



Oregon

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To: Energy Facility Siting Council

From: Egan Bull, Brett Farman and Hannah Satein, Compliance Officers; and Bibi Bartley, Operations and Policy Analyst

Date: January 30, 2026

Subject: Agenda Item H (Information Item): Bi-Annual Compliance Program Update for the February 13, 2026 EFSC Meeting

PURPOSE

The Oregon Department of Energy Siting Division's Compliance Program is established to regulate and enforce compliance with the terms and conditions of site certificates issued by the Energy Facility Siting Council (EFSC or Council) and executed between Council and the designated certificate holder. Site certificates contain requirements that apply to different phases of development, generally prior to construction, during construction and during operations. The Compliance Program therefore consists of: (1) preconstruction compliance verification for approval of construction commencement, by phase or facility; (2) construction compliance review through inspections and semi-annual reporting; and (3) operational compliance review through inspections and annual reporting. The Compliance Program also tracks incidents and incident resolution, prioritizing the evaluation of the significance and severity of the incident and whether the incident relates to noncompliance with applicable conditions.

STAFFING

This section provides an update on staffing in the Compliance Program over FY 2024-2025 and FY 2025-2026.

FY 2024 – 2025

- Staffing: One Compliance Officer for the entire year, a second permanent Compliance Officer for the majority of the year, a portion of the Operations Analyst, a portion of the Senior Policy Advisor, a portion of the four Senior Siting Analysts, use of consultants and a portion of Assistant Director for Siting.
- Overall assessment: The Operations Analyst lead the coordination effort with certificate holders on Annual Report submission, including expected evaluation, by specific conditions, and information to be included. The Department implemented a plan to split the operational compliance review between Compliance Officers, Senior Siting Analysts and its

consultant, with the Senior Siting Analysts taking the workload of 7 facilities and consultant taking the workload of 3 facilities. The Department implemented a plan to rely on its consultant for compliance oversight of facilities in preconstruction and construction, to alleviate the impact of shorter-term workload volume issues. There were still not enough resources to conduct the required work.

FY 2025 – 2026

- Staffing: A third Compliance Officer was hired in September; another Compliance Officer was also hired in October to replace a vacant position. The amount of time spent by the Operations Analyst and Senior Policy Advisor is forecasted to go down from last year. The amount of time by the four Senior Siting Analysts is forecasted to remain the same. The use of consultants is forecasted to go down in some areas, including annual operational inspections, and remain the same in other areas, including construction compliance. The amount of time by the Assistant Director for Siting is forecasted to increase.
- Overall assessment: Since hiring the new compliance staff the Compliance Officers have handled the majority of the operational compliance work. The Senior Policy Advisor has been able to reduce focus on compliance work, as has the Operations Analyst. The Assistant Director for Siting has increased time spent on compliance, largely focused on managing and supporting the Compliance Officers. The Senior Siting Analysts have continued their work on their operational compliance sites, with the analysts now leading compliance on five facilities; the Compliance Officers will also support the Senior Siting Analysts' by conducting the on-site inspections for them. The consultant continues to have the majority of preconstruction and construction compliance work, managed by the Senior Policy Advisor and Assistant Director for Siting. However, it is anticipated that the Compliance Officers will take on more of this direct work and/or consultant support over time.

SITE CERTIFICATES

The Compliance Program oversees the requirements of executed site certificates. There are 41 facilities with site certificates under EFSC jurisdiction. These are broken out by status in the following tables:

Approved Facilities or Portions of Facilities Yet to Begin Construction – All facilities have **deadlines** by which they must meet all preconstruction conditions for the whole facility or a phase and begin construction.

