

GENERAL CONDITIONS INCLUDING COMPLIANCE MONITORING AND CLOSURE PLAN

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INTRODUCTION

The project's General Compliance Conditions of Certification, including Compliance Monitoring and Closure Plan (Compliance Plan) have been established as required by Public Resources Code section 25532. The plan provides a means for assuring that the facility is constructed, operated, and closed in compliance with public health and safety, environmental, and other applicable regulations, guidelines, and conditions adopted or established by the California Energy Commission and specified in the written Final Decision on the Application for Certification (AFC) or otherwise required by law.

The Compliance Plan is composed of elements that:

- set forth the duties and responsibilities of the Compliance Project Manager (CPM), the project owner, delegate agencies, and others;
- set forth the requirements for handling confidential records and maintaining the compliance record;
- state procedures for settling disputes and making post-certification changes;
- state the requirements for periodic compliance reports and other administrative procedures that are necessary to verify the compliance status for all Energy Commission approved conditions of certification;
- establish requirements for facility closure plans; and
- specify conditions of certification for each technical area containing the measures required to mitigate potentially adverse project impacts associated with construction, operation, and closure below a level of significance. Each specific condition of certification also includes a verification provision that describes the method of assuring that the condition has been satisfied.

KEY PROJECT EVENT DEFINITIONS

The following terms and definitions help determine when many of the Conditions of Certification are implemented.

Project Certification

Project certification occurs on the day the Energy Commission docket its final Decision after having adopted it at a publically noticed Business Meeting or Hearing. At that time, all Energy Commission conditions of certification become binding on the project owner and the proposed facility.

Regulatory definitions of ground disturbance or site mobilization vary. To ensure adequate compliance with all conditions of certification and applicable LORS the following definitions apply.

Site Assessment and Preconstruction Activities

Site Assessment and preconstruction activities include the following, but only to the extent the activities are minimally disruptive to soil and vegetation and will not affect listed or special-status species or other sensitive resources:

1. the installation of environmental monitoring equipment;
2. a minimally invasive soil or geological investigation;
3. a topographical survey;
4. any other study or investigation to determine the environmental acceptability or feasibility of the use of the site for any particular facility;
5. any minimally invasive work to provide safe access to the site for any of the purposes specified in 1-4 above.

Many of the Energy Commission's conditions of certification require compliance submittals prior to the start of construction, hence the term "preconstruction". When technical staff and the CPM have approved all preconstruction conditions and the project has been certified, then site assessment and preconstruction activities can occur.

Site Mobilization and Construction

For compliance monitoring purposes, the definition of site mobilization and construction includes both a calendar date and the activities necessary to provide site access for construction mobilization and facility installation activities including both temporary and permanent equipment and structures. Site Mobilization and construction activities include, but are not limited to,

1. ground disturbance activities like grading, boring, trenching, leveling, mechanical clearing, grubbing, and scraping;
2. site preparation activities such as access roads, temporary fencing, construction trailer and utility installation, construction equipment installation and storage, equipment and supply laydown areas, borrow and fill sites, temporary parking facilities, chemical spraying, and controlled burns;
3. permanent installation activities for all facility and linear structures including access roads, fencing, utilities, parking facilities, equipment storage, mitigation and landscaping activities, and other installations as applicable.

Commissioning

Commissioning activities include testing the functional adequacy of the installed components and systems to ensure the plant operates safely and reliably. Commissioning provides a multistage, integrated approach to testing, calibrating and proving all systems, software, and networks within the project boundary. For compliance monitoring purposes examples of commissioning activities include interface connection and utility pre-testing, “cold” and “hot” electrical testing, system pressurization and optimization tests, grid synchronization, and combustion turbine “first fire”.

Start of Commercial Operation and Maintenance

For compliance monitoring purposes, “commercial operation” begins once commissioning activities are complete, the certificate of occupancy has been issued, and the power plant has reached reliable steady-state electrical production. At the start of commercial operation, plant control is usually transferred from the construction manager to the plant operations manager. Operation activities can include a steady state of electrical production or for “peaker plants” a seasonal or on-demand operational regime to meet peak load demands. Maintenance can include activities initiated while the facility remains online or when a facility is taken offline for a specified timeframe, usually not to exceed ninety (90) days, to facilitate optimization activities, in-situ repair or in-kind replacement of plant equipment or infrastructure only.

Facility Closures

Facility closures can be temporary or permanent in nature, encompassing either part of (partial closure) or the entire facility (full closure). Temporary closure is defined as a shutdown for a period exceeding the time required for normal maintenance and includes closure for overhaul or replacement of facility equipment. Other causes for temporary closure can include supply or transmission disruptions, unforeseen circumstances resulting in facility damage, or profitability considerations. Permanent closure is the shutdown of operations with no intent to restart the facility. Permanent closures occur for a variety of factors including, but not limited to, the functional or economic obsolescence of the facility, or irreparable damage.

ROLES AND RESPONSIBILITIES

Provided below is a generalized description of the compliance roles and responsibilities for Energy Commission Staff and the Project Owner for the construction and operation of the HHSEGS

COMPLIANCE PROJECT MANAGER RESPONSIBILITIES

The Compliance Project Manager’s (CPM) compliance monitoring and project oversight responsibilities include:

1. ensuring that the design, construction, operation, and closure of the project facilities are in compliance with the terms and conditions of the Energy Commission Final Decision;
2. resolving complaints;

3. processing post-certification project amendments for changes to the project description, conditions of certification, and ownership or operational control and requests for extension to the deadline for the start of construction (See **COM-13** for instructions on filing a petition to amend or extension request);
4. documenting and tracking compliance filings; and
5. ensuring that compliance files are maintained and accessible.

The CPM is the primary contact person for the Energy Commission during project preconstruction, construction, operation, and closure. The CPM will consult with the appropriate responsible parties when handling compliance issues, disputes, complaints, and amendments.

All project compliance submittals are submitted to the CPM for processing. Where a submittal requires CPM approval, the approval will involve appropriate Energy Commission technical staff and management. All submittals must include searchable electronic versions (pdf, MS Word or equivalent files).

