

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4014

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

February 21

1 On page 1 of the printed A-engrossed bill, line 2, delete “and 455.315” and insert “, 455.315,
2 469.300 and 469.525”.

3 On page 3, after line 4, insert:

4 **“SECTION 4. No later than September 15, 2020, the State Department of Energy shall**
5 **provide a report to the Legislative Assembly on the disposal of radioactive waste in Oregon.**
6 **The report shall include:**

7 **“(1) A description of the events and circumstances surrounding the recent disposal of**
8 **radioactive waste by Oilfield Waste Logistics, Inc., in a facility in Oregon, including a dis-**
9 **ussion of the key causal factors in the occurrence of the disposal events;**

10 **“(2) A description of actions that the State Department of Energy has taken or plans to**
11 **take to prevent reoccurrence of disposal of radioactive waste in Oregon, including a dis-**
12 **ussion of related activities by the department and the plans of the department for an en-**
13 **hanced enforcement program;**

14 **“(3) A description of the required funding amounts and potential funding options to sup-**
15 **port an enhanced enforcement program to prevent the disposal of radioactive waste in**
16 **Oregon; and**

17 **“(4) Recommendations for any potential legislative changes necessary to:**

18 **“(a) Prevent occurrences of the disposal of radioactive waste in Oregon in violation of**
19 **law;**

20 **“(b) Address the enforcement provisions set forth in section 8 of this 2020 Act and any**
21 **other enforcement authority available to, or that should be made available to, the State De-**
22 **partment of Energy or the Energy Facility Siting Council to address the disposal of radio-**
23 **active waste in Oregon; and**

24 **“(c) Modify or develop requirements for the notification of local governments and feder-**
25 **ally recognized Indian tribes that may be affected by occurrences of the disposal of radioac-**
26 **tive waste in Oregon in violation of law.**

27 **“SECTION 5. ORS 469.300 is amended to read:**

28 **“469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992, unless the**
29 **context requires otherwise:**

30 **“(1) ‘Applicant’ means any person who makes application for a site certificate in the manner**
31 **provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.**

32 **“(2) ‘Application’ means a request for approval of a particular site or sites for the construction**
33 **and operation of an energy facility or the construction and operation of an additional energy facility**
34 **upon a site for which a certificate has already been issued, filed in accordance with the procedures**
35 **established pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.**

1 “(3) ‘Associated transmission lines’ means new transmission lines constructed to connect an en-
2 ergy facility to the first point of junction of such transmission line or lines with either a power
3 distribution system or an interconnected primary transmission system or both or to the Northwest
4 Power Grid.

5 “(4) ‘Average electric generating capacity’ means the peak generating capacity of the facility
6 divided by one of the following factors:

7 “(a) For wind facilities, 3.00;

8 “(b) For geothermal energy facilities, 1.11; or

9 “(c) For all other energy facilities, 1.00.

10 “(5) ‘Combustion turbine power plant’ means a thermal power plant consisting of one or more
11 fuel-fired combustion turbines and any associated waste heat combined cycle generators.

12 “(6) ‘Construction’ means work performed on a site, excluding surveying, exploration or other
13 activities to define or characterize the site, the cost of which exceeds \$250,000.

14 “(7) ‘Council’ means the Energy Facility Siting Council established under ORS 469.450.

15 “(8) ‘Department’ means the State Department of Energy created under ORS 469.030.

16 “(9) ‘Director’ means the Director of the State Department of Energy appointed under ORS
17 469.040.

18 “(10) ‘Electric utility’ means persons, regulated electrical companies, people’s utility districts,
19 joint operating agencies, electric cooperatives, municipalities or any combination thereof, engaged
20 in or authorized to engage in the business of generating, supplying, transmitting or distributing
21 electric energy.

22 “(11)(a) ‘Energy facility’ means any of the following:

23 “(A) An electric power generating plant with a nominal electric generating capacity of 25
24 megawatts or more, including but not limited to:

25 “(i) Thermal power;

26 “(ii) Combustion turbine power plant; or

27 “(iii) Solar thermal power plant.