Project Name	Size/Type	County(s)	Parent Company	Status/Notes
<u>Carty Generating Station Amendment 2</u>	50 MW Solar	Morrow	Portland General Electric	Approved in Nov. 2020. Did not begin construction by required date of Feb. 2022. Amend. #3 approved construction time extension to Feb. 2025 . 2 year beginning construction deadline requested in Amendment 4, currently under review.
<u>Oregon Trail Solar Facility (Future Phase)</u>	80 MW Battery	Gilliam	Avangrid/Iberdrola	Approved in Oct. 2020 - Split off from Montague Wind Power Facility. Phases 1 a and b and Phase 2 are in preconstruction or construction review. Facility has until August 30, 2028 to complete construction.
<u>Wheatridge Renewable Energy Facility III Amendment 1</u>	100 MW Solar & 26 Distributed Battery Sites	Morrow	NextEra Energy	Split off from Wheatridge Wind Energy Facility. Currently a 50 MW solar operating facility. Site is seeking an amendment to split the facility into 2 and to extend construction completion deadline for 100 MW solar and 26 distributed battery sites.
<u>West End Solar Energy Project</u>	45 MW Solar	Umatilla	Eurus Energy America Corp.	Approved in March 2023. Deadline to begin construction is March 2026 .
<u>Nolin Hills Wind Power Project</u>	340 MW Wind & 260 MW Solar	Umatilla	Capitol Power Corporation	Approved in July 2023. Deadline to begin construction is July 2026 .
<u>Madras Solar Energy Facility</u>	63 MW Solar	Jefferson	EcoPlexus	Approved in June 2021. Did not begin construction by June 25, 2024 deadline because development planning and permitting could not be completed in three years. Amendment 1 approved in March 2025 extended beginning construction deadline to June 25, 2027 .
<u>Wagon Trail Solar Project (Future Phase)</u>	260 MW Solar & 380 MW Battery	Morrow	NextEra Energy	Approved in Sept. 2024. Deadline to begin construction is Sept. 2027 .

<u>Sunstone Solar Project (FKA Echo Solar)</u> (Future Phases)	1,000 MW Solar & 7,000 MW Battery	Morrow	Pine Gate Renewables	Approved in Nov. 2024 - Deadline to begin construction is Nov. 2027 .
<u>Obsidian Solar Center</u>	400 MW Solar	Lake	Obsidian Renewables	Approved in Feb. 2022. Did not begin construction by Feb. 25, 2025 deadline due to a lack of an interconnection. Amendment 2, approved on June 13, 2025, extended the beginning construction deadline to Feb. 25, 2028 .
<u>Sunset Solar Project</u>	103 MW Solar	Wasco	Avangrid/Iberdrola	Approved in April 2020 as part of Bakeoven. Split off Bakeoven under Bakeoven Amendment 1 in 2021. In 2025, received an amendment to extend construction commencement deadline to April 2028 .
<u>Wheatridge Renewable Energy Facility East</u> (Future Phase)	100 MW Wind & 30 MW Battery	Morrow & Umatilla	NextEra	The facility currently has 200 MW of wind operating. The certificate holder has authorization to construct an additional 100 MW and 30 MW battery must begin construction by June 2028.

Facilities in Preconstruction Review – The Department reviews and, in consultation with state and local government agencies as applicable, verifies compliance with pre-construction conditions and approves finalization of mitigation plans.

