

January 4, 1994

MEMORANDUM FOR: Richard L. Bangart, Director
Office of State Programs

FROM: Dean M. Kunihiro, Regional State
Liaison Officer

SUBJECT: NOTICE OF HEARINGS REGARDING OREGON DEPARTMENT OF
ENERGY REGULATIONS ON THE DECOMMISSIONING OF TROJAN

The Oregon Department of Energy has announced two hearings, which will be held on January 19 and February 7, 1994, to solicit public comment on its proposed regulations concerning the decommissioning of Trojan. The proposed regulations contain the Energy Facility Siting Council standards for the review of the Trojan decommissioning plan, decommissioning funding, security, environmental monitoring, spent fuel storage, emergency planning, fire protection, and reporting requirements. Pertinent NRC regulations and guidance were used extensively in drafting their proposed regulations.

Enclosed are a copy of the hearing notice and the proposed regulations.

Dean M. Kunihiro, Regional State
Liaison Officer

Enclosures as stated

cc: Joe Callan, RIV
Ken Perkins, RV
Ross Scarano, RV
John Austin, NMSS
Seymour Weiss, NRR
Mike Masnik, NRR
Spiros Droggitis, OSP

bcc: Central Files
M. Smith

RV/gmd

REQUEST COPY
YES/NO

REQUEST COPY
YES/NO

SEND TO PDR
YES/NO

SEND TO DCS
YES/NO

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NOTICE OF PROPOSED RULEMAKING HEARINGS

OREGON DEPARTMENT OF ENERGY

FACILITIES REGULATION DIVISION

OAR Chapter 345

DATE: January 19, 1994
February 7, 1994

TIME: 10:00 A.M.
10:00 A.M.

LOCATION: Multnomah County Courthouse, Room 602
1021 SW Fourth St. , Portland, OR.
(both hearings)

HEARINGS OFFICER: Marlene Bayless Mitchell,
625 Marion St. NE, Salem OR. 97310
(503)-378-8692

STATUTORY AUTHORITY: ORS 469 as amended by Senate Bill 1016,
1993 Legislature

ADOPT: New rules in OAR 345 Division 26 with requirements for
decommissioning, security, environmental monitoring,
spent fuel storage, emergency planning, fire
protection, and reporting requirements at Trojan.

REPEAL: OAR 345-26-96, 345-26-110, 345-26-141, 345-26-150, 345-
26-175, 345-26-190.

SUMMARY: Proposed rules contain Energy Facility Siting Council
standards for EFSC review of the Trojan Decommissioning
plan, decommissioning funding, security, environmental
monitoring, spent fuel storage, emergency planning,
fire protection, and reporting requirements at Trojan.
The repealed rules would be replaced by new rules,
located in a separate section in Division 26.

*This hearing notice is the initial notice given for this
rulemaking action. Auxiliary aids for persons with
disabilities are available with advance request*

LAST DATE FOR COMMENT: February 11, 1994

DATE PROPOSED TO BE EFFECTIVE: May 1, 1994

RULES COORDINATOR: Marilyn Forsyth
625 Marion St. NE, Salem OR 97310
(503) 378-2843

Interested persons may comment on the proposed rules orally or in
writing at the hearing. Written comments will also be considered
if received by the date indicated above.

Statement of Need and Fiscal Impact
Before the Energy Facility Siting Council

In the matter of adoption of)	Statutory Authority
EFSC standards OAR 345)	Statement of Need
Division 26 for Decommissioning and)	Document Relied On
Spent Fuel Storage at Trojan)	and Fiscal Impact

1. Statutory Authority - ORS 469.500 and 510 which requires the Energy Facility Siting Council to adopt standards for protection of public health and safety at nuclear installations.
2. Need for rulemaking: Current rules were written prior to the decision to close the Trojan Nuclear Plant. Portland General Electric must file a decommissioning plan on a schedule consistent with Federal regulations. The rules require EFSC review of the decommissioning plan and the plan for decommissioning funding. Specific standards of review are required for EFSC review of the plan. Also, current EFSC rules for fire protection, security, monitoring, and emergency planning were appropriate for power operations, but are not appropriate for safe maintenance of a permanently closed plant. New proposed rules are appropriate for the current shutdown condition of the plant, and provide for decommissioning.
3. Documents Relied on in proposing new rules -
 - Title 10 part 50 of the Code of Federal Regulations
 - U.S. Nuclear Regulatory Commission Regulatory Guide 1.86
4. Fiscal and Economic Impact: Proposed rules are expected to have no fiscal impact on the site certificate holder or on PGE ratepayers. Rules are written in close conformance with existing Federal Standards and applicable codes. For security, fire protection, emergency planning, and environmental and radiological monitoring, the proposed rules eliminate some requirements no longer appropriate for a closed plant. Wherever possible, the proposed reporting requirements allow PGE to use reports already required by other state and Federal agencies.
5. Statement on Advisory Group: Proposed rules make extensive use of existing Federal standards and guidance documents. Plans for fire protection, emergency planning, and safe storage of spent nuclear fuel were discussed in detail at EFSC meetings throughout 1993, with opportunity for public comment. EFSC hearings on these rules will be supplemented by public NRC meetings to discuss the Trojan decommissioning plan. Therefore, EFSC does not believe it would be useful to appoint a special advisory group in this rulemaking.

DIVISION 26

CONSTRUCTION AND OPERATION RULES FOR THERMAL POWER PLANTS

TYPE FACE LEGEND:

Normal Text: Existing rule, with no changes

[bracketed and italics]: old language, deleted

bold: proposed new language

fine print: comments, not intended as part of the rule

Purpose

345-26-005 It is the purpose of these rules to assure that the construction, *[and]*, operation, **and retirement** of *[thermal power plants]* **energy facilities** is accomplished in a manner consistent with the protection of the public health, safety, and welfare and the protection of the environment.