Preconstruction and Pre-Operation Compliance Meeting

The CPM usually schedules pre-construction and pre-operation compliance meetings prior to the projected start-dates of construction, plant operation, or both. The purpose of these meetings is to assemble both the Energy Commission's and project owner's technical staff to review the status of all preconstruction or pre-operation requirements contained in the Energy Commission's conditions of certification. This is to confirm that all applicable conditions of certification have been met, or if they have not been met, to ensure that the proper action is taken. In addition, these meetings ensure, to the extent possible, that the Energy Commission's conditions of certification will not delay the construction and operation of the plant due to a compliance oversight, and to prevent last-minute unforeseen issues. Preconstruction meetings held during the certification process must be publicly noticed unless they are confined to administrative issues and processes.

Energy Commission Record

The Energy Commission maintains the following documents and information as a public record, in either the Compliance files or Dockets files, for the life of the project (or other period as required):

1. all documents demonstrating compliance with any legal requirements relating to the construction and operation of the facility;
2. all monthly and annual compliance reports filed by the project owner;
3. all project related complaints of alleged noncompliance filed with the Energy Commission; and
4. all petitions for project or condition of certification changes and the resulting staff or Energy Commission action.

CBO DELEGATION AND AGENCY COOPERATION

In performing project construction and operation monitoring, Energy Commission staff acts as, and has the authority of, the Chief Building Official (CBO). Energy Commission staff may delegate CBO responsibility to either an independent third party contractor or the local building official. Energy Commission staff retains CBO authority when selecting a delegate CBO, including enforcing and interpreting state and local codes, and in the use of discretion, as necessary, in implementing the various codes and standards.

Energy Commission staff may also seek the cooperation of state, regional, and local agencies that have an interest in public/worker safety and environmental protection when conducting project monitoring.

PROJECT OWNER RESPONSIBILITIES

The project owner or operator (hereinafter the project owner) is responsible for ensuring that the compliance conditions of certification and all other conditions of certification that appear in the Energy Commission Final Decision are satisfied. The compliance conditions regarding post-certification changes specify measures that the project owner must take when requesting changes in the project design, conditions of certification, or ownership. Failure to comply with any of the conditions of certification or the compliance conditions may result in reopening the case and revocation of Energy Commission certification, an administrative fine, or other corrective action as appropriate. A summary of the Compliance Conditions of Certification is included as **Compliance Table 1** at the conclusion of this section.

COMPLIANCE ENFORCEMENT

The Energy Commission's legal authority to enforce the terms and conditions of its Final Decision are specified in Public Resources Code sections 25534 and 25900. The Energy Commission may amend or revoke a project certification, and may impose a civil penalty for any significant failure to comply with the terms or conditions of the Final Decision. The Energy Commission's actions and fine assessments would take into account the specific circumstances of the incident(s).

COMPLIANCE REPORTING CONDITIONS

There are two different periodic compliance reports that the project owner must submit to assist the CPM in tracking activities and monitoring compliance with the terms and conditions of the Energy Commission Final Decision. During construction, the project owner or authorized agent will submit Monthly Compliance Reports. During operation, an Annual Compliance Report must be submitted. These reports, and the requirement for an accompanying compliance matrix, are described below. The majority of the conditions of certification require that compliance submittals be submitted to the CPM in the monthly or annual compliance reports.

INCIDENT REPORTING AND CONTINGENCY PLANNING

To protect public and environmental health and safety, the Energy Commission staff and its will delegates monitor the ongoing compliance of a facility during all phases of construction, operation, emergency response and closure. The compliance conditions of

certification include an integrated on-site contingency plan and incident reporting policy, not only to ensure compliance with the various health and safety practices required, but also to assist the Energy Commission staff during on-site facility monitoring and inspections. The on-site contingency plan helps ensure that all necessary steps are taken in a timely manner to avoid, limit, or mitigate potential impacts posed by any form of temporary closure. Part of the Contingency Plan includes an incident reporting process. All incidents requiring any emergency response, including but not limited to, a response from fire, hazardous materials, medical, or police emergency services (i.e. personal injury, hazardous materials spill, flood, fire, or explosion, etc.) must be reported and documented for the CPM in the manner provided by the technical and general conditions.

NONCOMPLIANCE COMPLAINT PROCEDURES

Any person or agency may file a complaint with the Energy Commission alleging noncompliance with the conditions of certification. Such a complaint will be subject to review by the Energy Commission pursuant to Title 20, California Code of Regulations, section 1237. An informal and a formal complaint procedure, as provided in current State law and regulations, are described below. They shall be followed unless superseded by future law or regulations. On-line access to the California Code of Regulations is at <http://www.oal.ca.gov/>.

Informal Dispute Resolution Process

In many instances, complaints can be resolved through the informal dispute resolution process, which is designed to resolve code and compliance interpretation disputes stemming from the project's conditions of certifications and other LORS. The project owner, the Energy Commission, or any other party, including members of the public, may initiate an informal dispute resolution process. Disputes may pertain to actions or decisions made by any party, including the Energy Commission's delegate agents.

This process may precede the more formal complaint and investigation procedure specified in Title 20, California Code of Regulations, section 1237, but is not intended to be a prerequisite or substitute for it. This informal procedure may not be used to change the conditions of certification as approved by the Energy Commission, although the agreed-upon resolution may result in a project owner proposing an amendment. This dispute resolution process encourages all parties involved to openly discuss the conflict and reach a mutually agreeable solution. If a dispute cannot be resolved by means of the informal dispute resolution process, then the matter must be brought before the full Energy Commission for consideration via the complaint and investigation procedure specified in Title 20, California Code of Regulations, section 1237.

Request for Informal Investigation

Any individual, group, or agency may request the Energy Commission to conduct an informal investigation of alleged noncompliance with the Energy Commission's conditions of certification. All requests for informal investigations shall be made to the designated CPM.