Project Name	Size/Type	County(s)	Parent Company	Status/Notes
Boardman to Hemingway Transmission Line	280-mile 500 kV transmission	Umatilla, Union, Morrow, Baker, Malheur	Idaho Power Company	Preconstruction compliance review initiated in October 2023. Preconstruction compliance for all structure locations other than those approved and listed under construction is ongoing.
Oregon Trail Solar Phase 1b and 2	(20 MW battery storage & 41 MW Solar)	Gilliam	Avangrid/Iberdrola	Phase 1a and 1b are for 20 MW of the approved 100 MW battery energy storage system; Phase 1a is under construction (see below). Preconstruction is also underway for Phase 2, 41 MW of solar. The deadline to complete construction is August 30, 2028.
Wagon Trail Solar Phase 1	240 MW solar and 120 MW battery	Morrow	NextEra Energy	Preconstruction compliance review for 240 MW's of solar and 120 MW's of battery storage was initiated in June 2025.
Sunstone Solar Phase 1	200MW solar and 200MW battery	Morrow	Pine Gate Renewables LLC	Preconstruction compliance review for phase 1, 200 MW's of solar and 200 MW's of battery storage was initiated in August 2025.
Mist Underground Natural Gas Storage Facility Phase 2 & 3	Natural Gas Storage	Columbia	Northwest Natural	Phase 2 (2026): replace second turbine at Miller Station, replace underground transmission line; Phase 3 (2026-2030): expansion of North Mist Compressor Station. Phase 2 & 3 are in preconstruction with construction anticipated to begin on Phase 2 in 2026 and Phase 3 in 2027. The construction commencement deadline is January 2027.
Oregon Trail Solar Facility Phase 1a	20 MW Battery	Gilliam	Avangrid/Iberdrola	Certificate holder commenced construction of Phase 1a, part of the 20 MW battery portion of the facility Aug. 2025. Deadline to complete construction is August 30, 2028.

Facilities in Construction – The Department assesses construction compliance fees based on an assumed monthly in-person inspection; weekly coordination with certificate holder and certificate holder consultants/contractors; and review of semi-annual construction compliance reports. Corrective actions and findings of non-compliance are documented in Inspection Reports issued by the Department to the certificate holder. Certificate holders are obligated to develop resolution or remediation plans or address the issue via documentation/evidence. Corrective actions and findings of non-compliance are tracked by Department staff until resolution is demonstrated.

Project Name	Size/Type	County(s)	Parent Company	Status/Notes
Bakeoven Solar Project	60 MW Solar	Wasco	Avangrid/Iberdrola	Daybreak and Sunset split off under Amendment 1. All three share 100 MW of Battery which is reflected in Sunset. Facility is constructed and is preparing for commercial operations, which are forecasted to be in Q1 2026.
Daybreak Solar Project	140 MW Solar	Wasco	Avangrid/Iberdrola	Split off from Bakeoven under Amendment 1. All three share 100 MW of battery which is reflected in Sunset. Facility is constructed and preparing for commercial operations which is forecasted for Q1 2026.
Leaning Juniper IIA Wind Power Facility	90.3 MW Wind	Gilliam	Avangrid/Iberdrola	Construction related to repowering - replacement of blades and nacelles) of 36 wind turbines, resulting in an increase in blade tip height from 404 to 453 feet. Temporary disturbance of roads, collector lines, turbine pads, laydown and crane assembly areas. Installation of new, underground 34.5 kV collector line system; and dismantling of two wind turbines (damaged from fire).
Mist Underground Natural Gas Storage Facility Phase 1	Natural Gas Storage	Columbia	Northwest Natural	Phase 1 (2025) consists of replacing first turbine at Miller Station; Phase 1 is almost complete, but construction is on hold until Spring 2026.
Boardman to Hemingway Transmission Line	280-mile 500 kV Transmission line	Umatilla, Union, Morrow, Baker, Malheur	Idaho Power Company	Structures/Roads associated with 241/2 to 247/1; 211/3 to 214/3; and multi-use area (MUA)-02 in Malheur County.
Oregon Trail Solar Facility Phase 1a	20 MW Battery	Gilliam	Avangrid/Iberdrola	Certificate holder commenced construction of Phase 1a, part of the 20 MW battery portion of the facility Aug. 2025. Deadline to complete construction is August 30, 2028.

Operational Facilities – The Department assess operational facilities throughout each year through the annual reporting process. Per OAR 345-026-0080 operational facilities are required to report annually on their compliance status with certificate conditions. In addition to the annual reports the Department assesses operational facilities through in-person and virtual inspections, when a complaint/request for inspection is submitted.