Stat. Auth: ORS CH.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

The term energy facilities still applies to Trojan.

Legislative Authority

345-26-010 These rules are promulgated pursuant to *[ORS 469.500 and 469.510, which require the Energy Facility Siting Council ("Council") to establish standards for the safety, construction, and operation of thermal power plants.]* **ORS 469 as amended by Oregon Laws 1993, Senate Bill 1016, which requires the Energy Facility Siting Council to adopt standards for the design, construction, operation, and retirement of energy facilities, taking into account the protection of public health and safety.**

Stat. Auth: ORS CH. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

Scope and Construction

345-26-015 (1) These rules apply to all thermal power plants [*] constructed, or under construction at the time of adoption of these rules, and operated pursuant to a site certification agreement.

(2) To the extent that any of these rules conflict or are inconsistent with administrative rules lawfully adopted by other state agencies, these rules shall be deemed controlling.

(3) To the extent that any of these rules conflict or are inconsistent with a condition contained in a site certification agreement (or amendment thereto), the latter shall be deemed controlling.

(4) Site certificate holders shall comply with all **applicable** lawful rules, regulations, and requirements of federal agencies. *[including, but not limited to, all design, quality*

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

assurance, personnel qualification and training, and technical specification (environmental and safety) requirements for the plant in question of the U.S. Nuclear Regulatory Commission. In the event of a conflict resulting in inability to comply with both state and federal requirements, the requirements of state rules shall take precedence except where this would require the site certificate holder to use any equipment or procedures that would cause it to lose any federal license required for operation of the plant.

NOTE: * OAR 345-26-005 through 345-26-200 were developed for thermal power plants as described in ORS 469.300(21). Furthermore, rules applicable to nuclear-fueled thermal power plants were developed considering the light water reactor as the energy supply system. The use of other types of reactors may require additional rules or modifications to existing rules.]

Stat. Auth: ORS CH. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

Definitions

345-26-020 (1) "Site" means all land upon which is located a thermal power plant and major associated facilities including, but not limited to, transmission line rights-of-way road and rail access, pumping plant, makeup or effluent water pipelines, dewatering flow easement, barge unloading facilities, cooling reservoirs, or discharge structures as defined in the site certificate.

(2) "Special nuclear material" means plutonium, uranium-233, or uranium enriched in the isotope 233 or in the isotope 235.
Stat. Auth: ORS CH.

(3) "Background" means the direct radiation (gamma) and concentrations of potential radionuclide contaminants in construction materials and environment in the vicinity of the plant not associated with the nuclear operation of the facility. Background shall be determined as follows:

(a) For direct radiation, 6 to 10 measurements shall be made in areas with materials and/or geological formations representative of the site that have not been affected by the operation of the facility. Background shall be calculated at the average and at the 95% confidence level.

(b) Environmental samples shall be taken for soil, sediment, water, and other materials present at the facility site that could have been affected by facility operations. Background samples shall be taken at locations on site or in the immediate vicinity of the site which are unaffected by plant operations. Background shall be calculated at the

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

average and 95% confidence levels, based on 6 to 10 measurements.

(c) For construction material such as concrete, asphalt, block, brick and other materials used to construct the buildings and systems at the site, representative samples of materials unaffected by site operations shall be selected and surveyed. Six to ten samples of each material shall be made to determine the level of naturally occurring radioactivity present. Measurements shall include direct radiation (beta-gamma and alpha), wipes, and count room qualitative and quantitative laboratory analyses.

Hist: NTEC 9, f. 2-13-75, ef. 3-11-75

Regulations Applicable During Both Construction and Operation
THIS RULE IS DELETED IN ITS ENTIRETY

345-26-025 [Rules 345-26-030 through 345-26-115 apply to a site certificate holder during both construction and operation of a thermal power plant.]

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Water Impoundments

345-26-030 [NTEC 9, f. 2-13-75, ef. 3-11-75;
Repealed by EFSC 1-1993,
f. & cert ef 1-15-93]

Visitor Information

345-26-035 [Renumbered to 345-27-020]

Aesthetics

345-26-040 [Renumbered to 345-37-020]

Protection of Fish and Wildlife Resources

345-26-045 [Renumbered to 345-37-060]

Inspections

345-26-050 (1) General:

(a) Each site certificate holder or operator of a nuclear installation shall afford to properly identified representatives of the Council opportunity to inspect all materials, activities, facilities, premises, and records at any time.

(b) The site certificate holder's representative may accompany Council inspectors during an inspection.

(c) If, at the time of inspection, an individual has been authorized by the workers to represent them during Council inspection, the site certificate holder shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(d) Each workers' representative shall be routinely engaged in work under control of the site certificate holder.

(e) Different representatives of the site certificate holder and its designated workers may accompany the inspectors during various phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.

(f) With the approval of the site certificate holder and the workers' representative, an individual who is not routinely engaged in activities under control of the certificate holder, for example, a consultant to the site certificate holder or to the workers' representative, shall be afforded the opportunity to accompany Council inspectors during the inspection of physical working conditions.

(g) Council inspectors are authorized to refuse to permit accompaniment by an individual who deliberately interferes with a fair and orderly inspection.

(h) Representatives accompanying Council inspectors in areas containing proprietary information shall be individuals previously authorized by the site certificate holder to enter that area.

(i) Upon completion of each inspection, the inspector shall have a conference with the person responsible for the project at the site to discuss all pertinent findings.

(j) If any violation of state law, Council rules, or site certificate conditions or warranties is discovered, the Council Chairman shall be notified immediately.

