by anyone to interfere with its safe operation, a significant natural event such as a fire, earthquake, flood, tsunami or tornado, or a human caused event such as a fire or explosion, or a fatal injury at a facility.

Oregon State University and Reed College have incident response requirements for their research reactors that are largely taken from the Nuclear Regulatory Commission's code of federal regulations.

### **4. Annual Fee Assessment**

Consistent with ORS 469.421(5), most certificate holders are required to pay an annual fee based on the estimation of compliance activities' costs for that facility. Each May, individual assessments for the next fiscal year are created. The assessments take into account the time to review the annual reports, the number of inspections to be done and administrative tasks such as records management and financial assurance updates. The annual fee is assessed in August for the July 1-June 30 period. Unanticipated work such as preparation for a proposed amendment, incident responses, or questions with annual reports will increase certificate holder's fee. Any unexpended fees are returned to the site certificate holder or applied to the next year's assessment.

### **5. Financial Assurance Updates**

Consistent with OAR 345-025-0006(8), site certificate holders must maintain a bond or letter of credit in the amount estimated to restore the site back to a non-hazardous condition if the facility is retired and the site certificate holder does not decommission the facility and restore the site. The bonds or letters of credit are typically updated annually to keep pace with inflation and the associated financial institutions are evaluated annually for financial viability. The siting division holds these bonds or letters of credit on behalf of the Council. The total amount as of this report is just over \$135 million.

## **6. Site Certificate Conditions**

Development of clear and enforceable site certificate conditions are instrumental to the Compliance Officer working in an efficient and effective manner. Early work with Siting Analysts in drafting conditions allows the Compliance Officer to ensure clear, enforceable and consistent conditions which, when applicable, can be applied across projects.

## **7. Exempt Facilities**

Consistent with OAR 345-015-0350, certain facilities are exempt from the requirement of obtaining a site certificate. To date, sixteen facilities have been granted exemption status by EFSC. The Department will be undergoing a process improvement review in 2019-2020 to evaluate the compliance program with respect to exempt facilities.

## **8. Site Inspection Request Resolution**

Anyone may request an inspection by Oregon Department of Energy staff of an EFSC-jurisdiction facility. Oregon Administrative Rules 345-026-0050(2) provide guidance on submitting a request, which is limited to two areas:

- a. The requestor believes a violation of an EFSC order, site certificate condition, or warranty has occurred or may imminently occur; or
- b. A situation exists that may lead to unnecessary exposure of an individual to hazardous materials or unsafe or dangerous conditions.

The Compliance Officer is responsible for reviewing requests, communicating appropriately with the requestor and EFSC, and completing investigations, as warranted. Requests can be made in writing, through email or through an online form on the agency's website.

## **9. Violations**

OAR 345 Division 29 outlines the process for issuing a notice of violation, assessing civil penalties and either revoking or suspending a site certificate. If a certificate holder or the operator of an exempt facility construct or operate a facility contrary to their site certificate or exemption, the enforcement procedures included in Division 29 are utilized. The Compliance Officer is responsible for managing any enforcement proceedings.

## **10. Process Improvement**

The Department constantly looks for process efficiencies to increase timeliness, consistency, inclusiveness, transparency, predictability and to enhance relationships with the various groups who participate in the EFSC process. Process improvement tasks are typically one-time efforts that allow us to better perform the compliance responsibilities listed above. Proposed process improvement tasks currently planned to be undertaken in 2019-2020 are included in the "Improvement Tasks" table below.

## Annual Tasks

Task Description	Status Update
<p><u>Facility Inspections</u> – Conduct 18 Operational Inspections; 2 Construction inspections and 2 Final Construction inspections to ensure each facility is being constructed and operated consistent with site certificate conditions.</p>	<p>MST Final Construction inspection (completed 7/30/19)</p>
<p><u>Annual Report Review</u> –</p> <ul style="list-style-type: none"> <li>• Receive all by April 30 (OSU and Reed research reactors submit by Aug 1)</li> <li>• Review annual report then conduct a semi-annual or annual site visit to verify conditions. During the annual report review, if the Department has questions or issues, the Department first works with the certificate holder to find answers or resolution. Additionally, the CO may be able to resolve the issue during the site visit.</li> </ul>	<p>All Annual Reports received (4-30-19)</p>
<p><u>Financial Assurance Updates</u> – Ensure all bonds and letters of credit are updated to reflect present value. Verify all financial institutions are financially viable.</p>	<p>Ongoing though out the year</p>
<p><u>Annual Assessment</u> – Create Individual assessments based on forecasted work/costs associated with each facility.</p>	<p>Completed August 14, 2019</p>
<p><u>Incident Response</u> – Provide the appropriate Department response to any safety, fatal injury or natural event incident at a facility.</p>	<p>One incident reported on August 17, 2019. Reportable spill from a pad mount transformer 486 gallons of mineral oil (non-PCB) spilled and cleaned up.</p>
<p><u>Violations</u> – Pursue all violations of site certificates and exemptions.</p>	<p>None during the prior fiscal year</p>

