NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 345

DEPARTMENT OF ENERGY

ENERGY FACILITY SITING COUNCIL

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ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Amendments to Site Certificate Compliance and Enforcement Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/25/2026 11:55 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 08/21/2026
TIME: 10:15 AM
OFFICER: Tom Jackman

IN-PERSON HEARING DETAILS
ADDRESS: Columbia River Hotel Conference, 3223 Bret Clodfelter Way, Dalles, OR 97058

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 503-446-4951
CONFERENCE ID: 791505381

NEED FOR THE RULE(S):

The Energy Facility Siting Council's (EFSC) existing compliance and enforcement rules establish many obligations for site certificate holders and responsible parties but do not consistently describe the process for demonstrating compliance, the timing and contents of required submittals, the Department's review role, or the procedures for resolving potential compliance issues before formal enforcement. These gaps and ambiguities have created uncertainty for regulated entities and made it more difficult for the Department to administer a consistent and predictable compliance program.

The proposed rules address these needs by clarifying pre-construction and phased compliance review; reorganizing construction, final design, and annual reporting requirements; establishing clearer procedures for public requests for compliance review, corrective action plans, incident reporting, and pre-enforcement notices; and authorizing administrative updates that keep site certificates consistent with facilities as constructed. The rules also reduce unnecessary duplication by allowing certificate holders to rely on prior submissions and reports or compliance determinations from other agencies when those materials provide sufficient information.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Materials can be found with EFSC's June 26, 2026 meeting, agenda Item F at this URL:
https://www.oregon.gov/energy/facilities/Pages/Council-Meetings.aspx

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

The Council does not anticipate that adoption of the proposed rules will have a significant direct adverse effect on racial equity in Oregon. The rules apply uniformly to site certificate holders and other responsible parties and establish compliance, reporting, review, and enforcement procedures that do not classify or treat persons differently based on race.

The rules may have a modest positive indirect effect on racial equity by providing members of the public with a clearer process for requesting review of potential compliance issues and by improving incident reporting, corrective action, and enforcement procedures intended to protect public health, safety, and the environment. These improvements may benefit communities of color that live, work, or use resources near EFSC-jurisdictional facilities. However, the requirement that a person requesting compliance review identify the relevant requirement and provide supporting facts could create a greater participation burden for persons with limited access to technical or legal resources. Available information is insufficient to quantify these effects or determine whether the benefits and burdens will be distributed evenly among racial groups.

FISCAL AND ECONOMIC IMPACT:

The Department estimates that the overall fiscal and economic impact of the proposed rules will be minimal, although the precise impact cannot be quantified because it will depend on the size, complexity, construction status, compliance history, and existing reporting systems of each affected facility. The rules may create additional costs in some circumstances, particularly for final facility design reports, geospatial information, corrective action plans, and responses to pre-enforcement notices, but these costs are expected to be partly offset by clearer requirements, reduced regulatory uncertainty, earlier resolution of compliance issues, and provisions allowing regulated entities to avoid duplicative reporting. The Department’s public rulemaking materials similarly identify the anticipated fiscal impact as minimal.

The Oregon Department of Energy and the Energy Facility Siting Council may incur one-time administrative costs to prepare templates and guidance, update compliance-tracking and recordkeeping practices, and train staff on the revised procedures. The Department may also experience additional workload associated with reviewing final construction and facility design reports, responding to requests for compliance review, administering corrective action plans, updating site certificates, and issuing pre-enforcement notices. These costs may be offset by more complete and standardized submissions, less duplicative reporting, more accurate site certificate records, and resolution of compliance issues before formal enforcement becomes necessary. Compliance-program costs are funded through annual fees assessed to site certificate holders, and any material increase or reduction in Department costs may therefore be reflected in those fees.

Other state agencies may experience minor, case-specific workload when the Department requests technical assistance, relies on another agency's compliance determination, refers a matter outside the Council's jurisdiction, or coordinates inspection, mitigation, or monitoring activities. No significant fiscal impact on other state agencies is anticipated.

Units of local government in which certificated facilities are located may experience minor, case-specific workload if the Department or Council requests assistance with an inspection or compliance matter or refers a matter involving local requirements. The proposed rules do not impose new recurring reporting or administrative requirements directly on local governments, and no significant fiscal impact on units of local government is anticipated. Applicable annual fees may include the anticipated cost of compensating state agencies and local governments for participation in inspection and compliance-enforcement activities requested by the Council.

Site certificate holders and other responsible parties are the members of the public most likely to be economically affected. They may incur additional employee or consultant time to prepare more detailed construction compliance reports, a final construction compliance and facility design report, maps and geospatial data, revised annual reports, incident or potential-violation notices, corrective action plans, and responses to pre-enforcement notices. The amount will vary substantially among facilities and cannot reasonably be estimated. These costs may be reduced by provisions allowing certificate holders to cross-reference prior submissions, use reports submitted to other agencies or the Department, and avoid submitting information that is duplicative or not applicable.
Other members of the public will not be charged a fee under the proposed rules. A person requesting a compliance review may incur a minor time cost to identify the applicable site certificate requirement, provide supporting facts, and participate in any Council review, but the clearer process and requirement for a written Department determination may reduce uncertainty and make it easier for the public to understand how compliance concerns will be addressed.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) State Agencies, Units of Local Government, and Members of the Public Likely to Be Economically Affected

The Oregon Department of Energy and the Energy Facility Siting Council are the state entities most likely to be economically affected. Other state agencies may experience minor, case-specific workload when providing technical assistance or participating in compliance review or inspections. Cities and counties containing EFSC-jurisdictional facilities may experience similar minor, case-specific workload but are not subject to new recurring requirements.

The members of the public most likely to be economically affected are site certificate holders, energy-facility owners and operators, persons granted exemptions from site certificate requirements, and other responsible parties subject to the Council's compliance and enforcement authority. Other members of the public may incur only minor time costs when submitting or pursuing a request for compliance review.

(2) Effect on Small Businesses
(a) Estimated Number and Type of Small Businesses Subject to the Rules

The Department cannot reliably estimate the number of affected entities that qualify as small businesses. The proposed rules apply to site certificate holders and other responsible parties involved in the development, ownership, construction, operation, or retirement of energy facilities subject to Council jurisdiction. Oregon law defines a small business as a for-profit entity that is independently owned and operated and has 50 or fewer employees. Available records do not consistently identify the number of employees of each regulated project entity or whether a project-specific entity is independently owned and operated from affiliated businesses.