(2) Consultation with Workers during Inspection:

(a) Council inspectors may consult privately with workers concerning matters related to applicable provisions of state law, Council regulations, and site certificate conditions to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(b) During the course of an inspection, any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which he has reason to believe may have contributed to or caused, or is likely to cause, any violation of state law, regulations of the Council, site certificate condition or warranties, or any unnecessary exposure of an individual to radiation from radioactive material under

control of the site certificate holder. Such notice concerning state law or rules not administered by the Council shall be forwarded by the inspectors to the appropriate state agency.

(3) Requests by Workers for Inspections:

(a) Any workers or representative of workers may, under conditions expressed below, request an inspection by giving notice of the concern to the administering state agency, or to Council inspectors during inspections, who shall forward such notice to the appropriate state agency. Such a request may be made when the requesting party believes:

(A) That a violation of state law, regulations of the Council, or site certificate conditions or warranties exists or has occurred; or

(B) A situation exists that may lead to such a violation or to unnecessary exposure of an individual to radiation from radioactive material under control of the site certificate holder. Concern with regulations of the Council or site certificate conditions or warranties shall be made to the Council's staff, or to the Council inspectors. Such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of workers. A copy shall be provided to the site certificate holder by the Council's staff or the inspector no later than at the time of inspection. Upon the request of the person giving such notice, his name and the name of individuals referred to therein shall not be disclosed in any manner, except for good cause shown.

(b) If the Council's staff concludes there are reasonable grounds to believe that the alleged violation exists or has occurred, it shall cause an inspection to be made as soon as practicable. Inspections conducted pursuant to this section need not be limited to matters referred to in the complaint.

(c) No site certificate holder shall discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under these regulations or has testified or is about to testify in any such proceeding or because of the exercise by such worker on behalf of himself or others of any option afforded by these rules.

(d) If the Council's staff determines that an inspection is not warranted, it shall give written notice to the complainant. The complainant may submit a written request for review to the Council if their inspection request to the administering state agency or the Council staff has been denied. The Council shall provide the site certificate holder with a copy of such statement by certified mail, excluding the name of the complainant, if so requested. The site certificate holder may submit written statement of its position with the Council, which shall provide a

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

copy to the complainant by certified mail. Upon their own motion or the request of either the complainant or the site certificate holder, the Council or its designee may hold an informal conference to discuss the issue. After considering all written and oral views presented, the Council shall affirm, modify, or reverse the previous determination and furnish the complainant and the site certificate holder a written notification of its decision and the reasons therefor.

Stat. Auth: ORS Ch.
Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

In a separate rulemaking, a new and simplified rule for inspections will be proposed.

Environmental and Effluent Monitoring

345-26-060 (1) Where warranted the site certificate holder for any non-nuclear facility shall initiate and maintain environmental and effluent monitoring of the site, thermal power plant, and associated facilities. Specific plans for the performance, modification, and reporting of these monitoring programs shall be reviewed and concurred in by the appropriate state agencies. All program plans and reports as listed below shall be provided to the Council. The Council, after consultation with the appropriate state agency, may approve or modify those plans. In instances where state agencies are performing contracted monitoring services for the site certificate holder, the Council may arrange for independent review of the plan.

(2) The site certificate holder shall provide adequate quality assurance measures for the environmental and effluent monitoring program. These quality assurance measures shall provide adequate confidence that a structure, system or component will perform satisfactorily in service and shall be incorporated in plant policies, procedures, or instructions. The site certificate holder shall regularly review the status and adequacy of these quality assurance measures. The measures shall be submitted to the Oregon Department of Energy for concurrence at the earliest practical time consistent with the schedules of the monitoring programs.

(3) The results of the monitoring programs shall be used to determine what areas require further study, corrective action, or special reports by the site certificate holder and shall describe these actions. Unless otherwise specified by the Council the monitoring programs will include the following:

(a) Structural Performance of Hydraulic Structures.
Structural performance monitoring of major hydraulic structures and water-budget accounting shall be performed. Detailed plans

for this monitoring shall be submitted to the Water Resources Department for concurrence and shall include details of location and design of equipment, including instrumentation of major embankments for pore pressure, seepage settlement, and deflection.

(b) Fish Screening at Intake Structure. Fish screening at the pumping plant intake structure shall be monitored to determine effects on the fisheries resource. Detailed plans for this monitoring shall be submitted to the Department of Fish and Wildlife for concurrence, and shall include frequency of sampling and reporting levels.

(c) Receiving Water Quality Monitoring. A program shall be instituted by the site certificate holder to provide baseline information, and to identify and monitor impact of plant construction and operation on receiving water bodies of any discharges from the thermal power plant and the site. This program shall be submitted to the Department of Environmental Quality for concurrence.

(d) Liquid Effluent Monitoring. A program shall be instituted by the site certificate holder to monitor for the presence of pollutants in the liquid effluents from the thermal power plant and related facilities. The program shall be submitted to the Department of Environmental Quality for concurrence.

(e) Groundwater Monitoring. A groundwater monitoring program shall be established in selected locations near and on the site to determine whether groundwater quality is being adversely affected by the thermal power plant or associated facilities. The detailed plan for this monitoring shall be submitted to the Water Resources Department and the Department of Environmental Quality for concurrence.

(f) Aquatic and Terrestrial Ecology Monitoring. A program shall be instituted by the site certificate holder to provide baseline information and identify any impact of plant construction or operation on aquatic and terrestrial ecology. This program shall be submitted to the Department of Fish and Wildlife and the Department of Environmental Quality for concurrence. The following will be included as necessary:

(A) Determination of the extent and manner of fish and wildlife use of the site before plant construction.

(B) The actual impact of plant construction and operation on fish and wildlife.

(C) Studies and monitoring as necessary of vegetation and crops commonly grown in the area for the purpose of determining the extent of vegetation damage, if any, from plant operation.

(D) Except at nuclear power plants, the program will evaluate or monitor for any chemical build-up in soils or vegetation from operation of the facility.