Upon receipt of an informal investigation request, the CPM will promptly provide both verbal and written notification to the project owner of the allegation(s). All known and

relevant information of the alleged noncompliance shall be provided to the project owner and to Energy Commission staff. The CPM will evaluate the request and the information to determine if further investigation is necessary. If further investigation is warranted, the project owner will be asked to promptly conduct a formal inquiry into the matter and within seven (7) days, provide a written report to the CPM of the investigation results, including corrective measures proposed or undertaken. Depending on the urgency of the alleged noncompliance matter, the CPM may conduct a site visit and/or request the project owner to provide an initial verbal report within forty-eight (48) hours.

Request for Informal Meeting

In the event that either the requesting party or Energy Commission staff is not satisfied with the project owner's report, investigation of the event, or corrective measures proposed or undertaken, either party may submit a written request to the CPM for a meeting with the project owner. The request shall be made within fourteen (14) days of the project owner's written report filing. Upon receipt of such a request, the CPM shall:

1. immediately schedule a meeting with the requesting party and the project owner, to be held at a mutually convenient time and place;
2. secure the attendance of appropriate Energy Commission staff and staff of any other agencies with expertise in the subject area of concern, as necessary;
3. conduct such meeting in an informal and objective manner so as to encourage the voluntary settlement of the dispute in a fair and equitable manner; and
4. after the meeting's conclusion, promptly prepare and distribute copies to all parties, and to the project file, a summary memorandum that fairly and accurately identifies the positions of all parties and any understandings reached. If an agreement is not reached, the CPM shall inform the complainant of the formal complaint process and requirements provided under Title 20, California Code of Regulations, section 1237.

Formal Dispute Resolution Procedure

Any person may file a complaint with the Energy Commission's Dockets Unit alleging noncompliance with an Energy Commission Final Decision adopted pursuant to Public Resources Code section 25500. Requirements for complaint filings and a description of how complaints are processed are provided in Title 20, California Code of Regulations, section 1237.

POST-CERTIFICATION CHANGES TO THE ENERGY COMMISSION FINAL DECISION

The project owner must petition the Energy Commission pursuant to Title 20, California Code of Regulations, section 1769, in order to modify the design, operation or performance requirements of the project or linear facilities, or to transfer ownership or operational control of the facility. **It is the responsibility of the project owner to contact the CPM to determine if a proposed project change should be considered a project modification pursuant to section 1769.** Implementation of a project modification without first securing Energy Commission, or Energy Commission staff approval may result in an enforcement action including civil penalties in accordance with Public Resources Code section 25534.

The criteria for determining approval type and the process that applies are explained below. They reflect the provisions of Title 20, California Code of Regulations, section 1769 at the time this condition was drafted. If the Energy Commission modifies this regulation, the language in effect at the time the change is requested shall apply.

Amendment

The project owner shall petition the Energy Commission, pursuant to Title 20, California Code of Regulations, section 1769(a), when proposing modifications to the project design, operation, or performance requirements (including linear facilities). If a proposed modification results in a changed or deleted condition of certification, or makes changes causing noncompliance with any applicable laws, ordinances, regulations, or standards, the petition will be processed as a formal amendment to the Final Decision, requiring public notice, public review of the Energy Commission's staff analysis and approval by the full Commission. Upon request, the CPM will provide a sample petition to use as a template.

Change of Ownership

Change of ownership or operational control also requires that the project owner file a petition pursuant to section 1769(b). This process requires public notice and approval by the full Commission. Upon request, the CPM will provide a sample petition to use as a template.

Staff-Approved Project Modification

Modifications that do not result in deletions or changes to conditions of certification, that are compliant with Laws, Ordinances, Regulations and Standards (LORS), and will not have significant environmental impacts may be authorized by the CPM as a staff-approved project modification pursuant to section 1769(a)(2). Once the CPM files a Notice of Determination of the proposed project modifications, any person may file an objection to the CPM's determination within fourteen (14) days of service on the grounds that the modification does not meet the criteria of section 1769(a)(2). If a person objects to the CPM's determination, the petition must be processed as a formal amendment to the Energy Commission's Final Decision and must be approved by the full Commission at a publically noticed business meeting or hearing.

Verification Change

A condition of certification verification may be modified by the CPM without requesting an amendment to the Final Decision if the change does not conflict with the attendant condition of certification and provides an effective alternate means of verification.

FACILITY CLOSURE

Although the HHSEGS project setting does not presently appear to pose any special or unusual closure issues, the Energy Commission cannot reasonably foresee all potential situations in existence when a project's operations temporarily or permanently cease. Therefore, closure provisions must provide flexibility to deal with the specific situation and project setting that exists at that time. Existing LORS pertaining to facility closure are identified in the various technical area sections. The general compliance conditions

of certification build upon these technical requirements to facilitate a comprehensive approach to facility closure. Facility closure procedures will be consistent with the Energy Commission's conditions of certification and the LORS in effect at the time of implementation.

Temporary closure status typically occurs when a project owner anticipates that a facility will remain offline for more than ninety (90) days or for activities that include, but are not limited to, equipment or infrastructure upgrades or repair. Under these circumstances, the project owner must follow the temporary facility closure activities delineated in the Closure Plan (COM-14, below), and, upon CPM review, may be required to initiate a formal amendment procedure. Should a temporary closure continue for more than twelve (12) months (or other timeframe subject to CPM approval) a subsequent submittal of a Final Closure Plan would be required.

Reasons for planned permanent closures include, but are not limited to, the end of a facility's economic or mechanical life or gradual obsolescence. Both temporary and permanent closure planning guidelines are detailed below. Should the project owner essentially abandon a facility, the owner will remain liable for all costs associated with the subsequent contingency planning and permanent closure activities. Although the owner of a temporarily closed facility may have every intention of resuming operations, if the closure continues for longer than three (3) years, unless the project owner can present reasonable evidence of a plan to resume operations, the Energy Commission can assume permanent closure and ask the project owner to begin the closure and restoration process, or access the performance bond funds (COM-15, below) and begin the process itself.