## Improvement Tasks

Task Description	Status Update
<u>Notice of Violation</u> – Establish procedures for when and how the Compliance Officer responds to certificate violations.	Process has been documented and vetted by DOJ through an Annual Report issue. Processes continue to be evaluated.
<u>Compliance Program Evaluation</u> – Review compliance program processes for workflow efficiency and robustness of site certificate holder reviews and audits, including pre-construction, construction, and operation phases. This information will feed into the ongoing compliance rulemaking project.	Processes continue to be evaluated, Desktop manual is in development.
<u>Habitat Mitigation Area Assessment</u> – Establish procedures to evaluate Site Certificate Habitat Mitigation site; the protection of the habitat quality; the results of the enhancement actions conducted and the usage of the area by avian and mammal species.	Processes continue to be evaluated. Consultation with ODF&W will be needed.
<u>Site Certificate Transition</u> – Establish procedures to transition energy facilities from Siting Analyst to Compliance Officer after site certificates are executed.	Montague Wind Farm was the first example of working through draft processes and procedures. Ongoing task
<u>Exempt Facilities and Non-Jurisdictional</u> – Move forward with next steps plan for Exemption monitoring, which may include site visits, rule changes and establishment of internal procedures for regular review.	Processes continue to be evaluated.
<u>Review Reed and OSU Research Reactors Facilities</u> – This task includes review of the Site Certificate – Review of EFSC Division 30 rules related to facility and compliance – Annual Report Review, which would include the development of a bi-annual compliance monitoring plans. These facilities have significant reporting requirements to the Nuclear Regulatory Commission, and due to the age of their site certificates, an alternative compliance process is practical.	Processes continue to be evaluated.

## 2019 - 2020 Forecasted Inspections

Facility Name	Phase	Anticipated # of Inspections	Inspection Completion Date	Inspection report Completion Date
Biglow Canyon Wind Farm	Operating	1 Operating		
Boardman Coal Plant	Operating	Non-Anticipated		
Boardman Solar Facility	Approved -Not built <i>Must construct by 2/23/2021</i>	Non-Anticipated		
Carty Generating Station	Operating	1 Operating		
Columbia Ethanol Project	Operating	1 Operating		
Coyote Springs Cogeneration - PGE	Operating	1 Operating		
Coyote Springs Cogeneration - Avista	Operating	1 Operating		
Eugene to Medford Power Line	Operating	Non-Anticipated		
Golden Hills Wind Project	Approved-not built <i>Must construct by (6/18/2020)</i>	Non-Anticipated		
Hermiston Generating Project	Operating	1 Operating		
Hermiston Power Project	Operating	1 Operating		
Klamath Cogeneration Project	Operating	1 Operating		
Klamath Generation Peakers	Operating	1 Operating		
Klondike III Wind Project	Operating	1 Operating		
*Leaning Juniper IIA Wind Power Facility	Operating	1 Operating	8/28/19	In progress
*Leaning Juniper IIB Wind Power Facility	Operating	1 Operating	8/28/19	In progress
Mist Underground Gas Storage Facility	Under Construction	1 End of Construction Inspection	7/30/19	In progress
Montague Wind Power Facility	Construction	2 Construction and 1 End of Construction Inspection	8/28/19	
OSU Research Reactor	Operating	Non-Anticipated		
Perennial Wind Chaser	Approved (not built) <i>Must construct by (9/23/2020)</i>	Non-Anticipated		

Facility Name	Phase	Anticipated # of Inspections	Inspection Completion Date	Inspection report Completion Date
Port Westward Generating Project /Phase 1&2	Operating	1 Operating		
Reed Research Reactor	Operating	Non-Anticipated		
Saddle Butte	Approved (not built) <i>Must construct by (11/17/2022)</i>	Non-Anticipated		
Shepherds Flat Central	Operating	1 Operating		
Shepherds Flat North	Operating	1 Operating		
Shepherds Flat South	Operating	1 Operating		
South Mist Feeder Pipeline	Operating	Non-Anticipated		
South Mist Pipeline Extension	Operating	Non-Anticipated		
Springfield Utility-Industrial Energy Center	Operating	Non-Anticipated		
Stateline Wind Project	Operating	1 Operating		
Summit Ridge Wind Farm	Approved (not built) <i>Must construct by (8/19/2020)</i>	Non-Anticipated		
Wheatridge Wind Energy	Approved (not built) <i>Must construct by (5/24/2020)</i>	Non-Anticipated		
Site of Decommissioned Trojan Nuclear Plant	On site, long term fuel storage	Non-Anticipated		
<b>Total Site Inspections forecasted for 2019-2020</b>	<b>Operating and Construction</b>	<b>17 Annual 2 Construction 2 Final Construction Inspections</b>		

\* 1 additional site inspection will be conducted at the Habitat Mitigation Area Site, in consultation and with the Oregon Department of Fish and Wildlife.



## COMPLIANCE INSPECTION CALENDAR FOR JULY-2019/ JUNE-2020

July - 2019	August- 2019	September -2019	October -2019
<b>MST End of Construction Inspection</b>	Leaning Juniper II A Leaning Juniper II B <b>MWP Construction Inspection</b>	Coyote Springs Cogen PGE Coyote Springs Cogen Avista	Klamath Cogeneration Project Klamath Generation Peakers
November - 2019	December - 2019	January - 2020	February -2020
Columbia Ethanol Project <b>MWP Construction Inspection</b>	Carty Generating Station	Port Westward 1&2 <b>MWP End of Construction Inspection</b>	Hermiston Generating Project Hermiston Power Project
March - 2020	April - 2020	May -2020	June-2020
Biglow Canyon Wind Farm	Shepherds Flat North Shepherds Flat Central Shepherds Flat South	State Line Wind Project Klondike III Wind Project	*Leaning Juniper II A - HMA *Leaning Juniper II B - HMA

**17-Annual Inspections**

**2-Construction Inspections**

**2-End of Construction Inspections anticipated, one for North Mist Expansion Project and the second Montague Wind Power Facility**

**\* 1 additional site inspection will be conducted at the Habitat Mitigation Area Site, in consultation and with the ODF&W**