(E) Results from the above will be provided to the Council pursuant to OAR 345-26-075.

[(g) Radiological Environmental Monitoring for Nuclear Power Plants. A radiological environmental monitoring program shall be established by the site certificate holder and submitted to the Oregon Department of Energy for concurrence.

(h) Radioactive Effluent Monitoring for Nuclear Power Plants. A radiological effluent monitoring program shall be established and submitted to the Oregon Department of Energy for concurrence. Provisions shall be included in design for continuous read-out of selected emission monitoring equipment at an off-site location as specified by the Oregon Department of Energy.]

[(i)] (g) Air Quality Monitoring for Coal-Fired Plant. An air quality monitoring program for coal-fired plants shall be established. This program shall require the concurrence of the Department of Environmental Quality and shall include:

(A) Ambient air quality monitoring for measurement of air contaminants as may be required by the Department of Environmental Quality. The monitors will be located to include to the extent possible the area of maximum concentration realistically expected at a frequency of occurrence specified by the Department of Environmental Quality. This monitoring will be conducted to determine the air quality degradation caused by plant operations.

(B) Ambient air quality studies for the site shall include efforts to evaluate possible plant impacts on regional visibility and acid rain for facilities obtaining a site certificate after January 1, 1985.

(C) A diffusion model analysis designed specifically for stack emissions from the plant shall be developed on a schedule approved by the Oregon Department of Energy. The results from modeling plant emissions will be compared to data collected from ambient air quality monitors. The adequacy of the model will require approval of the Department of Environmental Quality. Once accepted, it shall be the basis for any change in meteorological or ambient air quality monitoring requirements.

(D) Air quality data including emissions measurements, ambient air data, and related environmental monitoring information reports submitted to the Department of Environmental Quality on the appropriate schedule.

(E) Meteorological Monitoring. Meteorological monitoring data shall be obtained from the site, or other representative location beginning at least one year prior to application for a site certificate. This program shall provide meteorological information sufficient to support efforts to determine the effect of the plant and associated facilities on air quality and provide information on site conditions and data for dispersion modeling.

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

This program shall be submitted to the Department of Environmental Quality for concurrence.

[(j)] (h) Emissions and Fuel Monitoring for Coal-Fired Plant: (A) Sampling and testing of emissions and fuel shall be in accordance with "EPA Standards of Performance for New Fossil-Fuel Fired Steam Generators" and amendments applicable to the facility. Further, such facilities shall comply with Department of Environmental Quality requirements and any additional requirements of the Council in effect at the time a site certificate is granted to an applicant. The type and location of emission monitoring requirements and facilities shall require concurrence by the Department of Environmental Quality.

(B) Provisions shall be included in design for continuous read-out of selected emission monitoring equipment as approved by the Department of Environmental Quality.

[(k)] (i) Radioactivity Impacts From Thermal Plants Other Than Nuclear Plants. A program to evaluate the radiological impacts upon the environment from fly ash or other effluents may be required by the Council. This program shall be concurred in by the Department of Energy and the Oregon State Health Division.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Energy Facility Siting Council.]

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

Requirements for monitoring at Trojan are moved to the new rules for decommissioning. Other requirements for non-nuclear plants will be left as-is until amended in separate rulemaking, as needed.

Reliability of Pollution Control Equipment

345-26-070 The site certificate holder shall provide adequate quality assurance measures to ensure the high reliability of pollution control equipment. These quality assurance measures shall provide adequate confidence that a structure, system or component will perform satisfactorily in service and shall be incorporated in plant policies, procedures, or instructions. This program will initially be approved by the Department of Energy. The site certificate holder shall regularly review the status and adequacy of these quality assurance measures.

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

Environmental Report

345-26-075 (1) For non-nuclear energy facilities, a[A]nnual environmental and effluent release monitoring reports prepared to fulfill requirements of OAR 345-26-060 shall be submitted to the Council within 120 days of the end of the calendar year, or an alternate schedule with prior approval of the Department of Energy. Alternate schedules may be approved considering work loads of the site certificate holder and Department of Energy and/or schedules for submittal of similar reports to other state or federal agencies. Each report will thenceforth be annually reportable on the approved date. The report shall include, when appropriate, a discussion of any changes in the techniques being used or planned to control pollutant discharges or adverse environmental impacts during the reporting period. Where appropriate other techniques that might further abate pollutant discharges will be discussed. The corresponding reduction in emissions or impacts and any discharges of pollutants for each discussed technique shall be predicted.

(2) Where the holder of a site certificate becomes aware of a significant environmental change or impact attributable to the facility, an interim written report discussing this issue will be submitted to the Department of Energy as soon as reasonably possible.

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 4-1980, f. & ef. 4-25-80; EFSC 1-1985, f. & ef. 1-7-85

Reporting requirements for Trojan are moved to new rules for decommissioning. Again, the rules for non-nuclear facilities will be left as-is until amended in a separate rulemaking..

Plant Status

345-26-080 For non-nuclear facilities, the site certificate holder shall submit to the Council, as the Council deems necessary to demonstrate compliance with the site certificate, a summary report on site conditions and the status of construction for units under construction or for completed plants, a summary reporting of the operation of the plant and associated facilities. The appropriate report shall summarize current status and changes including the social and economic impact of the facility, and indicate the significance of the changes. If another report or series of reports is required by other state or federal agencies containing similar information on a similar or more frequently submitted basis, the forwarding of such reports to the Council may replace the requirement for an annual report with the prior approval of the Department of Energy.

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

A special Annual Decommissioning Report for Trojan will be added later in this division, which will include the status of decommissioning activities.