PROJECT COMPLIANCE CONDITIONS OF CERTIFICATION

COM-1: UNRESTRICTED ACCESS

The CPM, responsible Energy Commission Staff, and delegated agencies or consultants are guaranteed and granted unrestricted access to the power plant site, related facilities, project-related staff, and the records maintained on-site to facilitate audits, surveys, inspections, or general site visits. Although the CPM will normally schedule site visits on dates and times agreeable to the project owner, the CPM reserves the right to make unannounced visits at any time.

COM-2: COMPLIANCE RECORD

The project owner shall maintain project files on-site or at an alternative site approved by the CPM for the life of the project, unless a lesser period of time is specified by the conditions of certification. The files shall contain copies of all "as-built" drawings, documents submitted as verification for conditions, and other project-related documents.

Energy Commission staff and delegate agencies shall, upon request to the project owner, be given unrestricted access to the files maintained pursuant to this condition.

COM-3: COMPLIANCE VERIFICATION SUBMITTALS

Each condition of certification is followed by a means of verification. The verification describes the Energy Commission's procedure(s) to ensure post-certification compliance with adopted conditions. The verification procedures, unlike the conditions, may be modified as necessary by the CPM.

Verification lead times associated with start of construction may require the project owner to file submittals during the certification process, particularly if construction is planned to commence shortly after certification.

A cover letter from the project owner or authorized agent is required for all compliance submittals and correspondence pertaining to compliance matters. **The cover letter subject line shall identify the project by AFC number, the appropriate condition(s) of certification number(s), and a brief description of the subject of the submittal.** When submitting supplementary or corrected information, the project owner shall reference the date of the previous submittal and the condition(s) of certification applicable. The project owner shall also identify those submittals **not** required by a condition of certification with a statement such as: "This submittal is for information only and is not required by a specific condition of certification."

The project owner is responsible for the delivery and content of all verification submittals to the CPM, whether such condition was satisfied by work performed by the project owner or an agent of the project owner. All submittals shall be accompanied by a searchable electronic copy, on an electronic storage medium or by e-mail, as agreed upon by the CPM

All hardcopy submittals shall be addressed as follows:

Compliance Project Manager
(11-AFC-2C)
California Energy Commission
1516 Ninth Street (MS-2000)
Sacramento, CA 95814

COM-4: PRE-CONSTRUCTION MATRIX AND TASKS PRIOR TO START OF CONSTRUCTION

Prior to start of construction, a compliance matrix addressing only those conditions that must be fulfilled before the start of construction shall be submitted by the project owner to the CPM. This matrix shall be included with the project owner's first compliance submittal or prior to the first pre-construction meeting, whichever comes first and shall be submitted in the same format as the compliance matrix described below.

Construction shall not start until all the following have occurred: submittal of the pre-construction matrix and compliance verifications pertaining to all pre-construction conditions of certification, and the CPM has issued an Authority to Construct letter to the project owner. The lead times for submitting various compliance verifications to the CPM are established to allow sufficient staff time to review and comment and, if necessary, allow the project owner to revise the submittal in

a timely manner. This will help ensure that project construction proceeds according to schedule. Failure to submit compliance documents within the specified lead-time may result in delayed authorizations to commence various stages of the project.

If the project owner anticipates site mobilization immediately following project certification, it may be necessary for the project owner to file compliance submittals prior to project certification. In these instances, compliance verifications can be submitted in advance of the required lead-times and the anticipated authorizations to commence. The project owner must understand that submitting compliance verifications prior to these authorizations is at the owner's own risk. Any approval by Energy Commission staff prior to project certification is subject to change, based upon the Commission Final Decision.

COM-5: COMPLIANCE MATRIX

A compliance matrix shall be submitted by the project owner to the CPM along with each monthly and annual compliance report. The compliance matrix is intended to provide the CPM with the current status of all conditions of certification in a spreadsheet format. The compliance matrix must identify:

1. the technical area (e.g., biological resources, facility design, etc.);
2. the condition number;
3. a brief description of the verification action or submittal required by the condition;
4. the date the submittal is required (e.g., sixty (60) days prior to construction, after final inspection, etc.);
5. the expected or actual submittal date;
6. the date a submittal or action was approved by the Chief Building Official (CBO), CPM, or delegate agency, if applicable;
7. the compliance status of each condition (e.g., "not started," "in progress" or "completed" (include the date)); and
8. if the condition was amended, include the updated language and the date the amendment was proposed or approved.

COM-6: MONTHLY COMPLIANCE REPORT/KEY EVENT LIST

The first Monthly Compliance Report is due thirty (30) days following the docketing of the Energy Commission's Final Decision unless otherwise agreed to by the CPM. The first Monthly Compliance Report shall include the AFC number and an initial list of dates for each of the events identified on the **Key Events List**. The **Key Events List** form is found at the end of these **General Conditions**.

During preconstruction and construction of the project, the project owner or authorized agent shall submit an electronic searchable version of the Monthly Compliance Report within ten (10) days after the end of each reporting month. Monthly Compliance Reports shall be clearly identified for the month being reported. The searchable electronic copy

may be filed on an electronic storage medium or by e-mail, subject to CPM approval. The reports shall contain, at a minimum:

1. a table of contents clearly identifying by title and page number of each section, table, graphic, exhibit or addendum;
2. a summary of the current project construction status, a revised/updated schedule if there are significant delays, and an explanation of any significant changes to the schedule;
3. documents required by specific conditions to be submitted along with the Monthly Compliance Report. Each of these items must be identified in the transmittal letter, as well as the conditions they satisfy, and submitted as attachments to the Monthly Compliance Report;
4. an initial, and thereafter updated, compliance matrix showing the status of all conditions of certification;
5. a list of conditions that have been satisfied during the reporting period, and a description or reference to the actions that satisfied the condition;
6. a list of any submittal deadlines that were missed, accompanied by an explanation and an estimate of when the information will be provided;
7. a cumulative listing of any approved changes to the conditions of certification;
8. a listing of any filings submitted to, or permits issued by, other governmental agencies during the month;
9. a projection of project compliance activities scheduled during the next two months. The project owner shall notify the CPM as soon as any changes are made to the project construction schedule that would affect compliance with conditions of certification;
10. a listing of the month's additions to the on-site compliance file; and
11. a listing of complaints, notices of violation, official warnings, and citations received during the month, a description of the actions taken to date to resolve the issue, and the status of any unresolved actions.