28 “(B) A nuclear installation as defined in this section.

29 “(C) A high voltage transmission line of more than 10 miles in length with a capacity of 230,000
30 volts or more to be constructed in more than one city or county in this state, but excluding:

31 “(i) Lines proposed for construction entirely within 500 feet of an existing corridor occupied by
32 high voltage transmission lines with a capacity of 230,000 volts or more;

33 “(ii) Lines of 57,000 volts or more that are rebuilt and upgraded to 230,000 volts along the same
34 right of way; and

35 “(iii) Associated transmission lines.

36 “(D) A solar photovoltaic power generation facility using more than:

37 “(i) 160 acres located on high-value farmland as defined in ORS 195.300;

38 “(ii) 1,280 acres located on land that is predominantly cultivated or that, if not cultivated, is
39 predominantly composed of soils that are in capability classes I to IV, as specified by the National
40 Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United
41 States Department of Agriculture; or

42 “(iii) 1,920 acres located on any other land.

43 “(E) A pipeline that is:

44 “(i) At least six inches in diameter, and five or more miles in length, used for the transportation
45 of crude petroleum or a derivative thereof, liquefied natural gas, a geothermal energy form in a

1 liquid state or other fossil energy resource, excluding a pipeline conveying natural or synthetic gas;

2 “(ii) At least 16 inches in diameter, and five or more miles in length, used for the transportation
3 of natural or synthetic gas, but excluding:

4 “(I) A pipeline proposed for construction of which less than five miles of the pipeline is more
5 than 50 feet from a public road, as defined in ORS 368.001; or

6 “(II) A parallel or upgraded pipeline up to 24 inches in diameter that is constructed within the
7 same right of way as an existing 16-inch or larger pipeline that has a site certificate, if all studies
8 and necessary mitigation conducted for the existing site certificate meet or are updated to meet
9 current site certificate standards; or

10 “(iii) At least 16 inches in diameter and five or more miles in length used to carry a geothermal
11 energy form in a gaseous state but excluding a pipeline used to distribute heat within a geothermal
12 heating district established under ORS chapter 523.

13 “(F) A synthetic fuel plant which converts a natural resource including, but not limited to, coal
14 or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to
15 produce the equivalent of two billion Btu of heat a day.

16 “(G) A plant which converts biomass to a gas, liquid or solid product, or combination of such
17 products, intended to be used as a fuel and if any one of such products is capable of being burned
18 to produce the equivalent of six billion Btu of heat a day.

19 “(H) A storage facility for liquefied natural gas constructed after September 29, 1991, that is
20 designed to hold at least 70,000 gallons.

21 “(I) A surface facility related to an underground gas storage reservoir that, at design injection
22 or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic
23 gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but ex-
24 cluding:

25 “(i) The underground storage reservoir;

26 “(ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and

27 “(iii) An underground gas storage reservoir into which gas is injected solely for testing or res-
28 ervoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

29 “(J) An electric power generating plant with an average electric generating capacity of 50
30 megawatts or more if the power is produced from geothermal or wind energy at a single energy fa-
31 cility or within a single energy generation area.

32 “(b) ‘Energy facility’ does not include a hydroelectric facility or an energy facility under para-
33 graph (a)(A)(iii) or (D) of this subsection that is established on the site of a decommissioned United
34 States Air Force facility that has adequate transmission capacity to serve the energy facility.

35 “(12) ‘Energy generation area’ means an area within which the effects of two or more small
36 generating plants may accumulate so the small generating plants have effects of a magnitude similar
37 to a single generating plant of 35 megawatts average electric generating capacity or more. An ‘en-
38 ergy generation area’ for facilities using a geothermal resource and covered by a unit agreement,
39 as provided in ORS 522.405 to 522.545 or by federal law, shall be defined in that unit agreement. If
40 no such unit agreement exists, an energy generation area for facilities using a geothermal resource
41 shall be the area that is within two miles, measured from the electrical generating equipment of the
42 facility, of an existing or proposed geothermal electric power generating plant, not including the site
43 of any other such plant not owned or controlled by the same person.