Social and Economic Impact Report

345-26-085 The site certificate holder shall prepare and submit to the Council prior to start of plant construction a report describing plans to reduce adverse or to enhance beneficial social and economic impacts of plant construction on the surrounding area. This report should include any recommended actions to be taken by nearby cities, counties, and state agencies. This report shall include, but not be limited to, possible early flow of tax dollars to affected areas, provision of adequate housing, necessary community services such as education, sewage treatment, water, and medical facilities.

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Reliability of Power Production

345-26-090 (1) For electric generation plants, the site certificate holder shall provide adequate quality assurance measures for systems or components essential to reliability of power production by the facility. These quality assurance measures shall provide adequate confidence that these systems or components will perform satisfactorily in service and shall be incorporated in plant policies, procedures or instructions. These measures will be initially approved by the Oregon Department of Energy. The site certificate holder shall regularly review the status and adequacy of these quality assurance measures.

(2) An annual report of equipment and plant breakdowns shall be submitted to the Council along with plans to minimize such breakdowns. This report shall also include the plant availability and capacity factors for the reporting year unless this information is reported elsewhere.

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

Financial Report

345-26-095 For non-nuclear energy facilities, the site certificate holder and any co-owners or successors in ownership shall provide the Council as necessary with an annual financial report which demonstrates the financial qualifications to construct and operate the plant. The report shall include a discussion of any changes in fuel contracts and any changes in

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

the financial and physical plans for retirement of the plant, or any changes in the status of these contracts and retirement plans.

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

For Trojan, financial information will be contained in the Annual Decommissioning report.

Planning and Funding for Decommissioning of Nuclear Power Plants
THIS RULE IS DELETED IN ITS ENTIRETY

345-26-096 [(1) The site certificate holder and any co-owners or successors in ownership (Holder) shall develop and follow a plan for the decommissioning of a nuclear power plant. The plan shall be in accord with rules set by the Nuclear Regulatory Commission (NRC). The Plan shall be filed with the Oregon Department of Energy on the schedule required by the NRC.

(2) Holder shall file a preliminary version of the plan for approval by the Oregon Department of Energy. It shall be submitted within 90 days of the date this rule takes effect. The plan shall be brought up to date every five years by Holder. Updated plans shall be filed with the Oregon Department of Energy for approval by the Council.

(3) Holder shall assure the Oregon Department of Energy in writing each year that Holder is collecting, accruing, and protecting funds to pay for plant decommissioning. This report shall state any changes in the amount of money on hand. This report shall also state any change in the way Holder collects, accrues, or protects the money.]

Stat. Auth: ORS Ch. 469

Hist.: EFSC 1-1986, f. & ef. 1-22-86

Standards for the decommissioning plan are moved to OAR 345-26-370.

Schedule Modification

345-26-100 The Council shall be promptly notified of any changes in major milestones for construction, decommissioning, or operation schedules. Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Correspondence With Other State or Federal Agencies

345-26-105 Copies shall be exchanged between the site certificate holder and the Oregon Department of Energy of all correspondence related to thermal power plant construction or operation which are submitted to a state or federal agency,

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

except for material withheld from public disclosure under state or federal law or under Council rules. Abstracts of reports may be submitted in place of full reports; however, full copies of abstracted reports must be provided at the request of the Oregon Department of Energy.

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

Security Plans for Nuclear Power Plants and Nuclear Materials
THIS RULE IS DELETED IN ITS ENTIRETY

345-26-110 [(1) Upon assurance satisfactory to the Council and the site certificate holder that confidentiality can be maintained, a security plan for nuclear power plants and for radioactive and special nuclear materials, along with a program for continual review and improvement of the plan, shall be made available to authorized Council representatives for inspection and approval.

(2) The Council shall be advised of modifications to the plan which are under consideration.

(3) An annual report on the results of the review program shall be made available to Council representatives.

(4) The Council may order changes in the Security Program so long as such modifications do not cause the site certificate holder to lose any federal license required for operation of the plant.]

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Intake and Discharge Structures

345-26-115 The best technology available shall be used for the location, design, construction, capacity, and operations of intake and discharge structures to minimize adverse environmental impact.

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Regulations Applicable During Construction

345-26-120 In addition to those rules specified in rule 345-26-025, rules 345-26-125 through 345-26-135 apply to a site certificate holder during construction of a thermal power plant and associated facilities.

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

Stat. Auth: ORS Ch. 183 & 469
Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. &
ef. 1-7-85

Construction Report

345-26-125 During construction, the site certificate holder shall submit copies of the monthly Construction Progress Reports to the Council.

Stat. Auth: ORS Ch.
Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Geology

345-26-130 (1) The Council, the Department of Geology and Mineral Industries, and the Water Resources Department shall be promptly informed if site investigations or trenching reveal that conditions in the foundation rocks differ from those previously described. The Council may order additional design measures considered necessary based on such information.

(2) The site certificate holder shall keep the Council, the Department of Geology and Mineral Industries, and the Water Resources Department informed of trenching projects on a timely basis so their representatives can inspect them. During the construction phase the site certificate holder shall notify the agencies if shear zones, artesian aquifers, deformations, or clastic dikes are found near or beneath the plant site.

Stat. Auth: ORS Ch. 183 & 469
Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. &
ef. 1-7-85

Historic, Archeologic, and Paleontologic Sites

345-26-135 (1) The site certificate holder shall inspect the site in the course of construction excavation to determine whether archeological, historical, or paleontological sites are being invaded or disturbed and to preserve and provide for interpretation of any historical, archeological, or paleontological artifacts which may be discovered in the course of excavation or construction.

(2) The site certificate holder shall inform the Council of all archeological or paleontological findings made during the course of excavation and construction.

(3) The site certificate holder shall inform the Council of arrangements for preservation of artifacts and for interpretation of any site discovered in the course of construction.