COM-7: ANNUAL COMPLIANCE REPORT

After construction is complete, the project owner shall submit searchable electronic Annual Compliance Reports instead of Monthly Compliance Reports. The reports are for each year of commercial operation and are due to the CPM each year at a date agreed to by the CPM. Annual Compliance Reports shall be submitted over the life of the project, unless otherwise specified by the CPM. The searchable electronic copy may be filed on an electronic storage medium or by e-mail, subject to CPM approval. Each Annual Compliance Report shall include the AFC number, identify the reporting period, and shall contain the following:

1. a table of contents clearly identifying by title and page number each section, table, graphic, exhibit or addendum;
2. an updated compliance matrix showing the status of all conditions of certification (fully satisfied conditions do not need to be included in the matrix after they have been reported as completed);
3. a summary of the current project operating status and an explanation of any significant changes to facility operations during the year;
4. documents required by specific conditions to be submitted along with the Annual Compliance Report. Each of these items must be identified in the transmittal letter with the condition it satisfies, and submitted as attachments to the Annual Compliance Report;
5. a cumulative listing of all post-certification changes approved by the Energy Commission or the CPM;
6. an explanation for any submittal deadlines that were missed, accompanied by an estimate of when the information will be provided;
7. a listing of filings submitted to, or permits issued by, other governmental agencies during the year;
8. a projection of project compliance activities scheduled during the next year;
9. a listing of the year's additions to the on-site compliance file;
10. an evaluation of the on-site contingency plan for unplanned facility closure, including any suggestions necessary for bringing the plan up to date (see Compliance Conditions for Facility Closure addressed later in this section); and
11. a listing of complaints, notices of violation, official warnings, and citations received during the year, a description of how the issues were resolved, and the status of any unresolved matters.

COM-8: CONFIDENTIAL INFORMATION

Any information that the project owner designates as confidential shall be submitted to the Energy Commission's Executive Director with an application for confidentiality pursuant to Title 20, California Code of Regulations, section 2505(a). Any information deemed confidential pursuant to the Regulations will remain undisclosed as provided for in Title 20, California Code of Regulations, section 2501.

COM-9: ANNUAL ENERGY FACILITY COMPLIANCE FEE

Pursuant to the provisions of Section 25806(b) of the Public Resources Code, the project owner is required to pay an annual compliance fee, which is adjusted annually. Current Compliance fee information is available on the Energy Commission's website http://www.energy.ca.gov/siting/filing_fees.html. The project owner may also contact the CPM for the current fee information. The initial payment is due on the date that the

Energy Commission's Final Decision is docketed. All subsequent payments are due by the first (1st) of July of each year in which the facility retains its certification.

COM-10: SITE CONTINGENCY PLANS

The project owner shall submit a site contingency plan for CPM review and approval. The plan shall be submitted no less than sixty (60) days prior to start of commercial operation (or other timeframe subject to CPM approval). The approved plan must be in place prior to the start of commercial operation and must be kept onsite at all times.

The purpose of the site contingency plan is to ensure that an integrated facility response system exists. Many of the contingency plan's elements will likely draw from the other plans and protocols required by the various technical sections. Plan elements include, but are not limited to:

1. A facility description and corresponding detailed map (with compass heading, bar scale, and key), including licensed activities, on-site and near-site structures with descriptive labels, roads and parking lots on-site and main roads and highways near the site, and site boundaries, including fences and gates;
2. A site description of areas near the site and corresponding map (with compass heading, bar scale, and key), including locations of population centers and sensitive receptors (schools, arenas, stadiums, prisons, care facilities), and emergency response facilities (fire, police, hospitals, clinics, etc.);
3. A description and corresponding detailed map (with compass heading, bar scale, and key) of emergency equipment and critical safety controls including fire suppression, first aid and decontamination/extreme exposure equipment, protective gear, automatic external defibrillators, on-site emergency alert and communication systems, ventilation, shut-off and safety controls, interior and exterior evacuation routes, on- and off-site assembly areas, and traffic control equipment, as applicable;
4. An organizational chart including the name, contact information, photo-identification, certification types(s), and renewal dates for all on-site personnel trained in first response and first aid;
5. A description of reasonably foreseeable hypothetical incidents and accident sequences (on- and off-site), including response procedures and protocols and site security measures to maintain twenty-four (24) hours site security;
6. The nature, extent and status of insurance coverage(s) and major equipment warranties for the facility; and
7. Procedures for maintaining contingency response capabilities including plan review and update schedule, periodic drills and training schedule, critiques and auditing procedures, incident reporting requirements, and inventory and maintenance of contingency plan supplies.

The CPM may require revisions to the site contingency plan over the life of the project. Site contingency review/updates (updated organizational chart, personnel training logs, independent audits, and periodic drill reports, etc.) shall be provided for CPM review and approval in each annual compliance report.

In the event of an unexpected incident requiring emergency response, the project owner shall notify the CPM or the Compliance Office Manager (COM) directly, as well as other responsible agencies, by telephone, fax, or e-mail, within one (1) hour and shall take all necessary steps to implement the contingency plan response scenarios.

For incidents that require facility shut down for more than ninety (90) days, (or other timeframe subject to CPM approval), the site contingency plan shall provide for removal of hazardous materials and hazardous wastes, draining of all chemicals from storage tanks and other equipment, and the safe shutdown of all equipment. (Also, see specific conditions of certification for the technical areas of **Hazardous Materials Management** and **Waste Management** sections of this **FSA**).