Wind and Solar Generation Facilities			
Project Name	Type/Size	County(s)	Parent Company
Golden Hills Wind Project	200 MW Wind – 400 MW Approved	Sherman	Avangrid/Iberdrola
Klondike III Wind Farm	300 MW Wind	Sherman	Avangrid/Iberdrola
Leaning Juniper II B Wind Power Facility	111 MW Wind	Gilliam	Avangrid/Iberdrola
Leaning Juniper II A Wind Power Facility	90 MW Wind	Gilliam	Avangrid/Iberdrola
Montague Wind Power Facility	201 MW Wind	Gilliam	Avangrid/Iberdrola
Pachwaywit Fields	162 MW Solar	Gilliam	Avangrid/Iberdrola
Shepherds Flat North	265 MW Wind	Gilliam	Brookfield Renewables U.S.
Shepherds Flat Central	290 MW Wind	Gilliam & Morrow	Brookfield Renewables U.S.
Shepherds Flat South	290 MW Wind	Gilliam & Morrow	Brookfield Renewables U.S.
Stateline Wind Project	222 MW Wind	Umatilla	NextEra
Wheatridge Renewable Energy Facility II	200 MW Wind	Morrow	NextEra
Wheatridge III Phase 1	50 MW Solar		NextEra
Biglow Canyon Wind Farm	450 MW Wind	Sherman	Portland General Electric
Wheatridge Renewable Energy Facility I	100 MW Wind	Morrow	Portland General Electric
Wheatridge Renewable Energy Facility East	200 MW Wind	Morrow & Umatilla	NextEra
Renewable Energy Generating Total	3,131 MW		
Natural Gas Generation Facilities			
Project Name	Type/Size	County(s)	Parent Company
Klamath Cogeneration Project	525 MW	Klamath	Avangrid/Iberdrola
Klamath Generation Peakers	95 MW	Klamath	Avangrid/Iberdrola
Hermiston Power Project	546 MW	Umatilla	Calpine
Hermiston Generating Project	474 MW	Umatilla	PacifiCorp

Carty Generating Station	450 MW	Morrow	Portland General Electric
Coyote Springs Cogeneration	503 MW	Morrow	Portland General Electric and Avista
Port Westward Generating Project	650 MW	Columbia	Portland General Electric
Natural Gas Generating Total	3,243 MW		
Total Generating Capacity	6,147 MW		
Other Projects			
Project Name	Type/Size	County(s)	Parent Company
Columbia Ethanol Project	46 Million Gallons per year	Morrow	Alto Ingredients Inc.
Springfield Utility-Industrial Energy Center	51.2 MW Steam	Lane	Eugene Water and Electric
Mist Underground Natural Gas Storage	835 Million standard cubic fee per day	Columbia	Northwest Natural
South Mist Feeder Pipeline	80 Miles of 16 inch and 24 inch pipe	Columbia, Washington	Northwest Natural
South Mist Pipeline Extension	62 miles of 24 inch pipeline	Washington, Marion, Clackamas	Northwest Natural
Oregon State University Nuclear Research Reactor	1 MW Reactor	Benton	Oregon State University
Eugene to Medford Transmission Line	146-mile 500 kV	Lane, Douglas, Jackson	PacifiCorp
Reed Nuclear Research Reactor	250 KW Reactor	Multnomah	Reed College
Trojan Nuclear Power Plant - Decommissioned	Spent fuel storage	Columbia	Portland General Electric

Annual Report Overview – The annual reporting process can generally be broken down into four components:

- 1) The Annual Report submission by the Certificate Holder
- 2) The site inspection by Department staff (or contractor),
- 3) The Operational Compliance Report issued by the Department, and
- 4) response from the Certificate Holder for any concerns identified in the Operational Compliance Report.

Component 1 - Annual Report Submission: Most operational facilities must submit an annual report no later than April 30 each year, reporting on compliance status for all applicable certificate conditions for the previous calendar year.

Component 2 - Site Inspections: The Department conducts at least one annual inspection to assess compliance. Inspections are done in person, when possible, but may be done virtually for some facilities depending on time constraints or ability to assess conditions through reporting from the Certificate Holder. With the additional compliance staff, the Department anticipates more complete coverage for in-person site inspections going forward.