Stat. Auth: ORS Ch.
Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Regulations Applicable During Operation

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

345-26-140 In addition to those rules specified in rule 345-26-025, rules 345-26-145 through 345-26-195 apply to a site certificate holder during operation of a thermal power plant and associated facilities.

Stat. Auth: ORS Ch.
Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Fire Protection for Nuclear Installations

THIS RULE IS DELETED IN ITS ENTIRETY

345-26-141 [The operator of a nuclear fueled thermal power plant shall provide fire protection measures such that for rooms with both of two redundant safety systems present, a postulated fire will be extinguished by a deluge system, or equivalent, or otherwise provide assurance that an unmitigated fire will not prevent safe plant shutdown. For the Trojan Nuclear Power Plant, this rule will become effective at the end of the second refueling outage and prior to return to operation for fuel cycle 3. For all other nuclear fueled thermal power plants, this rule will become effective upon adoption.]

Stat. Auth: ORS Ch. 469
Hist.: EFSC 3-1980, f. & ef. 3-4-80

The rules for Fire Protection, Security, and Emergency Planning are deleted and new rules are proposed in OAR 345-26-300 et seq. This is so that most of the Trojan specific rules can be in one place.

Site Uses

THIS RULE IS AMENDED AND RENUMBERED

[345-26-145 (1) The site shall not be used for any purpose other than the production of electric power and those purposes specified in the site certificate or this rule without prior approval of the Council.

(2) 345-26-390 Spent Nuclear Fuel Storage:

(a) Purpose:

(A) Storage of spent nuclear fuel at a nuclear power plant is an interim measure; otherwise utilities and residents of Oregon would face the financial burden of maintaining, operating, and safeguarding the on-site storage facilities indefinitely,

(B) The purpose of this rule is to cooperate with the federal government in accordance with Oregon's siting policy in ORS 469.310 to ensure the safety of interim on-site storage and to ensure spent nuclear fuel will not be an undue financial burden to utilities or people of Oregon.

(b) [Storage of 651 spent fuel assemblies in the spent fuel storage facility by a site certificate holder is a permitted use of a nuclear power plant site;

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

(c) Storage of spent nuclear fuel up to 1,403 assemblies at the site of a nuclear power plant by a site certificate holder which has executed a contract with the United States of America pursuant to 42 U.S.C. 10101, as amended from time to time, shall be deemed a permitted use of the site pending transfer of spent nuclear fuel to the U.S. Department of Energy provided that:

(A) Storage facilities are designed to maintain discharges of radiation, chemicals, and heat within the limits specified in the Nuclear Regulatory Commission license and National Pollut[ion]ant Discharge Elimination System permit,

(B) Storage facilities are designed such that in case of accidents off-site radiation levels will not [be increased significantly over levels which could have occurred in the original design of the facility.] exceed the maximum levels predicted in the basis for the approved Trojan Defueled Emergency Plan.

(C) [Storage racks are designed and maintained with the capability to discharge a full reactor core to the spent fuel storage facility, and

(D) Only spent nuclear fuel generated at the nuclear power plant is proposed to be stored at that plant.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Energy Facility Siting Council.]

Stat. Auth: ORS Ch. 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 4-1983, f. & ef. 12-20-83

Power Production

THIS RULE IS DELETED IN ITS ENTIRETY

[345-26-150 Power production above the nominal net electric capacity as defined in the site certificate is prohibited. For the Trojan Nuclear Plant the nominal net electric capacity is 1130 plus or minus 50 MWe.]

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

This rule is no longer needed with Trojan closed.

Pollution Discharges

345-26-155 All equipment used to control the discharge of air and water pollutants shall be operated in such a manner as to minimize the discharge of pollutants.

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Violations

345-26-160 In the event that air or water pollution control equipment or a related facility malfunctions or breaks down or other factors result in emissions or discharges in violation of applicable standards, the site certificate holder shall take the following action:

(1) In the event of a violation of an emission standard or discharge limit administered by an agency other than the Council, the site certificate holder shall provide the Oregon Department of Energy all notifications required by that agency within one work day of notification of the responsible agency.

(2) In the case of emission or discharge standards imposed by the Council over and above those of other state agencies, the site certificate holder shall:

(a) Notify the Oregon Department of Energy, by telephone or in person, of such failure or breakdown within one hour of the occurrence, or as soon as is reasonably possible, giving all pertinent facts including the estimated duration of the breakdown.

(b) With all practicable speed, initiate and complete appropriate action to correct the conditions, and to reduce the frequency of such occurrences.

(c) Cease or discontinue operations of the thermal power plant no later than 48 hours after the beginning of the violation of the emission or discharge standards if the violation is not corrected by that time.

(d) Submit to the Oregon Department of Energy an initial written report of a failure or breakdown within 10 days. When the condition has been corrected, submit a final written report to the Oregon Department of Energy describing the causes and the actions taken to prevent similar upsets or breakdown conditions. The initial and final reports may be combined if it can be submitted within ten days of the failure and breakdown.

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

Performance Tests of Equipment and Procedures Controlling Pollution Emissions and Discharges

345-26-165 (1) Within 60 days after achieving the maximum production rate at which the thermal power plant will be operated, or no later than 180 days after initial start-up of the plant and at such other times as may be required by the Council, the certificate holder shall conduct performance test(s) of emission and discharge control equipment and furnish the Oregon Department of Energy and the Department of Environmental Quality a written report of the results of such performance test(s).

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

(2) Performance tests shall be conducted and results reported in accordance with the test method approved by the Oregon Department of Energy.

(3) The site certificate holder of an affected facility shall provide the Oregon Department of Energy ten days prior notice of the performance test to afford the Oregon Department of Energy the opportunity to have an observer present.

(4) The certificate holder shall provide all necessary facilities for the performance test.