COM-11: UNEXPECTED INCIDENT REPORTING REQUIREMENTS

In the event of any incident requiring any emergency response, including but not limited to, a response from fire, hazardous materials, medical, or police emergency services (as a result, for example, of personal injury, hazardous materials spill, flood, fire, or explosion, etc), the project owner shall:

- A. Notify the CPM or COM directly within one (1) hour by phone of the circumstances, current status, and expected duration of all accidents, emergencies, and other abnormal incidents at the facility or appurtenant facilities, that have resulted or could result in any of the following situations:
 1. Reduction in the facility's ability to respond to dispatch (excluding forced outages caused by protective equipment or other typically encountered shut down events);
 2. Health and safety impacts on the surrounding population;
 3. Property damage off-site;
 4. Response by off-site emergency response agencies;
 5. Serious on-site injury;
 6. Significant environmental damage;
 7. Filing of bankruptcy by the owner or operator of the facility; and/or
 8. Emergency reporting to any federal, state, or local agency.
- B. Submit to the CPM a detailed report describing the incident and any impacts as described in **section A** within thirty (30) days that shall include, as appropriate to the incident, the following information:
 1. A brief description of the incident including its date, time and location;
 2. A description of cause of the incident, or likely causes if it is still under investigation;

3. The location of any off-site impacts;
 4. A description of emergency response actions associated with the incident;
 5. Identification of responding agencies;
 6. Identification of emergency notifications made to other federal, state, and/or local agencies;
 7. Identification of any hazardous materials released and an estimate of the quantity released;
 8. A description of any injuries, fatalities, or property damage that occurred as a result of the incident;
 9. Fines or violations assessed or being processed by other agencies;
 10. Name, phone number, and email address of the appropriate facility contact person having knowledge of the event; and
 11. Corrective actions or repairs necessary, a proposed schedule, and potential cost to restore the facility to acceptable performance and availability.
- C. Maintain records of the **incident** report(s) described in **sections A and B** for the life of the project. Additionally, the project owner shall submit to the CPM copies of these project reports within twenty-four (24) hours of an email, phone, mail, or in person request.

COM-12: REPORTING OF COMPLAINTS, NOTICES, AND CITATIONS

Prior to the start of construction, the project owner must send a letter to property owners living within one (1) mile of the project notifying them of a telephone number to contact project representatives with questions, complaints, or concerns. If the telephone is not staffed twenty-four (24) hours per day, it shall include automatic answering with a date and time stamp recording. All recorded complaints shall be responded to within twenty-four (24) hours. The telephone number shall be posted at the project site and made easily visible to passersby during construction and operation. The telephone number shall be provided to the CPM who will post it on the Energy Commission's web page at <http://www.energy.ca.gov/sitingcases/<project name>/>.

Any changes to the telephone number shall be submitted immediately to the CPM, who will update the web page.

In addition to the monthly and annual compliance reporting requirements described above, the project owner shall report and provide copies to the CPM of all complaint forms, including noise and lighting complaints, notices of violation, notices of fines, official warnings, and citations within ten (10) days of receipt. Complaints shall be logged and numbered. Noise complaints shall be recorded on the form provided in the **Noise and Vibration** conditions of certification. All other complaints shall be recorded on the complaint form (Attachment A).

COM-13: AMENDMENTS, OWNERSHIP CHANGES, STAFF-APPROVED PROJECT MODIFICATIONS AND VERIFICATION CHANGES

The project owner must petition the Energy Commission pursuant to Title 20, California Code of Regulations, section 1769, in order to modify the design, operation or performance requirements of the project or linear facilities, or to transfer ownership or operational control of the facility. The CPM will determine whether staff approval will be sufficient or whether Commission approval will be necessary based upon whether or not the proposed amendment(s) result in a changed or deleted condition of certification or the changes cause noncompliance with any applicable LORS. Section 1769 details the required content of a petition to amend. Only a request to change the verification method of a condition of certification can be submitted in a letter format to the CPM. **It is the responsibility of the project owner to contact the CPM to determine if a proposed project change triggers the requirements of section 1769.**

Implementation of a project modification without first securing Energy Commission, or Energy Commission staff approval, may result in an enforcement action including civil penalties in accordance with section 25534 of the Public Resources Code. If the Energy Commission's rules regarding amendments are amended, the rules in effect at the time the change is requested shall apply.

COM-14: FACILITY CLOSURE PLAN

To ensure that a facility does not become a risk to public or environmental health or safety when a temporary or permanent closure occurs, the project owner shall establish a closure process that demonstrates to the Energy Commission that closure activities and costs are being considered and planned for early in the life of the facility and complies with all applicable COCs and LORS.

For extended, but temporary, closures (exceeding ninety (90) days), the project owner shall submit a Temporary Closure Plan to the CPM for review and approval. The Closure Plan shall be submitted at least sixty (60) days prior to commencing expected closure activities and no later than one-hundred-twenty (120) days after an unplanned closure (or other timeframe, subject to CPM approval). The Temporary Closure Plan shall contain information as specified in Plan Elements 1–9, below, and as specified in additional guidance referenced within this and all other pertinent COCs, as applicable.

In preparation for the eventual permanent closure of the plant, the project owner shall submit for CPM review and approval a preliminary Closure Plan with the first annual compliance report. The Closure Plan shall identify steps necessary to perform partial or final closure of the facility at any point during its active life and to perform final closure at the end of its active life. The Closure Plan shall be updated and submitted for CPM review every five (5) years, or at the time of an unplanned closure event. A searchable electronic copy of the Closure Plan shall be filed on an electronic storage medium or by e-mail, as agreed to by the CPM.

At least two (2) years prior to commencing permanent closure activities (or other timeframe agreed upon by the CPM), the project owner shall submit a proposed final Closure Plan to the CPM for review and approval.