The Department expects that few, if any, directly regulated entities will qualify as small businesses, because EFSC jurisdiction generally applies to large energy facilities. Potentially affected small businesses could include independently owned energy-facility developers, owners, or operators and other independently owned entities that qualify as responsible parties under Division 29.

(b) Expected Reporting, Recordkeeping, and Administrative Activities and Costs Required to Comply

Affected small businesses would be subject to the same facility-specific compliance requirements as other regulated entities. Depending on the status and circumstances of the facility, required activities could include:

Tracking site certificate terms and conditions applicable to each facility component or construction phase;
Preparing semiannual construction compliance reports;
Preparing a final construction compliance and facility design report, including maps and geospatial information;
Preparing annual compliance and facility-modification reports;
Maintaining records supporting compliance determinations and cross-references to prior submissions;
Providing notice of incidents or circumstances that may constitute a violation;
Responding to Department information requests or requests for revised submissions; and
Preparing a corrective action plan or responding to a pre-enforcement notice when a potential compliance issue is identified.

Compliance may require professional services from attorneys, engineers, environmental consultants, geographic-information-system specialists, or other technical consultants. The Department cannot reasonably estimate these costs because they will vary based on the size and complexity of the facility, its stage of development, the regulated entity's existing records and staff resources, and whether a compliance issue or incident occurs. The rules reduce some administrative costs by allowing reliance on previous submissions and reports submitted to other agencies or the Department.

(c) Estimated Cost of Professional Services, Equipment, Supplies, Labor, and Increased Administration

The proposed rules are not expected to require the routine purchase of specialized equipment or significant supplies. Regulated entities are generally expected to use existing computers, electronic records, document-management systems, and mapping or geospatial tools. Incremental costs are most likely to consist of employee and consultant labor for compliance management, engineering, environmental review, legal review, geographic-information-system work, preparation of reports, and maintenance of records.

A facility may incur additional equipment, monitoring, repair, access-control, or operational costs if the Department requires interim protective measures or a corrective action plan in response to a facility-specific compliance issue or threat to public health and safety. These costs are contingent on the nature and severity of the underlying issue and cannot reasonably be estimated in advance. For businesses that remain in compliance and maintain adequate records, the Department expects the overall additional administrative cost to be minimal and partly offset by reduced duplication and clearer reporting expectations.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The RAC included regulated entities and industry representatives, but the available record does not identify which participants met the statutory definition of a small business.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
345-026-0005, 345-026-0010, 345-026-0015, 345-026-0048, 345-026-0050, 345-026-0080, 345-026-0088, 345-026-0105, 345-026-0170, 345-029-0003, 345-029-0010, 345-029-0015, 345-029-0020, 345-029-0040, 345-029-0100, 345-029-0503, 345-029-0530

REPEAL: 345-026-0005

RULE SUMMARY: Removing this as redundant.

CHANGES TO RULE:

~~345-026-0005~~
~~Purpose~~
~~The purpose of the rules in this division is to ensure that the construction, operation and retirement of facilities are accomplished in a manner consistent with the protection of the public health, safety and welfare and the protection of the environment.~~
~~Statutory/Other Authority: ORS 469.470~~
~~Statutes/Other Implemented: ORS 469.310, 469.410, 469.430, 469.507~~

REPEAL: 345-026-0010

RULE SUMMARY: Repealing this rule as it is no longer relevant.

CHANGES TO RULE:

~~345-026-0010~~
~~Legislative Authority~~
~~(1) Under ORS 469.430, the Council has continuing authority over the site for which a site certificate is issued and may inspect, direct the Department of Energy to inspect, or ask another state agency or local government to inspect, the site at any time to ensure that the certificate holder is operating the facility in compliance with the terms and conditions of the site certificate.¶~~
~~(2) For facilities subject to ORS 469.410 as having been built prior to July 2, 1975, the Council has continuing authority over the site for which a site certificate is issued and may inspect, or direct the Department to inspect, or ask another state agency or local government to inspect, the site at any time to ensure that the facility is being operated in compliance with the terms and conditions of the site certificate and any applicable health or safety standards.¶~~
~~(3) According to ORS 469.410, the Council shall establish programs for monitoring the environmental and ecological effects of the operation and decommissioning of energy facilities subject to site certificates issued prior to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate and any applicable health or safety standards.~~
~~Statutory/Other Authority: ORS 469.470~~
~~Statutes/Other Implemented: ORS 469.310, 469.410, 469.430, 469.507~~

AMEND: 345-026-0015

RULE SUMMARY: Updating applicability provision to clarify scope of amendments. Removing reference to federal agencies.

CHANGES TO RULE:

345-026-0015
Applicability, Scope, and Construction ¶

(1) To the extent that any rules in this division conflict or are inconsistent with administrative rules lawfully adopted by other state agencies, these rules are controlling, except as prohibited by law. The Council shall resolve such conflicts in consultation with the affected agencies and in a manner consistent with the public interest.¶
(2) ~~To~~It is the ~~ex~~intent ~~that any rules in this division conflict or are inconsistent with a condition contained in a~~of the Energy Facility Siting Council that these Division 26 rules, including the revisions adopted on [insert adoption date], apply to site certificates and site certificate ~~(or~~ amendment ~~thereto), the latter is controlling.¶~~
~~(3) C~~s issued thereafter and also apply retroactively to site certificates and site certificate ~~holders shall comply with all applicable lawful rules and requirements of federal agencie~~amendments issued prior to [insert adoption date], except to the extent a rule in this division conflicts or is inconsistent with a condition in a site certificate or amendment, the condition controls.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.401, 469.503, 469.504

AMEND: 345-026-0048

RULE SUMMARY: Making phased construction situation clearer.