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

Notification of Incidents

345-26-170 (1) The Council shall be notified within 24 hours of any occurrence involving the thermal power plant if:

(a) There is an attempt by anyone to interfere with the safe or reliable operation of the thermal power plant.

(b) A natural event such as an earthquake, flood, tsunami or tornado, or a man-caused event such as a fire or explosion affects or threatens to affect the safe or reliable operation of the thermal power plant.

(c) There is damage to property in excess of \$100,000.

(d) There is any fatal injury at the thermal power plant site to a certificate holder employee or a member of the public.

(e) There is an unplanned shutdown of the thermal power plant, expected to last greater than one week, is necessitated:

(2) Nuclear Power Plants.

(a) In the event of incidents or accidents requiring notification of the Nuclear Regulatory Commission by telephone, the Oregon Department of Energy shall also be provided such notification on the same time schedule.

(b) The Oregon Department of Energy shall also be notified of all incidents in accordance with the Trojan Emergency Response Plan, Security Plan, and other agreements as established.

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85

Radioactive Pollutants From Nuclear Power Plants

345-26-175 Rules 345-26-160(2)(c) and 345-26-165 do not apply to radioactive pollutants.

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Coal and Ash Handling for Fossil-Fueled Thermal Power Plants

345-26-180 (1) All necessary steps shall be taken to insure that surface or groundwater are not contaminated by run-off or

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

seepage associated with coal or ash storage, transport, or disposal.

(2) Coal and ash shall be handled in such a way as to prevent coal dust and ash from being windblown and causing an environmental or nuisance problem.

(3) Ash disposed of shall be covered by a layer of topsoil which shall be revegetated.

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

New Fuel for Nuclear Power Plants

345-26-185 The use of new fuel containing plutonium is prohibited without specific approval of the Council and in accordance with procedures that it establishes.

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

Emergency Planning for Nuclear Power Plants

THIS RULE IS DELETED IN ITS ENTIRETY

345-26-190 [(1) The site certificate holder shall prepare, comply with, and maintain in readiness an emergency response plan submitted to and approved by the Oregon Department of Energy.

(2) County and State agency plans and procedures required by ORS 469.533 and 469.534 shall also be submitted to the Oregon Department of Energy.

(3) A program for continual review and improvement of the plan procedure shall be established and maintained and filed with the Oregon Department of Energy. The Oregon Department of Energy shall review the modifications to the plans and implementing procedures. The site certificate holder will satisfy all concerns expressed by the Oregon Department of Energy on a schedule established by the agency.]

Stat. Auth: ORS Ch. 183 & 469

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 4-1978, f. & ef. 4-3-78; EFSC 1-1985, f. & ef. 1-7-85

A new rule for emergency planning is in the OAR 345-26-300 series.

Radioactive Material Inventory and Transportation for Nuclear Power Plants

345-26-195 [NTEC 9, f. 2-13-75, ef. 3-11-75;
Repealed by EFSC 1-1985,
f. & ef. 1-7-85]

Exemption

345-26-200 The Council may, either upon written application or on its own motion, waive or delay compliance with any of these

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

rules as applied to a specific site, if after a public hearing, it concludes that such action will not result in injury to the public health, safety, or welfare.

Stat. Auth: ORS Ch.

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75

The following rules are new. The intent is to have most of the Trojan specific rules all in one place.

Regulations Applicable to Nuclear Installations

345-26-300

NEW RULE

The requirements of OAR 345-26-300 through 400 apply exclusively to Nuclear Installations in Oregon as defined in ORS469.300.

Nuclear Fuel Prohibited in Trojan Reactor Vessel

345-26-310

NEW RULE

Placement of nuclear fuel in the Trojan reactor core is prohibited.

Environmental and Effluent Monitoring for Nuclear Installations

345-26-320

NEW RULE

All environmental and effluent programs established pursuant to Oregon Department of Environmental Quality Rules shall be provided to the Department. Changes to such programs shall be provided to the Department consistent with specifications in each monitoring program description.

Radiological Environmental and Effluent Monitoring

345-26-330

NEW RULE

(1) A radiological environmental and effluent monitoring program shall be established by the site certificate holder and submitted to the Department for concurrence.

(2) The site certificate holder shall describe the quality assurance measures applicable to the radioactive environmental and effluent monitoring programs in the program plan.

(3) Changes to the radiological environmental monitoring program that involve one of the following require Department concurrence prior to implementation:

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

- (a) A reduction in the number and type of environmental samples analyzed; or,
 - (b) A change in the verification of the accuracy of the effluent monitoring program and modeling of exposure pathways.
- (4) Modifications to the radiological environmental monitoring program that do not involve a change meeting the criteria listed in (3) above do not require prior Department concurrence. These changes shall be submitted to the Department within 60 days of implementation of the change.

Security Plans for Nuclear Installations
345-26-340
NEW RULE

- (1) The operator of a nuclear installation shall establish and maintain a security plan with capabilities for protection of special nuclear material.
- (2) Upon assurance satisfactory to the Council and the site certificate holder that confidentiality can be maintained, a security plan for nuclear installations shall be made available to authorized Council representatives for inspection and approval. Approval of the plan by both the Council and the Director, Oregon Department of Energy must be obtained.
- (3) Proposed modifications to the security plan that involve a reduction in the ability to detect or prevent unauthorized entry, or a reduction in the ability to detect or prevent the introduction of unauthorized material into the Protected Area lessen the effectiveness of the physical security plan and require Department concurrence prior to implementation.
- (4) Modifications to the plan which do not lessen the effectiveness of the plan may be implemented without prior Department concurrence. Copies of the revised plan shall be submitted to the Department within 60 days of the implementation date.

Emergency Planning for Nuclear Installations
345-26-350
NRE RULE

- (1) The operator of a nuclear installation shall prepare, comply with, and maintain in readiness an emergency response

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

plan. The plan will ensure adequate measures can and will be taken in the event of a radiological emergency.