Closure Plan Elements include, but are not limited to:

- 1.) A searchable table of contents clearly identifying by title and page number each section, table, graphic, exhibit, or addendum;
- 2.) The identification of technical experts, including resumes, and detailed descriptions of relevant previous power plant closure experience;
- 3.) A comprehensive scope of work for the temporary or permanent plant closure, detailing all phases of the closure process, including applicable LORS compliance strategies, methodologies to be used, and team members responsible for executing the work;
- 4.) A cost estimate for the various closure phases, including but not limited to, technical expertise, compliance and remediation planning, environmental analysis and permitting, demolition, site clean-up and mitigation and monitoring, and contingencies, as applicable;
- 5.) All relevant existing plans, drawings, inventories, schedules, assessments, and status and compliance reports for the project;
- 6.) A complete historical and existing infrastructure inventory and inspection, a physical site and baseline characterization, an independent review of a final building and under building surveys, and a chemical characterization and process analysis, as well as all site and risk assessments, as applicable;
- 7.) Identification and discussion of any potential impacts and mitigation strategies to address significant adverse impacts associated with the plant closure and conformance with all applicable LORS, conditions of certification, and local/regional plans presently existing. The Closure Plan shall include an integrated schedule of temporary or permanent closure activities for the power plant site, transmission line corridor, and all other appurtenant facilities constructed as part of the project. Additional closure specifications, drawings, and planning considerations shall include, but are not limited to, demolition, salvage, stormwater, waste management, spill prevention, transit and transportation, public health, worker safety, and site security plans, as applicable;
- 8.) A description of the password-protected filing systems and information repositories, both electronic (on-line) and hard copy (on-site), approved by the CPM to allow for streamlined compliance submittals, monitoring, and auditing; and
- 9.) A site disposition plan including refurbishment or redevelopment options, future land-use planning alternatives, stakeholder involvement process, and restoration plan and permitting timelines, as applicable, including the identification and justification for any facilities or equipment remaining on-site after permanent closure.

Two (2) years prior to submittal of the proposed draft Final Closure Plan, a meeting shall be held between the project owner and the CPM to discuss the specific contents and timing of the Closure Plan. Not less than one (1) year prior to facility closure the project owner must send a letter to all interested parties, including the post-certification

mailing list and property owners living within one (1) mile of the facility, notifying them of the intent to close the facility permanently.

In the event there are significant issues associated with the Closure Plan's approval, the CPM will hold one or more workshops, and the Energy Commission may hold public hearings as part of its approval procedure.

As necessary, prior to or during the closure planning process, the project owner shall take appropriate steps to eliminate any immediate threats to public and environmental health and safety, but shall not commence any other closure activities until CPM approval of the facility Closure Plan. For either a temporary or permanent plant closure, the project owner shall comply with the approved Closure Plan and any conditions of closure established by the Energy Commission as a result of the Closure Plan approval process.

COM-15: FINANCIAL ASSURANCE FOR CLOSURE

To ensure that the project owner closes the facility according to the CPM-approved Closure Plan, the project owner shall obtain a surety bond as financial assurance guaranteeing satisfactory performance of all closure and long-term site maintenance activities.

Within one-hundred-twenty (120) days following CPM approval of the preliminary Closure Plan, and periodically updated every five (5) years thereafter, (in conjunction with Closure Plan and Cost Estimate update(s) or at the time of an unplanned closure event), the project owner shall submit, for CPM review and approval, financial assurance in the form of a surety bond guaranteeing performance of closure as specified in the then-current Closure Plan. To ensure the accuracy of the most recent Cost Estimate, to be used in the surety bond, the CPM may require an independent, third-party review of said Estimate. The surety bond shall contain the following language and terms:

PERFORMANCE BOND

Date bond executed:

Effective date:

Principal: [legal name and business address of owner]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety(ies): [name(s) and business address(es)]

Facility name, address:

Total penal sum of bond: Closure Cost Estimate

Surety's bond number:

KNOW ALL PERSONS BY THESE PRESENTS, THAT WE, the Principal and Surety(ies) hereto are firmly bound to the California State Energy Resources Conservation and Development Commission (hereinafter called the Energy Commission), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under state regulations, to have an Energy Commission license in order to own and operate the facility identified above, and

WHEREAS said Principal is required to provide financial assurance for closure of the facility, and

WHEREAS said Principal shall establish a standby trust fund, with the Energy Commission as its Beneficiary, as is required when a surety bond is used to provide such financial assurance;

NOW, THEREFORE the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the license as such plan and license may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

OR, if the Principal shall provide alternate financial assurance and obtain written approval from the Energy Commission of such assurance, within ninety (90) days after the date notice of cancellation is received by both the Principal and the Executive Director of the Energy Commission, or designee, from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Energy Commission that the Principal has been found in violation of applicable closure requirements for which this bond guarantees performance of closure, the Surety(ies) shall either perform closure in accordance with the closure plan and other permit requirements or place the closure amount guaranteed for the facility into the standby trust fund as directed by the Energy Commission.

Upon notification by the Energy Commission that the Principal has failed to provide alternate financial assurance and obtain written approval of such assurance from the Energy Commission during the ninety (90) days following receipt by both the Principal and the Energy Commission of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the Energy Commission.

The Surety(ies) hereby waive(s) notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner and to the Energy Commission provided, however, that cancellation shall not occur during the one-hundred-twenty (120) days beginning on the date of receipt of the notice of cancellation by both the Principal and the Energy Commission, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Energy Commission.

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond when the Principal updates its closure Cost Estimate, as required by the Energy Commission, so that it guarantees a new closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Energy Commission.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above. The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

Principal - [Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

Corporate Surety(ies)
[Name and address]
State of incorporation:

Liability limit:

[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium:

KEY EVENTS LIST

PROJECT: _____

DOCKET #: _____

COMPLIANCE PROJECT MANAGER: _____

EVENT DESCRIPTION	DATE
Certification Date	
Obtain Site Control	
Online Date	
POWER PLANT SITE ACTIVITIES	_____
Start Site Assessment/Preconstruction	
Start Site Mobilization/Construction	
Begin Pouring Major Foundation Concrete	
Begin Installation of Major Equipment	
Completion of Installation of Major Equipment	
First Combustion of Gas Turbine	
Obtain Building Occupation Permit	
Start Commercial Operation	
Complete All Construction	
TRANSMISSION LINE ACTIVITIES	_____
Start T/L Construction	
Synchronization with Grid and Interconnection	
Complete T/L Construction	
FUEL SUPPLY LINE ACTIVITIES	_____
Start Gas Pipeline Construction and Interconnection	
Complete Gas Pipeline Construction	
WATER SUPPLY LINE ACTIVITIES	_____
Start Water Supply Line Construction	
Complete Water Supply Line Construction	