CHANGES TO RULE:

345-026-0048
~~Compliance Plans~~ Pre-Construction Compliance Plans and Construction Commencement Notification ¶

~~Following receipt of a site certificate or an amended site certificate, the certificate holder shall implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. As a part of the compliance plan, to verify~~(1) Pre-Construction Compliance Plan. Before construction of a facility, facility component, or phase, the certificate holder must demonstrate compliance with all pre-construction site certificate terms and conditions applicable to the facility component or phase under review.¶
(a) If a certificate holder proposes to construct portions of the facility in phases, the certificate holder must demonstrate compliance for each facility component or phase prior to initiating construction on that component or phase. The certificate holder must identify all site certificate conditions applicable to each component or phase, as well as any site certificate conditions related to compliance on a facility-wide basis.¶
(b) The Department may require a condition to be addressed on a facility-wide basis if phased review would result in duplicative review, fragmented mitigation or monitoring, incomplete evaluation of the condition, or insufficient information to determine compliance.¶
(2) Construction Commencement Notification. To demonstrate compliance with the requirement to begin construction by the date specified in the site certificate, the certificate holder shall report promptly to the Department of Energy when construction begins. Construction is defined in O~~AR 345-001-0010~~RS 469.300(6). In reporting the beginning of construction, the certificate holder shall describe all proposed work on the site ~~performed~~ before beginning construction, including work performed before the Council issued the site certificate, and shall state the cost of that work. For th~~e purpose of this exhibit~~is rule, "work on the site" means any work within a site or corridor, other than surveying, exploration, or other activities to define or characterize the site or corridor. ~~T~~¶
(3) Construction cannot begin until the certificate holder ~~shall document the compliance plan and maintain i~~receives written authorization from the Department approving the component ~~for inspection by the Departmen~~phase that was the subject o~~r~~f the ~~Council~~review.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.310, 469.410, 469.430, 469.507

AMEND: 345-026-0050

RULE SUMMARY: Clarifies the scope of inspections and replaces requests for inspections with a broader compliance-review process that establishes submission requirements, Department review procedures, written determinations, and Council review. It also authorizes corrective action plans and interim protective measures and clarifies that potential violations may be identified regardless of whether commercial operation has been formally reported.

CHANGES TO RULE:

345-026-0050
Inspections~~ ~~and Compliance Review ¶

(1) General provisions:¶
(a) Each certificate holder ~~shall~~must allow properly identified representatives of the Council or Department of Energy to inspect the facility during construction, operation, and retirement, including all materials, activities, related or supporting facilities, premises, and records ~~pertaining to design, construction, operation or retirement of the facility at any time~~to the extent reasonably related to determining compliance with the site certificate, a Council order, applicable provisions of ORS chapter 469, or OAR chapter 345.¶
(b) The certificate holder's representative may accompany Council or Department inspectors during an inspection.¶
(c) Council or Department inspectors may refuse to permit any individual who deliberately interferes with a fair and orderly inspection to be present during an inspection.¶
(d) The Department ~~shall~~must maintain written records of facility inspections~~. If the inspector finds any potential violations of state, federal or local law, Council rules, a Council order or~~ and issue inspection reports to the certificate holder. If the inspector finds any potential violations of site certificate conditions, the inspector ~~shall~~must promptly notify the certificate holder's onsite manager or designee and summarize the potential violations in the inspection report.¶
(e) If the inspector ~~finds any actual or~~identifies a potential violation~~s~~ of ~~state, federal or local law, Council rules~~a site certificate term or condition, a Council order, ~~or site certificate condit~~an applicable provisi~~on~~s o~~r warranties, the inspector shall~~f ORS chapter 469, or OAR chapter 345, the Department must notify the Council secretary, the Council, and the certificate holder. The ~~Council secretary shall be responsible for~~Department may identify potential violations of site certificate construction and operational conditions regardless of whether the certificate holder has reported beginning commercial operation under OAR 345-026-0080. The Council secretary must report~~ing~~ all pertinent or meaningful findings to the Council at its next scheduled meeting.¶
(2) Requests for ~~inspections~~compliance review:¶
(a) Any person may request that the Department ~~inspection of a facility~~review a certificate holder's compliance with its site certificate if the requestor believes:¶
(A) That a violation of a Council order or a site certificate term or 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.¶
(b) The person submitting a request for ~~inspection~~a compliance review shall describe, in writing, the specific grounds for the request. The request~~or shall submit the request to the Department, or, during an inspection, to~~ must include the following:¶
(A) The site certificate condition or requirement that is allegedly not being followed;¶
(B) Any supporting facts; and¶
(C) Whether the request for compliance includes a request for a site inspection.¶
(c) Failure to properly submit a request as described in (b) may result in the Department~~'s~~ re~~presentative.~~jecting the request.¶
(d) A requestor who is employed directly or indirectly by the certificate holder may ask that ~~his or~~ their name not be disclosed in any manner except where disclosure is required by law.¶
(~~c~~e) The Department shall promptly notify the certificate holder of the request and nature of the alleged violation or other basis for the ~~inspection~~compliance review.¶
(~~d~~f) If the request concerns matters of state, federal or local law or rule not administered by the Council, the Department shall forward the request to the appropriate agency.¶
(~~e~~g) The Department shall ~~make a~~ promptly evaluat~~ion of~~e allegations related to matters under Council jurisdiction~~. If the Department concludes that there are reasonable grounds to believe that the alleged violation has occurred~~ and give the requestor written notice o~~r~~f its ~~imminent or that a situation exists that may lead to~~

~~unnecessary exposure of an individual to hazardous materials or to unsafe or dangerous conditions, the Department shall cause an inspection to be made as soon as practicable~~determination, including the reasons for the determination, and whether a site inspection is warranted.¶
(~~f~~h) ~~If the Department determines that an ins~~The requestor may pe~~c~~ti~~on is not warranted, it shall give written notice of that conclusion to the requestor, stating its reasons. The requestor may then submit a written request for review to the Council~~tion the Council to review the Department's determination by submitting a request to the Department. The Council shall then send a copy of the request to the certificate holder~~ by certified mail~~. The certificate holder may submit a written statement of its position to the Council, and the Council shall provide a copy of the statement, if any, to the requestor~~ by certified mail~~. At its discretion, the Council may hold an informal conference to discuss the merits of the request. The Council shall affirm, modify or reverse the determination made by the Department. The Council shall send written notification of its decision and reasoning to the requestor and the certificate holder.¶
(~~g~~i) Inspections conducted under subsection (~~e~~g) need not be limited to matters referred to in the request for ~~inspection.¶~~
~~(h) No certificate holder shall discharg~~compliance review.¶
(j) If, after a compliance review, the Department identifies a potential site certificate compliance issue or a potential threat to public health and safety, the Department may require the certificate holder to submit a corrective action plan. The cor~~ in ~~rective action plan~~y~~ m~~anner~~ust detail the compliance issue identified by the Department, d~~i~~escri~~m~~be inate~~ against any employee because he or she submitted a request for inspection, provided information to a Council or Department representative or otherwise exercised options afforded to the worker under these rules~~rim measures necessary to protect public health and safety or to come into compliance with applicable conditions, identify the cause of the issue to the extent known, describe the actions the certificate holder will take to correct the condition, provide a schedule for completing those actions, and describe the reporting the certificate holder will provide to verify completion.¶
(A) The Department may require the certificate holder to implement interim protective measures pending completion of the corrective action plan, including but not limited to inspections, monitoring, notices, restricted access, operational limitations, repair protocols, or other measures reasonably necessary to protect public health and safety.¶
(B) A requirement imposed under this subsection does not limit the Council's or Department's authority to pursue enforcement under OAR chapter 345, division 29, if the Department determines that a violation has occurred or is reasonably likely to occur.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.310, 469.410, 469.430, 469.507

AMEND: 345-026-0080

RULE SUMMARY: Reorganizes reporting requirements by facility lifecycle, adds final construction compliance and facility design reports, moves the annual reporting deadline to January 31, revises annual compliance and facility-modification reporting, and addresses facilities with components in different phases. It also reduces duplicative reporting, permits reliance on other reports, establishes standardized submission requirements, and clarifies the Department's authority to review reports and require additional or revised information.