Inspections typically cover:

- On-the-ground conditions, such as erosion control, revegetation and noxious weed management, fire safety protocols (including vegetative buffers), and equipment operability. Ideally, these are inspected in-person by Department staff each year.
- Documentation, including records of annual fire safety training, coordination with local emergency managers, worker training, spill response, waste management and recycling, and equipment inspections. Documents are typically provided by each certificate holder as part of the Annual Report for review by Department staff.

Component 3 - Operational Compliance Report submission: Following the inspection and report review, the Department determines if the data supports compliance with each condition and issues an Inspection Report. This report details compliance or any corrective actions required for any findings of non-compliance. Each certificate holders are responsible for resolving these issues by submitting documentation that shows compliance or developing plans that will ensure compliance in future years. Department staff monitor each case until the corrective actions are completed and compliance is verified.

Annual Report Review Steps

Timeframe	Steps	Notes
December-March	Review and edit compliance matrices for each operational site to clarify conditions and highlight reporting expectations	<ul style="list-style-type: none"> • Matrix originally created by the Certificate Holder – inconsistent and highly variable • ODOE contracted with HA to create a consistently formatted version of each matrix • ODOE has been editing and refining that matrix for the last 3 years, building on each version for further clarity & consistency
February-March	Email the Certificate Holder to outline expectations for the annual report, and include the updated matrix	<ul style="list-style-type: none"> • Happens yearly prior to April 30 deadline • Contents of email refined for additional clarity each year
January-December	Update financial assurance from each site	<ul style="list-style-type: none"> • Financial analyst creates a letter updating the bond or letter of credit amount based on inflation • Site updates bond or letter of credit to current amount and sends updated bond or letter of credit to Dept.

April	<p>Receive annual reports from each operational facility. Each report should include:</p> <ul style="list-style-type: none"> • Cover letter with responses to OAR 345-026-0080 • Matrix with responses to applicable conditions • Additional documentation and reports to demonstrate compliance with applicable conditions 	<ul style="list-style-type: none"> • Deadline is April 30 of the year following the reporting period. • Facilities can submit anytime from Jan-April 30, though most arrive just prior to the April 30 deadline. • Some facilities have extended deadlines (with Department approval)
May-December	<p>Annual reports are shared with team member assigned to the facility and analyzed for compliance.</p> <p>Conditions identified for site inspections are added into Survey123 for site inspection.</p>	<ul style="list-style-type: none"> • Historically this process was done by either siting analysts, then later by single compliance officer. • Current process includes siting analysts, compliance officers, and outside contractor. • We expect to reduce the use of outside contractors with additional compliance staff. • Through review includes: <ul style="list-style-type: none"> ○ Review of matrix responses ○ Review of additional documentation ○ Identify conditions for site inspection & upload those to Survey123 ○ Follow up with cert holder on additional info when needed
May-December	Conduct site inspection	<ul style="list-style-type: none"> • Historically conducted by single compliance officer • Recent past and currently, on-site inspections conducted by ODOE compliance officer and Haley Aldrich • Virtual inspections conducted by compliance officers, siting analysts, and Haley Aldrich, as appropriate
May-December	Create Compliance Review Report	<ul style="list-style-type: none"> • Through report includes: • Analysis of compliance matrix and additional attachments • Analysis of site inspection results • Analysis of past annual compliance reports to identify any on-going issues
May-December	Issue Compliance Review Report	<ul style="list-style-type: none"> • Historically report was issued and follow up happened intermittently as capacity allowed • Current process includes: • Follow up throughout report review • Follow up with site on any outstanding compliance issues with 30day check-ins to follow through with addressing issues and correcting them overtime

Condition Examples – Conditions can broadly be broken down into three types of categories based on the level of effort needed to review them.

