

ENVIRONMENTAL QUALITY

CHAPTER 20

MAJOR FACILITY SITING

Sub-Chapter 19

Facility Monitoring

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## Sub-Chapter 19

## Facility Monitoring

17.20.1901 MONITORING REQUIRED BY CERTIFICATE (1) As required by 75-20-303, MCA, the certificate shall include a plan for monitoring environmental effects of the facility and associated facilities. The plan shall specify the types of monitoring data and activities required, and the terms and schedules of monitoring data collection, and assign responsibilities for data collection, inspection, reporting, or other activities required to effectively monitor the facility and associated facilities.

(2) The certificate holder shall reimburse the department for all costs incurred relative to the monitoring plan approved by the department in accordance with 75-20-402, MCA.

(3) All activities of the certificate holder or the certificate holder's representative during preconstruction, construction, reclamation, operation, maintenance and decommissioning of the facility shall be conducted in accordance with the environmental specifications and conditions to the certificate approved by the department. (History: 75-20-105, MCA; IMP, 75-20-301, 75-20-303, 75-20-402, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.1902 LINEAR FACILITIES, MONITORING REQUIREMENTS

(1) Within 15 days of the department's approval of a final location, the department shall designate an environmental inspector to monitor compliance with the environmental specifications and any other conditions contained in the certificate. The environmental inspector shall be the certificate holder's liaison with the department on all subsequent activities related to the facility.

(2) Within 15 days of the department's approval of a final location, the certificate holder shall designate a chief field representative to be the department's liaison with the certificate holder on all subsequent activities related to the facility.

(3) The certificate holder shall submit to the department a notice of intent to begin construction and shall make a reasonable effort to notify or otherwise inform landowners whose property would be crossed by the facility and/or associated access roads at least 15 days prior to the commencement of construction activities on the facility.

(4) The certificate holder shall submit the following information to the department at least 15 days prior to the commencement of construction of any segment of the project. Any information previously submitted in an application may be referenced.

(a) On orthophoto mosaics or plan and profile maps, or on available USGS 7.5 minute topographic maps, at a scale of 1:24,000, the location of the following as appropriate:

- (i) the centerline;
- (ii) all construction and maintenance access roads;
- (iii) structures;
- (iv) clearing backlines, clearing limits or disturbance limits, staging sites, and pulling sites, if known;
- (v) borrow pits;
- (vi) campsites; and
- (vii) storage or other buildings.

(b) A list of contractors, an estimate of the number of workers, and a description of the types of heavy equipment that will be employed, and a proposed schedule of construction activities for each segment of line.

(5) The certificate holder shall promptly notify the department of any changes or updates in the schedule after the initial schedule is submitted.

(6) If a construction bond is required by the certificate, the certificate holder shall submit to the department proof that the construction bond has been obtained prior to the commencement of construction. Pursuant to the certificate, this bond may be held until construction is complete and the department has determined that all environmental specifications have been followed, that cleanup is complete, that damage has been repaired, and that recontouring, site restoration, and revegetation are progressing satisfactorily.

(a) In the event the department finds that the certificate holder is not correcting damage created during construction in a satisfactory manner, the department may determine the amount and disposition of all or a portion of the bond to correct any damage that has not been corrected by the certificate holder.

(7) For electric transmission lines greater than 230 kV and pipeline facilities, the certificate holder shall hold a preconstruction conference at least 15 days prior to commencement of construction activities to brief the following persons regarding the content of the environmental specifications required by the certificate, to identify any specific geographical areas of concern where special construction precautions may be required, and to explain the role of the environmental inspector:

- (a) the certificate holder's field representative;
- (b) all contractors involved in the facility;
- (c) the contractors' environmental inspectors, if any;
- (d) representatives of affected local, state, and federal agencies; and
- (e) the environmental inspector.

(8) The certificate holder shall submit a written notice to the department describing the date and nature of proposed construction activities in any problem area specified at the preconstruction conference at least five days prior to beginning the activity.

(9) If a construction and reclamation bond is required by the certificate pursuant to ARM 17.20.1706(2), at the time the construction bond is released by the department, the certificate holder shall submit proof that the reclamation bond has been obtained. Pursuant to the certificate, portions of this bond or bonds may be held for one year and five years, respectively, or until the department determines that revegetation and road closures adequately meet the requirements specified in the certificate and in (10).

(a) In the event the department finds that revegetation has not attained the growth required after one year or five years specified in (10), the department may find the certificate holder in substantive noncompliance with the terms of the reclamation bond and may determine the amount and disposition of all or a portion of the bond or bonds to achieve satisfactory reclamation and revegetation.

(10) The following standards for reclamation shall be used to determine reclamation bond release or to determine that expenditure of the reclamation bond is necessary to meet the requirements of the certificate for transmission lines, unless otherwise determined by the department:

(a) in rangeland, coverage of desirable perennial plant species excluding, specifically, species recognized as noxious weeds, shall be 30% or more of that on adjacent rangeland of similar slope and topography the year following revegetation, and 90% or more of the coverage of adjacent rangeland of similar slope and topography within five years following revegetation;

(b) in forested land, revegetated land exclusive of the right-of-way or permanent roads, shall be planted with trees by the end of five years so that the approximate stand density of the adjacent forest will be attained at maturity;

(c) on private lands the certificate holder may contract with the landowner for revegetation or reclamation which would release the certificate holder from the reclamation bond performance on the property upon showing the department that the property owner wants different reclamation standards from those specified in (10)(a) and (b) applied on his property and that not reclaiming to the standards specified in (10)(a) and (b) would not have adverse impacts on the public and other landowners; and

(d) on public lands the certificate holder may contract with the affected land management agency for revegetation or reclamation which would release the certificate holder upon showing the department that the land management agency wants different reclamation standards from those specified in (10)(a) and (b) applied on its lands and that not reclaiming to the standards specified in (10)(a) and (b) would not have adverse impacts on the public and other landowners.

(11) The department may formulate and carry out a plan to ensure that the standards in (10) are accomplished.

(12) In the event that the department finds the contractor responsible for construction of the facility to be in violation of the construction and mitigation standards or any of the conditions of the certificate, and finds that the certificate holder cannot or will not take appropriate action to correct the problem, the department shall immediately file an incident report with the certificate holder, as follows:

(a) The incident report shall describe the nature, location, date, and extent of the violation and the sections of the construction and mitigation standards or conditions to the certificate that have been violated, and recommend corrective actions.

(b) Upon receipt of an incident report, the certificate holder shall immediately correct the violation or immediately file with the department a statement explaining why the violation may not be corrected.

(c) Upon correction of any violation described in an incident report, the department shall file a compliance report with the certificate holder stating that the problem has been satisfactorily resolved.

(d) Failure by the certificate holder to comply with the directives of an incident report shall result in appropriate enforcement action taken in accordance with 75-20-408, MCA. (History: 75-20-105, MCA; IMP, 75-20-301, 75-20-303, 75-20-402, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2005 MAR p. 252, Eff. 2/11/05.)