CHANGES TO RULE:

345-026-0080
Reporting Requirements for Energy Facilities ¶

(1) ~~General reporting obligation for energy facilities under construction or operating:¶~~
~~(a)~~Construction compliance reports. Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder ~~shall~~must submit a semiannual construction ~~progress~~compliance report to the Department of Energy.~~ In e~~¶
(a) Each construction ~~progress report, the certificate holder shall describe any signi~~compliance report must describe the progress of construction during the reporting period.¶
(b) Each construction compliance report must provide suffic~~a~~ient ~~changes to major milestones for construction. The certificate holder shall report on the progress of construction and shall address the subjects listed in subsections (2)(a), (d), (f) and (g). When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in this rule.¶~~
~~(b) After January 1 but no later~~ documentation and evidence to demonstrate compliance with all site certificate terms and conditions applicable during the reporting period.¶
(c) Each construction compliance report must identify any change to the facility made during the reporting period without an amendment of the site certificate under OAR 345-027-0350, including any written evaluation required under OAR 345-027-0355.¶
(d) The certificate holder is not required to duplicate information previously submitted to the Department if the construction compliance report clearly identifies the previous submission and provides a reasonable explanation of why the information remains current and applicable. A construction compliance report that relies on a previous submission must identify the specific document, date of submittal, applicable condition, and location with~~a~~in ~~April 30 of each year after~~the prior submittal where the information can be found.¶
(2) Final construction compliance and facility design report. Before beginning operation of the facility, the certificate holder ~~shall~~must submit a~~n annual report to the Department addressing the subjects listed in subsection (2). For the purposes of this rule, the beginning of operation of the facility means the date when construction of a significant por~~ final construction compliance report to the Department.¶
(a) The final construction compliance report must demonstrate compliance with all site certificate terms and conditions required to be satisfied before operation.¶
(b) The final construction compliance report must include the date the facility began, or is expected to begin, operation. If the final construction compliance report identifies an expected date of operation~~ of~~, the ~~facility is substantially complete and the c~~certificate holder must notify the Department of the actual date of operati~~ficate holder begins commercial operation of the~~on no later than 10 days after operation begins.¶
(c) The final construction compliance report must include a final facility ~~as~~design report~~ed by the certificate holder and accep~~ in the form and manner requested by the Department.¶
(d) The ~~Council Secretary and the certificate holder may, by mutual agreement, change the reporting date.¶~~
~~(c) To the extent that informa~~Department may approve a later date for submittal of one or more portions of the final facility design report if the Department determines that the delayed information is not necessary to determine compliance with site certificate terms and conditions required ~~by this rule is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports.¶~~
~~(2) In the annual report, the certificate holder shall include the following information for the calendar year preceding the date of the report:¶~~
~~(a) Facility Status: An overview~~to be satisfied before operation.¶
(e) The final facility design report must include:¶
(A) A narrative description of the facility, as constructed;¶
(B) A table identifying each constructed facility component and each constructed related or supporting facility,

including the component name, final location, final dimensions or capacity, applicable site certificate description, and any difference from the site certificate description;¶
(C) A description of any facility component, route, corridor, alternative, or related or supporting facility approved in the site certificate but not constructed;¶
(D) A description of any site certificate condition that applies solely to a facility component, route, corridor, alternative, activity, or impact that was approved in the site certificate but not constructed or implemented;¶
(E) Maps showing the site boundary and the final locations of all significant components of the energy facility and related or supporting facilities; and¶
(F) Geospatial data for the site boundary and all significant components of the energy facility and related o~~f~~r s~~ite cond~~upporting faciliti~~on~~es, ~~the status of facilities under construction~~in a format requested by the Department.¶
(f) The Department may use the final facility design report to evaluate whether an~~d~~ a ~~summary of the operating experience of facilities that are in operation. T~~dministrative update of the facility description is appropriate under OAR 345-026-0088.¶
(3) Annual reports. After January 1 but no later than January 31 of each year after beginning operation of the facility, the certificate holder ~~shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accident~~must submit an annual report to the Department for the preceding calendar year.¶
(a) For purposes o~~r~~f th~~e like that occurred during the year ~~is rule, beginning operation mean~~d~~s th~~at had a significant adverse impact on the facility.¶~~
~~(b) Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the~~e date when the certificate holder begins commercial operation of the facility, as reported by the certificate holder and accepted by the Department.¶
(b) The Council Secretary and the certificate holder may, by mutual agreement, change the annual reporting ~~year.~~date.¶
(c) The certificate holder ~~shall describe any equipment failures or plant breakdowns that had a significant impact on~~is not required to address a reporting category in section (4) of this rule if the category does not apply to th~~os~~e fac~~tors and shall describe any actions taken to prevent the recurrence of such problems.~~ility for the reporting period.¶
(4) Annual report contents. The annual report must include the following information for the calendar year preceding the date of the report:¶
(~~c~~a) Fuel ~~U~~use~~:~~. For thermal power plants:¶
(A) The efficiency with which the power plant converts fuel into electric energy. If the fuel chargeable to power heat rate was evaluated when the facility was sited, the certificate holder ~~shall~~must calculate efficiency using the same formula and assumptions, but using actual data; and¶
(B) The facility's annual hours of operation by fuel type and, every five years after beginning operation, a summary of the annual hours of operation by fuel type as described in OAR 345-024-0590(5).¶
(~~d~~b) ~~Status of Surety Information: Documentation demonstrating that~~Financial assurance. If the site certificate requires a bond~~s or~~, letter~~s~~ of credit ~~as described~~, parent guarantee, or other financial assurance, documentation demonstrating th~~e site certificate are~~at the required financial assurance is in full force and effect and will remain in full force and effect for the term of the next reporting period.¶
(~~e~~c) ~~Monitoring Report: A list and description of all significant~~Compliance report. A report describing the certificate holder's compliance with all site certificate conditions applicable during the reporting period.¶
(A) The compliance report must describe how the certificate holder implemented each monitoring plan and mitigation ~~activities performed during the previous year in accordance with~~plan required by the site certificate.¶
(B) The compliance report must provide supporting documentation and rationale showing the goals, performance standards, or success criteria in each monitoring plan or mitigation plan are being met.¶
(C) The compliance report must describe any significant change to a monitoring or mitigation program, including the reason for the change.¶
(D) For ease of review, the certificate holder must organize this section of the annual report using numbered subparagraphs corresponding to the applicable sections of the site certificate ~~terms and conditions, a summary of the results~~, unless the Department requests a different format.¶
(d) Facility modification report. A summary of changes to the facility that the certificate holder made during the reporting period without an amendment of th~~ose activities and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes~~e site certificate under OAR 345-027-0350, including any written evaluation required under OAR 345-027-0355.¶
(A) For any change that modifies, relocates, removes, or replaces a facility component, the facility modification report must describe the affected component, explain the reason for the change, identify the final or proposed location of the component, and include any geospatial information requested by the Department.¶
(B) If the certificate holder determines that a change does not require an amendment of the site certificate, the facility modification report must include or identify the certificate holder's written evaluation supporting that