**COMPLIANCE TABLE 1:
SUMMARY of COMPLIANCE CONDITIONS OF CERTIFICATION**

CONDITION NUMBER	SUBJECT	DESCRIPTION
COM-1	Unrestricted Access	The project owner shall grant Energy Commission staff and delegate agencies or consultants unrestricted access to the power plant site.
COM-2	Compliance Record	The project owner shall maintain project files on-site. Energy Commission staff and delegate agencies shall be given unrestricted access to the files.
COM-3	Compliance Verification Submittals	The project owner is responsible for the delivery and content of all verification submittals to the CPM, whether such condition was satisfied by work performed or the project owner or his agent.
COM-4	Pre-construction Matrix and Tasks Prior to Start of Construction	Construction shall not commence until the all of the following activities/submittals have been completed: <ul style="list-style-type: none"> • Notify property owners • Submit pre-construction matrix identifying conditions to be fulfilled before the start of construction • Completed all pre-construction conditions • CPM has issued a letter to the project owner authorizing construction
COM-5	Compliance Matrix	The project owner shall submit a compliance matrix (in a spreadsheet format) with each monthly and annual compliance report, which includes the status of all compliance conditions of certification.
COM-6	Monthly Compliance Report / Key Events List	During construction, the project owner shall submit Monthly Compliance Reports (MCRs) which include specific information. The first MCR is due the month following the Energy Commission business meeting date on which the project was approved and shall include an initial list of dates for each of the events identified on the Key Events List.
COM-7	Annual Compliance Reports	After construction ends and throughout the life of the project, the project owner shall submit Annual Compliance Reports instead of Monthly Compliance Reports.
COM-8	Confidential Information	Any information the project owner deems confidential shall be submitted to the Energy Commission's Executive Director with a request for confidentiality.
COM-9	Annual fees	Payment of Annual Energy Facility Compliance Fee

**COMPLIANCE TABLE 1:
SUMMARY of COMPLIANCE CONDITIONS OF CERTIFICATION**

CONDITION NUMBER	SUBJECT	DESCRIPTION
COM-10	On-Site Contingency Plans	No less than sixty (60) days prior to the start of commercial operation the project owner must submit an on-site contingency plan.
COM-11	Unexpected Incident Reporting	The project owner shall notify the CPM within one (1) hour, submit a detailed incident report, maintain records of incident report, and submit public health and safety documents with employee training provisions.
COM-12	Reporting of Complaints, Notices and Citations	Within ten (10) days of receipt, the project owner shall report to the CPM, all notices, complaints, and citations. To ensure public and environmental health and safety are protected in the event of an unplanned temporary closure, the project owner shall submit an on-site contingency plan no less than sixty (60) days prior to commencement of commercial operation.
COM-13	Post-certification changes to the Decision Unplanned Permanent Facility Closure	The project owner must petition the Energy Commission to delete or change a condition of certification, modify the project design or operational requirements and/or transfer ownership of operational control of the facility. To ensure public and environmental health and safety are protected in the event of an unplanned permanent closure, the project owner shall submit an on-site contingency plan no less than sixty (60) days prior to commencement of commercial operation.
COM-14	Facility Decommissioning and Closure Plans	With the first annual compliance report, the project owner shall submit for CPM review and approval a preliminary facility closure plan (to be updated and reviewed every five (5) years or due to a closure event). For expected temporary closures, a decommissioning plan shall be submitted at least two (2) months prior to decommissioning activities. For unexpected temporary closures, the plan shall be submitted no later than 30 days after a closure incident. At least two (2) years prior to permanent closure the project owner shall meet with the CPM and submit a draft final closure plan for CPM review and approval. One (1) year prior to permanent closure the project owner must send a letter to all interest parties and must conduct public outreach as necessary.

**ATTACHMENT A
COMPLAINT REPORT/RESOLUTION FORM**

COMPLAINT LOG NUMBER: _____ DOCKET NUMBER: _____
PROJECT NAME: _____

COMPLAINANT INFORMATION

NAME: _____	PHONE NUMBER: _____
ADDRESS: _____	

COMPLAINT

DATE COMPLAINT RECEIVED: _____	TIME COMPLAINT RECEIVED: _____
COMPLAINT RECEIVED BY: _____	<input type="checkbox"/> TELEPHONE <input type="checkbox"/> IN WRITING (COPY ATTACHED)
DATE OF FIRST OCCURRENCE: _____	
DESCRIPTION OF COMPLAINT (INCLUDING DATES, FREQUENCY, AND DURATION): _____ _____ _____	
FINDINGS OF INVESTIGATION BY PLANT PERSONNEL: _____ _____ _____	
DOES COMPLAINT RELATE TO VIOLATION OF A CEC REQUIREMENT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DATE COMPLAINANT CONTACTED TO DISCUSS FINDINGS: _____	
DESCRIPTION OF CORRECTIVE MEASURES TAKEN OR OTHER COMPLAINT RESOLUTION: _____ _____ _____	
DOES COMPLAINANT AGREE WITH PROPOSED RESOLUTION?	<input type="checkbox"/> YES <input type="checkbox"/> NO
IF NOT, EXPLAIN: _____ _____ _____	

CORRECTIVE ACTION

IF CORRECTIVE ACTION NECESSARY, DATE COMPLETED: _____
DATE FIRST LETTER SENT TO COMPLAINANT (COPY ATTACHED): _____
DATE FINAL LETTER SENT TO COMPLAINANT (COPY ATTACHED): _____
OTHER RELEVANT INFORMATION: _____ _____ _____

"This information is certified to be correct."

PLANT MANAGER SIGNATURE: _____ DATE: _____

(ATTACH ADDITIONAL PAGES AND ALL SUPPORTING DOCUMENTATION, AS REQUIRED)