(2) Proposed modifications to the emergency plan that involve one of the following require Department concurrence prior to implementation.

- (a) A change (other than editorial) in the Emergency Action Levels; or,
- (b) A decrease in the planned staff augmentation capabilities; or,
- (c) A reduction in the plan requirements for notification of off-site agencies.

(3) Modifications to the plan which do not meet one of the criteria listed in (2) above may be implemented without prior Department concurrence. Copies of the revised plan shall be submitted to the Department within 30 days of the implementation date.

Fire Protection
345-26-360
NRE RULE

(1) The operator of a nuclear installation shall provide fire protection measures that conform to the applicable National Fire Protection Association standards. Exceptions to the code shall be documented and justified in the fire protection plan.

(2) Proposed plan revisions involving changes to the exceptions to the code may not be made without prior Department concurrence.

(3) Plan revisions which do not involve changes to the exceptions to the code may be implemented without prior Department concurrence. Such plan revisions shall be proposed to the Department within 60 days of implementation.

Standards for Council Approval of the Decommissioning Plan
345-26-370
NEW RULE

(1) The operator of a nuclear installation shall submit a plan for decommissioning a facility to the Department for Council approval prior to implementation. The plan shall be

submitted to the EFSC on a schedule consistent with that required by the U.S. Nuclear Regulatory Commission.

(2) The Council will review the proposed decommissioning plan to verify that the proposed activities will not adversely affect the health and safety of the public or the environment. The Council will ensure the following when evaluating acceptability of a proposed plan:

- (a) The plan contains criteria for the free release of materials and the area as specified in Table 1 below:

TABLE 1

ACCEPTABLE SURFACE CONTAMINATION LEVELS

NUCLIDE	AVERAGE	MAXIMUM	REMOVABLE
Natural Uranium, U-235, U-238, and associated decay products	5000 dpm alpha	15000 dpm alpha	1000 dpm alpha
Transuranics, Ra-226, Ra-228, Th-230, Th-228, Pa-231, Ac-227, I-125, I-129	100 dpm	300 dpm	20 dpm
Natural Thorium, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	1000 dpm	3000 dpm	200 dpm
Beta-gamma emitters with decay modes other than alpha emission or spontaneous fission except Sr-90 and others noted above	5000 dpm beta/gamma	15000 dpm beta/gamma	1000 dpm beta/gamma

NOTES:

1. Contamination levels given in the Table are in disintegrations per minute (dpm) per 100 square centimeters.
2. Where surface contamination by both alpha and beta-gamma emitting nuclides exists, the limit established for alpha and beta-gamma apply independently.

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

NOTE: This table was excerpted from U.S. Nuclear Regulatory Commission Reg Guide 1.86, "Termination of Operating Licenses for Nuclear Reactors"

(b) After decommissioning, the exposure rate at one meter from all surfaces in the facility buildings and outdoor areas shall be 5 uR/hr or less above the background level. Background is as defined in OAR 345-26-020(3).

(c) The plan must contain provisions that require all radioactive waste as defined in OAR 345-50-025 be removed from the site.

(d) The plan must contain an acceptable program for monitoring and controlling effluents to ensure compliance with applicable federal limits. This program may be incorporated by reference.

(e) The plan must contain provisions for a program for radiological monitoring to ensure the environment is not being adversely affected. This program may be incorporated by reference.

(f) The plan must contain provisions for hazardous waste removal that is consistent with other federal and state regulations.

(3) The Council will determine if the level of funding is available and is adequate to implement the plan.

(4) Significant revisions to the decommissioning plan must be reviewed and approved by the Council prior to implementation by the site certificate holder. A revision shall be deemed significant if it involves one of the following items:

- (a) The potential to prevent the release of the site for unrestricted use; or,
- (b) A change in the criteria for free release of materials; or,
- (c) A departure in the methodology for determining background levels to a method not generally accepted by the industry; or,
- (d) A change in the provisions made for hazardous and/or radioactive waste material removal; or,

(e) A significant change in the types or significant increase in the amounts of any effluents that may be released offsite; or,

(f) A significant increase in radiological or hazardous material exposure to site workers or to members of the public, including exposure due to transport of radioactive or hazardous material.

(5) If a proposed change in the decommissioning plan involves a change in costs greater than 10 percent of the previous estimation, the Council shall be notified prior to implementation. The Council will retain the right to determine the acceptability of the change prior to implementation.

(6) Revisions to the decommissioning plan shall be evaluated per the criteria listed above. Records of all changes and associated evaluations shall be maintained for audit by the Department. Revisions to the decommissioning plan which are not significant changes shall be provided to the Department within 30 days.

Annual Decommissioning Report
345-26-380

NEW RULE (1) General Reporting Obligation:

(a) Annual reports covering the previous calendar year's activities shall be submitted to the Department within 120 days of the end of the calendar year. The report shall include the items listed in this rule.

(b) To the extent that information required by this rule is contained in reports to other state, federal or local agencies, excerpts from such other reports may be submitted to satisfy this rule. The Council may request full copies of such excerpted reports.

(2) Contents of Annual Report:

(a) The report shall include summaries, interpretations, and analyses of trends of the results of the Environmental Monitoring Program and the Radiological Environmental Monitoring Program required by OAR 345-26-320 and 330. It shall also contain the results of analyses of all radiological environmental samples and of all environmental radiation measurements taken during the reporting period.

DRAFT OAR 345 Division 26
Trojan Decommissioning
December 20, 1993

(b) The report shall include a financial report which demonstrates the financial qualifications of the site certificate holder to perform retirement and decommissioning activities. Changes in the financial plan or status of the financial plan shall be included.

(c) The report shall include a summary report on site conditions and the status of decommissioning activities.