determination.¶
(C) The Department may use information in the facility modification report to evaluate whether an administrative update of the facility description is appropriate under OAR 345-026-0088.¶
(e) Nongenerating facility carbon dioxide emissions. For nongenerating facilities that emit carbon dioxide, a report of the annual fuel use by fuel type and annual hours of operation of carbon dioxide emitting equipment as described in OAR 345-024-0630(4).¶
(~~f~~5) ~~Compliance Report: A report describing the certificate holder's compliance with all~~Mixed phasing or stages. If different facility components are in pre-construction, construction, operation, or retirement during the same reporting period, the certificate holder may identify the status of each component and address the site certificate conditions ~~that are~~ applicable to each component during th~~e~~at reporting period.~~ For ease of review, the certificate holder shall, in this section of~~¶
(6) Use of reports submitted to other agencies or the Department. To the extent that information required by this rule is contained in reports the certificate holder submits to another state, federal, or local agency, or to the ~~r~~Dep~~o~~art~~, use numbered subparagraphs cor~~ment under another requirement, the certificate holder may submit excerpts from those reports to satisfy this rule.¶
(a) The certificate holder must identify the source of each excerpted re~~s~~po~~nding to the applicable sections of the site certificate~~rt and explain how the excerpt satisfies the applicable requirement of this rule.¶
(b) The certificate holder must provide a citation, page reference, table reference, or other clear cross-reference sufficient for the Department to locate the information relied upon.¶
(~~g~~c) ~~Facility Modification Report: A summary of changes to the facility that the certificate holder has made during the reporting period without an amendment of~~ The Department or Council may request a full copy of any excerpted report.¶
(d) The certificate holder is not required to duplicate information submitted to another agency or to the Department under another requirement if the excerpted report provides the information required by this rule in a form that allows the Department to determine compliance with the site certificate, Council standards, Council rules, or a Council order.¶
(7) Form and manner of submittals. The certificate holder must submit reports, plans, tables, geospatial data, supporting documentation, and other information required under this division, a site certificate, or a Council order in the form and manner requested by the Department.¶
(a) The Department may require use of templates, tables, file-naming conventions, electronic formats, geospatial data formats, or other s~~ite certificate in accord~~tandardized submission requirements reasonably necessary to support efficient review, inspection, compliance tracking, or maintenance ~~with OAR 345-027-0050.¶~~
~~(h) Nongenerating Facility Carbon Dioxide Emissions: For nongen~~of the site certificate record.¶
(b) The Department's requested form and manner must be reasonably related to determining compliance with the site certificate, Council standards, Council rules, or a Council order, or to maintaining the site certificate record.¶
(8) Department review of reports. The Department may review any report submitted under this rule for completeness, consistency with the site cer~~a~~ti~~ng facilities that emit carbon dioxide, a repor~~ficate, and adequacy of supporting documentation.¶
(a) The Department may require the certificate holder to submit additional information, revised information, or information in a different format ~~o~~if the ~~annual fuel use by fuel type and annual hours of operation of the carbon dioxide emitting equipment as described in OAR 345-024-0630(4)~~Department determines that the submission is incomplete, unclear, inconsistent with the site certificate, or insufficient to demonstrate compliance.¶
(b) A request under this section does not, by itself, constitute a notice of violation or pre-enforcement notice under OAR chapter 345, division 29.¶
(c) Nothing in this rule limits the authority of the Department or Council to inspect a facility, request information, require reports, require corrective action, issue a pre-enforcement notice, issue a notice of violation, assess a civil penalty, or take any other action authorized by ORS chapter 469, OAR chapter 345, a Council order, or a site certificate.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.310, 469.410, 469.430, 469.501, 469.507

ADOPT: 345-026-0088

RULE SUMMARY: Adopts a new rule authorizing the Department, within specified limitations, to update a site certificate to reflect the facility as constructed or operated and to revise or remove obsolete conditions without authorizing any unapproved construction or operation.

CHANGES TO RULE:

345-026-0088
Administrative Update of the Facility Description
(1) Following receipt of the final facility design report required under OAR 345-026-0080(2)(c), or after determining-based on a facility modification report under OAR 345-026-0080(4)(d), a written evaluation under OAR 345-027-0355, or an amendment determination request under OAR 345-027-0357-that a change does not require an amendment, the Department may:¶
(a) Update the site certificate to accurately describe the facility, as constructed or operated;¶
(b) Revise or remove any site certificate conditions as needed to reflect the facility as built and to facilitate the Department's future inspections of the facility, subject to the following:¶
(A) Before expiration of the construction deadline in the site certificate, the Department may revise or remove a site certificate condition under subsection (b) of this section only at the request of the certificate holder.¶
(B) After expiration of the construction deadline in the site certificate, the Department may revise or remove a site certificate condition under subsection (b) of this section on its own initiative.¶
(2) The updated facility description under (1) must accurately reflect the facility, as constructed or operated. Any unbuilt facility components or unused corridors must be removed from the facility description once the deadline for their construction has passed, and all descriptions of dimensions, quantities, and values must reflect the actual conditions at the site.¶
(3) An update issued under this rule does not authorize construction or operation of any facility component, structure, corridor, or activity not previously approved by the Council.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.401, ORS 469.405, ORS 469.430

AMEND: 345-026-0105

RULE SUMMARY: Retitles and narrows the rule to require submission of another agency's documents when the certificate holder relies on them to demonstrate compliance and to permit Department reliance on another agency's compliance determination. It also establishes procedures for providing alternative information when requested information is legally restricted or security-sensitive.