Condition Type	Condition Examples	Certificate Holder Response Example	ODOE Analysis
Narrative Only: Compliance can be determined with the narrative provided by the Certificate Holder.	Compliance with lighting restrictions at night or compliance with state and county laws that do not require permitting.	The site does not use flood lighting at night and complies with other lighting restrictions. All state and county laws were followed, and no permits were required for work onsite.	In Compliance: The Certificate Holder affirms compliance with this condition, and the Department is not aware of any concerns.
Narrative and Additional Documentation Review: Compliance is demonstrated by both a narrative and documentation supporting the narrative.	Maintenance or training logs	Maintenance was performed twice during this calendar year. Maintenance Logs showing dates, service performed, and comments are provided in the appendix.	In Compliance: Maintenance and training logs are complete and demonstrate compliance with the frequency prescribed in the condition.
Narrative, Additional Documentation and Onsite Inspection Review: Compliance is demonstrated by both narrative and documentation supporting the narrative, but should be confirmed with on-site evaluation and potential follow-up.	Noxious weed or Habitat Mitigation Plan	Weed control was performed in April of this year. A follow-up inspection and re-treatment was performed in May of this year. The invoice and report are provided in the appendix.	Follow Up Needed: Department staff evaluated the current weed control plan, the work conducted by the certificate holder during the 2024 calendar year. Based on an on-site inspection, there are specific areas where more work is needed to control the spread of noxious weeds. For 2025: The certificate holder shall establish quarterly calls with Department staff and the County Weed Department to report on efforts to meet this condition.

Component 4 - Response From Certificate Holder: Based on guidance provided by the Department in the Operational Compliance Report, Certificate Holders are expected to follow recommended corrective action for any conditions that need additional information or are non-compliant. The response may be remedied by documenting compliance in the following year's Annual Report, or the Department may request a response or correction prior to next year's report (typically a 30-day requirement to respond or remedy the issue). In general, situations that do not result in ongoing harm and cannot be corrected retroactively (for example, documentation of staff training) can be addressed in the Annual Report for the following year. For issues that are ongoing or that may result in harm if not corrected immediately (for example missing safety inspection

documentation for equipment in operation), the Department will typically want a more immediate response to show compliance or corrective action. In both cases, the goal is to bring the Certificate holder into compliance (or trending toward compliance) by the time the next Annual Report is due.

Observations from review of 2024 Annual Reports: With three compliance officers working on Operational Compliance Reports this year, we were able to finalize reports faster than in previous years. By splitting projects up, each Compliance Officer was able to review and respond to each condition in more detail than time afforded in previous years. As a result, we asked for additional or clarifying information on several conditions that may not have been questioned in the past. We also provided guidance for information needs in future Annual Reports.

Strategy for reviewing 2025 Annual Reports: One goal of the compliance team is to improve documentation of compliance going forward. This will include some increased (or modified) effort for Certificate Holders as well as improving Department responses to provide more complete rationale for our conclusions. Because the compliance team is requesting that Certificate Holders provide more complete information in future years, we also plan to meet with Certificate Holders on a more regular basis to check in on status of reports. By meeting with Certificate Holders prior to report submission, we anticipate that Annual Reports will be more complete and thorough when they are submitted. In addition, the Department plans to meet with Certificate Holders after the Operational Compliance Reports are issued to clarify any concerns or expectations for both parties. As a result, we think the Department will have better records of compliance and more justification for conclusions made from the Annual Reports.

INCIDENTS – Per Oregon Administrative Rule 345-29-0010 and specific site certificate conditions, certificate holders are required to provide timely notice of certain specified events as well as circumstances that may violate the terms or conditions of their site certificate. These are referred to as incidents. The Department is currently prioritizing the closure and cleanup of all open incidents to strengthen reporting accuracy and overall compliance readiness. Two compliance officers are reviewing all outstanding incidents, resolving missing information, and ensuring each entry follows a consistent and standardized format. In parallel, another compliance officer is compiling and analyzing all incidents associated with the Bigalow site, focusing on temporal patterns and location-based trends to identify any anomalies that may explain the higher volume of reports compared to other EFSC locations. As part of this effort, incident logs will be updated with clear and concise information, and all supporting documents will be properly logged and cataloged in the Compliance Incident Entry Log within Microsoft Teams to maintain centralized access and version control. In 2025, 31 incidents were recorded across 29 reports from 18 sites. Incident totals by type are as follows:

Facility	Incident	Spill	Fire	Equipment	Other	Count
Biglow Canyon Wind	Blade component issues x4 incidents	0	0	4	0	4
Biglow Canyon Wind	Open turbine doors x4 incidents	0	0	4	0	4
Biglow Canyon Wind	Transformer failures x2 incidents (multi-incident reported)	1	1	2	0	4
Biglow Canyon Wind	Turbine hatch failures x4 incidents	0	0	4	0	4
Boardman to Hemingway (B2H) Transmission Line	Failure of obligations tied to agricultural mitigation, landowner consultation, and reporting.	0	0	0	1	1
Daybreak Solar	Block 9A6 fire	0	1	0	0	1
Klondike III Wind	Fire in underground collection system	0	1	0	0	1
Montague Solar	Fire incidents x2 incidents	0	2	0	0	2
Oregon Trail Battery Project	Unanticipated Cultural Resource Found at Job Site	0	0	0	1	1
Port Westward Gen Project	Port Westward Unit 2 Late CO2 True-up Report Notification.	0	0	0	1	1
Reed Research Reactor	Water leakage onto reactor console	0	0	0	1	1
Shepherds Flat North	Injury during turbine lockout	0	0	0	1	1
South Mist Feeder Pipeline	Chemical Contamination of Local Water Supply	1	0	0	0	1
Stateline Wind	Off-site wildfire	0	1	0	0	1
Trojan Nuclear Facility	Security Incident Involving Sensitive Unclassified Procedure	0	0	0	1	1
Wheatridge REF I	Nearby wildfire notification	0	1	0	0	1
Wheatridge REF II	Nearby wildfire notification	0	1	0	0	1
Wheatridge REF III	Nearby wildfire notification	0	1	0	0	1
	Total	2	9	14	6	31

FUTURE CHANGES TO THE COMPLIANCE PROGRAM

Council initiated a Compliance Rulemaking project in June 2025. To date there has been one Rulemaking Advisory Committee meeting. This rulemaking will be an opportunity to review and make changes to any administrative rules related to the Compliance Program. There are other opportunities that Council has to make changes to the Compliance Program outside of the rulemaking project such as: what information is provided to Council during the Council Secretary Report; what information is included in the Monthly Siting Report; and what information is provided on individual project pages. Please consider the following:

- What information and in what form would the Council like to keep up to date on compliance activities?
- What information and in what form would make it easier for the public to understand and be able to participate in compliance issues during construction and operation of projects?
- What direction and specificity can be provided to certificate holders to ensure they provide timely and evidentiary information to document compliance with site certificate conditions?
- Are there better ways to review violations and potential violations of site certificate conditions? The Council's current administrative rules provide the following process:
 - Certificate holder report of violation or potential violation
 - Department or Council has the discretion to issue of Notice of Violation. If a Notice of Violation is not issued, there are no steps established in rule to remedy the violation.
 - Certificate holder must respond to the Notice of Violation.
 - Enforcement conference if a Class 1 violation and requested by the certificate holder.
 - Civil penalties if warranted.
 - Contested case proceeding if requested by the certificate holder.
 - Council consideration of mitigating factors.
 - Revocation of site certificate, if warranted.

Compare this to the Department of Environmental Quality's compliance program which includes a more diverse and stepwise approach prior to a formal Notice of Violation.

This includes but is not limited to:

- A warning letter when they are not asking for further correction and are not referring the violations for formal enforcement;
- A warning letter with an opportunity to correct with a deadline and states that continued violation will result in formal enforcement;
- A pre-enforcement notice when they anticipate referring the violations for a formal enforcement action that will likely contain a penalty and order for compliance; and additional.