CHANGES TO RULE:

345-026-0105
~~Correspondence With~~Reliance on Federal or Other State ~~or Federal~~ Agencies ¶

~~The~~(1) If a certificate holder ~~and the Department of Energy shall exchange copies of all correspondence or summaries of correspondence related to compliance with statutes, rules and local ordinances~~ relies on a permit, approval, report, correspondence, or other document from another federal, state, or local agency to demonstrate compliance with a site certificate condition, Council standard, Council rule, or Council order, the certificate holder must provide the document or relevant excerpt to the Department upon request. The Department may rely on another agency's permit, approval, inspection, or compliance determination wh~~ich~~en the ~~Council determined compliance, except~~ Department determines that the other agency's action provides sufficient infor-mat~~erial withheld from public disclosure under state or federal law~~ion to demonstrate compliance with the applicable site certificate condition, Council standard, Council rule, or Council order.¶
(2) If a certificate holder asserts that state or ~~un~~feder~~ Council rules. T~~al law restricts the certificate holder ~~may~~from submit~~ abstracts of reports in place of full reports; however, the certificate holder shall provide full copies of abstracted reports~~ting information requested by the Department, including geospatial data or security-sensitive facility information, the certificate holder must identify the specific information, the legal basis for the restriction, and an alternative form of information sufficient for the Department to determine compliance, if available. The Department may approve an~~d~~ a~~ny summarized correspondence at the request of the Department.~~lternative form, scale, format, or level of detail for geospatial data or other facility information when necessary to comply with state or federal confidentiality, security, or critical infrastructure information requirements, provided the alternative submission allows the Department to determine compliance.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.310, ORS 469.410, ORS 469.430, ORS 469.507

AMEND: 345-026-0170

RULE SUMMARY: Clarifying and expanding reportable incidents, specifying the required contents of the initial notice, and requiring additional Division 29 reporting when an incident may constitute or result in a violation.

CHANGES TO RULE:

345-026-0170
Notification of Incidents ¶

The certificate holder must notify the Department of Energy within 72 hours of any occurrence involving the facility if:¶
(1) ~~There is an attempt by anyone~~Anyone attempts to interfere with ~~its~~ safe operation~~.¶~~
~~(2) There is a~~ of the facility;¶
(2) A significant natural event ~~such as a~~occurs, including but not limited to fire, earthquake, flood, tsunami, or tornado~~, or~~;¶
(3) A significant human-caused event ~~such as a fire or explos~~occurs, including but not limited to fire, spill, explosion, vandalism, or other event that could affect public health, safety, the environment, or compliance with the site certificate;¶
(4) A fatal injury occurs at the facility; or¶
(5) A mechanical failure occurs at the facility that could impact public health, safety, or the environment or result in a violation of a site certificate condition.¶
(~~3~~6) The~~re is any fatal injury at the facility~~ initial notice must include, to the extent known at the time of notice:¶
(a) The date, time, and location of the incident;¶
(b) A brief description of the incident;¶
(c) Any immediate actions taken to protect public health, safety, or the environment; and¶
(d) The name and contact information of a representative who can provide additional information.¶
(7) If the incident or pattern of incidents may constitute or result in a violation described in OAR 345-029-0003, the certificate holder must comply with OAR 345-029-0010. The written report required under OAR 345-029-0010 must identify any site certificate conditions relevant to the incident, describe any actual or potential violations of the site certificate or other applicable laws, regulations, or ordinances, and describe corrective actions the certificate holder has taken or intends to take to address the incident and prevent recurrence.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.310, 469.410, 469.430, 469.507

AMEND: 345-029-0003

RULE SUMMARY: Clarifies that the revised enforcement rules apply to existing and future site certificates and amendments unless a conflicting site certificate condition controls.

CHANGES TO RULE:

345-029-0003
Applicability of OAR 345-029-0005 through 345-029-0100
(1) OAR 345-029-0005 through OAR 345-029-0100 apply to violations or potential violations involving energy facilities, including:¶
(a) A violation of any term or condition of a site certificate;¶
(b) Except as described in OAR 345-029-0503, a violation of any applicable provision of ORS Chapter 469, OAR chapter 345, or an order of the Council;¶
(c) A violation of an order issued under OAR 345-027-0230; or¶
(d) A history of non-compliance by a certificate holder with applicable rules or license requirements of more than one other state agency having enforcement jurisdiction.¶
(2) No provision of these rules precludes the Director or Council from taking any actions authorized under ORS Chapter 469 to protect public health and safety or the environment, including, but not limited to the seeking of injunctive relief or the suspension or revocation of permits or site certificates.¶
(3) It is the intent of the Energy Facility Siting Council that these Division 29 rules, including revisions adopted on [insert adoption date], apply to site certificates and site certificate amendments issued thereafter and also apply retroactively to site certificates and site certificate amendments issued prior to [insert adoption date], except to the extent a rule in this division conflicts or is inconsistent with a condition in a site certificate or amendment, the condition controls.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.085, 469.440, 469.992

AMEND: 345-029-0010

RULE SUMMARY: Replaces the requirement for initial notice “as soon as reasonably possible” with a defined 72-hour deadline and requires the notice to describe actions taken or planned to correct the potential violation, while retaining the 30-day written-report requirement.

CHANGES TO RULE:

345-029-0010
Report by a Responsible Party ¶

The responsible party must make reports as specified in these rules and in the site certificate. Whenever a responsible party becomes aware of conditions or circumstances that may violate the terms or conditions of a site certificate, the terms or conditions of any order of the Council, or the terms or conditions of an order issued under OAR 345-027-0230, the responsible party must:¶
(1) ~~As soon as reasonably possible~~Within 72 hours after discovering the conditions or circumstances, notify the Department of the conditions or circumstances that may constitute a violation, giving all pertinent facts including an estimate of how long the conditions or circumstances have existed, how long they are expected to continue before they can be corrected, actions taken or to be taken to correct the potential violation and whether the conditions or circumstances were discovered as a result of a regularly scheduled compliance audit.¶
(2) As soon as reasonably possible, initiate and complete appropriate action to correct the conditions or circumstances and to minimize the possibility of recurrence.¶
(3) Submit to the Department a written report within 30 days of discovery. The report must contain:¶
(a) A discussion of the cause of the reported conditions or circumstances;¶
(b) The date of discovery of the conditions or circumstances by the responsible party;¶
(c) A description of immediate actions taken to correct the reported conditions or circumstances;¶
(d) A description of actions taken or planned to minimize the possibility of recurrence; and¶
(e) For conditions or circumstances that may violate the terms or conditions of a site certificate, an assessment of the impact on the resources considered under the standards of divisions 22 and 24 of this chapter as a result of the reported conditions or circumstances.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.440

ADOPT: 345-029-0015

RULE SUMMARY: Adopts a new process allowing the Department to issue a pre-enforcement notice, obtain a written response and proposed corrective actions, and provide an enforcement conference before deciding whether to issue a notice of violation, while preserving authority to proceed directly to formal enforcement.

CHANGES TO RULE:

345-029-0015
Pre-Enforcement Notice of Siting Division Violations
(1) The Department has discretion to issue a pre-enforcement notice before issuing a notice of violation under OAR 345-029-0020. The Council may instruct the Department to issue a pre-enforcement notice. Nothing in this rule limits the Department's ability to issue an inspection report, request for information, compliance letter, warning letter, or other informal communication before determining whether to issue a pre-enforcement notice or notice of violation.¶
(2) In deciding whether conditions or circumstances warrant issuing a pre-enforcement notice, the Department or Council must consider the following factors:¶
(a) Whether the responsible party reported the conditions or circumstances in reasonable detail in a timely manner;¶
(b) Whether the conditions or circumstances are limited to the possible violation of a reporting requirement;¶
(c) Whether the conditions or circumstances are the result of ambiguous language in the requirement in question;¶
(d) Whether the conditions or circumstances are the result of a change to the design, construction, operation, or retirement of a facility for which a site certificate has been issued, and whether the certificate holder decided that no amendment of the site certificate was required based on a reasonable analysis of the criteria in OAR 345-027-0350(4);¶
(e) Whether the violation in question has been cited by any other state agency having jurisdiction;¶
(f) Whether the conditions or circumstances are overseen or within the control of the responsible party;¶
(g) Whether additional information is needed to determine whether a violation occurred, the classification of any violation, or the appropriate corrective action; and¶
(h) Whether issuance of a pre-enforcement notice would be consistent with the Council's goals of protecting public health, safety, welfare, and the environment and ensuring compliance with the terms and conditions of site certificates and Council orders.¶
(3) If the Department determines upon inspection as provided for in OAR 345-026-0050, upon receipt of a report from the responsible party under OAR 345-029-0010, or by other means that a violation described in OAR 345-029-0003 may have occurred, or that additional information is needed to determine whether such a violation occurred, the Department may serve a pre-enforcement notice upon the responsible party. The Department must serve the pre-enforcement notice by personal service, electronic mail, first class mail, certified mail, or registered mail.¶
(4) In the pre-enforcement notice, the Department must include:¶
(a) A reference to the statute, administrative rule, order, or site certificate term or condition that may have been violated;¶
(b) A statement of the facts upon which the Department based its determination that a violation may have occurred, including the date of discovery, if known;¶
(c) A statement explaining what additional information, if any, the Department requires to determine whether a violation occurred, the classification of any violation, or the appropriate corrective action;¶
(d) A description of any corrective action the Department believes may be necessary to remedy the conditions or circumstances, mitigate impacts, minimize imminent risk, or minimize the possibility of recurrence;¶
(e) A requirement for the responsible party to provide a written response to the pre-enforcement notice within 30 days or another specified period;¶
(f) A statement explaining that the responsible party may request an enforcement conference under OAR 345-029-0050 to present information regarding the conditions or circumstances described in the pre-enforcement notice and to discuss corrective action taken or proposed; and¶
(g) An explanation that the pre-enforcement notice does not entitle the responsible party to a contested case proceeding.¶
(5) The responsible party must provide a written response to the Department by the date specified in the pre-enforcement notice. The response must include:¶
(a) A statement of facts relevant to the Department's determination that a violation may have occurred;¶
(b) A statement explaining whether the responsible party disputes any material fact, conclusion, or requested corrective action identified in the pre-enforcement notice;¶

(c) A description of any corrective action the responsible party has taken or proposes to take to remedy the conditions or circumstances, mitigate impacts, or minimize the possibility of recurrence;¶
(d) The date by which the responsible party expects to complete any proposed corrective action and achieve compliance with all applicable site certificate conditions, Council orders, statutes, rules, permits, approvals, or other requirements;¶
(e) Any additional information requested by the Department in the pre-enforcement notice; and¶
(f) If the responsible party cannot provide all information required under subsections (a) through (e) of this section by the response deadline, the date by which the responsible party will submit the remaining information and an explanation of why additional time is needed.¶
(6) If the Department receives information that the Department determines is sufficient to demonstrate that the violation identified in the pre-enforcement notice did not occur, the Department must amend or withdraw the pre-enforcement notice, as appropriate.¶
(7) The Department may issue a notice of violation under OAR 345-029-0020 after considering:¶
(a) The responsible party's written response;¶
(b) Information presented at any enforcement conference;¶
(c) Any corrective action taken or proposed by the responsible party;¶
(d) The responsible party's cooperativeness and efforts to correct the conditions or circumstances; and¶
(e) Any other information the Department determines is relevant.¶
(8) The Department is not required to issue a pre-enforcement notice before issuing a notice of violation under OAR 345-029-0020, assessing a civil penalty under OAR 345-029-0060, or seeking suspension or revocation of a site certificate under OAR 345-029-0100.¶
(9) Issuance of a pre-enforcement notice does not limit the authority of the Council or the Department to inspect a facility, request information, require reports, issue a notice of violation, assess a civil penalty, seek suspension or revocation of a site certificate, or take any other action authorized by ORS chapter 469, OAR chapter 345, a Council order, or a site certificate.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.405, ORS 469.430, ORS 469.440, ORS 469.540, ORS 469.550, ORS 469.992

AMEND: 345-029-0020

RULE SUMMARY: Reference correction

CHANGES TO RULE:

345-029-0020
Notice of Violation ¶

(1) The Department has discretion to issue a notice of violation, except that the Council may instruct the Department to issue a notice of violation. Factors the Council or Department must consider in deciding whether conditions or circumstances warrant issuing a notice of violation are:¶
(a) Did the responsible party report the conditions or circumstances in a timely manner?¶
(b) Are the conditions or circumstances limited to the possible violation of a reporting requirement?¶
(c) Are the conditions or circumstances the result of ambiguous language in the requirement in question?¶
(d) Are the conditions or circumstances the result of a change to the design, construction, operation or retirement of a facility for which a site certificate has been issued, and did the certificate holder decide that no amendment of the site certificate was required, based on a reasonable analysis of the criteria in OAR 345-027-0350(~~2~~4)?¶
(e) Has the violation in question been cited by any other state agency having jurisdiction?¶
(f) Are the conditions or circumstances within the control of the responsible party?¶
(2) If the Department determines upon inspection as provided for in OAR 345-026-0050, upon receipt of a report from the responsible party under OAR 345-029-0010, or by other means that there has been a violation for which sanctions may be imposed as described in OAR 345-029-0003, the Department may serve a notice of violation upon the responsible party. The Department must serve the notice of violation by personal service or by first class, certified or registered mail.¶
(3) In the notice of violation, the Department must include:¶
(a) A reference to the statute, administrative rule, order, or site certificate term or condition violated as determined by the Department;¶
(b) A statement of the facts upon which the Department based its determination that a violation occurred, including the date of discovery;¶
(c) A requirement for the responsible party to provide a written response to the notice of violation within 30 days or another specified time;¶
(d) A statement of the responsible party's right to a hearing as provided for in OAR 345-029-0070 if the Department later issues a notice of assessment of civil penalty as described under OAR 345-029-0060; and¶
(e) The Department's classification of the violation, including a statement of the consideration given to the following factors:¶
(A) The performance of the responsible party in taking necessary or appropriate action to correct or prevent the violation;¶
(B) Any similar or related violations by the certificate holder in the previous 36 months;¶
(C) Any adverse impact of the violation on public health and safety; and¶
(D) For a violation of the terms or conditions of a site certificate, any adverse impact of the violation on resources protected by Council standards or site certificate conditions.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.085, ORS 469.440, ORS 469.992

AMEND: 345-029-0040

RULE SUMMARY: Reference correction

CHANGES TO RULE:

345-029-0040
Response to Notice of Violation ¶

In the written response required by OAR 345-029-0020(~~2~~3)(c), the responsible party must include, as a minimum, the following:¶
(1) Admission or denial of the violation;¶
(2) If the responsible party admits the violation and can determine suitable corrective action:¶
(a) The corrective action taken, and results achieved;¶
(b) Corrective action that the responsible party plans to take to minimize the possibility of recurrence; and¶
(c) The date by which the responsible party expects to achieve full compliance; and¶
(3) If the responsible party admits the violation and cannot determine suitable corrective actions within the 30-day or other time period specified in the notice of violation, a preliminary response that includes a date by which the responsible party will submit a final response that includes all information described in section (2).
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.085, ORS 469.440, ORS 469.992

AMEND: 345-029-0100

RULE SUMMARY: Correcting grammatical error.

CHANGES TO RULE:

345-029-0100
Revocation or Suspension of Site Certificate ¶

The Council may revoke or suspend any site certificate after conducting a contested case proceeding on the revocation or suspension under the provisions of OAR 345-015-0400 through 345-015-0480. A majority vote of the Council or a request from the Department initiates a contested case proceeding on a revocation or suspension. The Council may base revocation or suspension on any of the following grounds:¶
(1) The certificate holder made a material false statement in an application for a site certificate or in supplemental or additional statements of fact or studies required of an applicant when a true answer would have warranted denial of a site certificate by the Council;¶
(2) The certificate holder failed to comply with a term or condition of the site certificate;¶
(3) The certificate holder violated a Department order as described in OAR 345-027-0230;¶
(4) The certificate holder violated any provision of ORS 469.300 to 469.570, 469.590 to 469.621, 469.930 and 469.992, any administrative rule adopted under those statutes, including but not limited to rules contained in OAR chapter 345, or any order of the Council; or¶
(5) For a site certificate subject to ORS 469.410, having been executed prior to July 2, 1975, the certificate holder violated any ~~the~~ provision of ORS 469.300 to 469.520 or failed to comply with applicable health or safety standards.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.440

AMEND: 345-029-0503

RULE SUMMARY: Correcting grammatical error.

CHANGES TO RULE:

345-029-0503
Applicability of OAR 345-029-0505 through 345-029-0560
(1) OAR 345-029-0503 through 345-029-0560 apply to violations involving the transport or disposal of radioactive materials or waste, including violation of:¶
(a) Any applicable provision of ORS 469.525 or OAR chapter 345, division 050; or¶
(b) Any applicable provision of ORS 469.603 through 469.619, OAR chapter 345, division 060, or any term or condition of a Radioactive Materials Transport Permit.¶
(2) No provision of these rules precludes the Director or Council from taking other actions to protect public health and safety or the environment, including, but not limited to the seeking of injunctive relief or the suspension or revocation of permits or site certificates, authorized under ORS chapters 183 or 469.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.085, ORS 469.470, ORS 469.992

AMEND: 345-029-0530

RULE SUMMARY: Corrects punctuation and minor drafting errors in the violation classifications without changing their substantive requirements.

CHANGES TO RULE:

345-029-0530
Classification of Violations Involving the Transport or Disposal of Radioactive Materials or Wastes
Violations involving the transport or disposal of radioactive materials or wastes are classified as follows:¶
(1) Class I Violations include:¶
(a) Any violation of ORS 469.525 or OAR chapter 345, division 050;¶
(b) A failure to obtain an Oregon Radioactive Waste Material Transport Permit as required by ORS 469.605 or OAR 345-060-0004;¶
(c) A failure to immediately report an incident as required by OAR 345-060-0030;¶
(d) A failure to comply with an order of the Director or Council;¶
(2) Class II Violations include:¶
(a) A failure to route shipments of spent nuclear fuel or placarded shipments of radioactive materials as required by ORS 469.606 or OAR 345-060-0040;¶
(b) Any violation of OAR 345~~-~~, division 060 or an Oregon Radioactive Materials Transport Permit not otherwise described in this rule~~; and~~.¶
(3) Class III violations include:¶
(a) A failure to give notice for inspection or schedule change as required by OAR 345-060-0005;¶
(b) A failure to maintain packaging, placarding, labeling, or shipment documentation as required by OAR 345-060-0025.
Statutory/Other Authority: ORS 469.470
Statutes/Other Implemented: ORS 469.085, ORS 469.540, ORS 469.992