44 “(13) ‘Extraordinary nuclear occurrence’ means any event causing a discharge or dispersal of
45 source material, special nuclear material or by-product material as those terms are defined in ORS

1 453.605, from its intended place of confinement off-site, or causing radiation levels off-site, that the
2 United States Nuclear Regulatory Commission or its successor determines to be substantial and to
3 have resulted in or to be likely to result in substantial damages to persons or property off-site.

4 “(14) ‘Facility’ means an energy facility together with any related or supporting facilities.

5 “(15) ‘Geothermal reservoir’ means an aquifer or aquifers containing a common geothermal fluid.

6 “(16) ‘Local government’ means a city or county.

7 “(17) ‘Nominal electric generating capacity’ means the maximum net electric power output of
8 an energy facility based on the average temperature, barometric pressure and relative humidity at
9 the site during the times of the year when the facility is intended to operate.

10 “(18) ‘Nuclear incident’ means any occurrence, including an extraordinary nuclear occurrence,
11 that results in bodily injury, sickness, disease, death, loss of or damage to property or loss of use
12 of property due to the radioactive, toxic, explosive or other hazardous properties of source material,
13 special nuclear material or by-product material as those terms are defined in ORS 453.605.

14 “(19) ‘Nuclear installation’ means any power reactor, nuclear fuel fabrication plant, nuclear fuel
15 reprocessing plant, waste disposal facility for radioactive waste, and any facility handling that
16 quantity of fissionable materials sufficient to form a critical mass. ‘Nuclear installation’ does not
17 include any such facilities that are part of a thermal power plant.

18 “(20) ‘Nuclear power plant’ means an electrical or any other facility using nuclear energy with
19 a nominal electric generating capacity of 25 megawatts or more, for generation and distribution of
20 electricity, and associated transmission lines.

21 “(21) ‘Person’ means an individual, partnership, joint venture, private or public corporation, as-
22 sociation, firm, public service company, political subdivision, municipal corporation, government
23 agency, people’s utility district, or any other entity, public or private, however organized.

24 “(22) ‘Project order’ means the order, including any amendments, issued by the State Department
25 of Energy under ORS 469.330.

26 “(23)(a) ‘Radioactive waste’ [*means*] **includes** all material which is discarded, unwanted or has
27 no present lawful economic use, and contains mined or refined naturally occurring isotopes, accel-
28 erator produced isotopes and by-product material, source material or special nuclear material as
29 those terms are defined in ORS 453.605. [*The term does not include those radioactive materials iden-*
30 *tified in OAR 345-50-020, 345-50-025 and 345-50-035, adopted by the council on December 12, 1978, and*
31 *revised periodically for the purpose of adding additional isotopes which are not referred to in OAR*
32 *345-50 as presenting no significant danger to the public health and safety.*]

33 “(b) [*Notwithstanding paragraph (a) of this subsection,*] ‘Radioactive waste’ does not include:

34 “(A) **Materials identified by the council by rule as presenting no significant danger to the**
35 **public health and safety.**

36 “(B) Uranium mine overburden or uranium mill tailings, mill wastes or mill by-product materials
37 as those terms are defined in Title 42, United States Code, section 2014, on June 25, 1979.

38 “(24) ‘Related or supporting facilities’ means any structure, proposed by the applicant, to be
39 constructed or substantially modified in connection with the construction of an energy facility, in-
40 cluding associated transmission lines, reservoirs, storage facilities, intake structures, road and rail
41 access, pipelines, barge basins, office or public buildings, and commercial and industrial structures.
42 ‘Related or supporting facilities’ does not include geothermal or underground gas storage reservoirs,
43 production, injection or monitoring wells or wellhead equipment or pumps.

44 “(25) ‘Site’ means any proposed location of an energy facility and related or supporting facilities.

45 “(26) ‘Site certificate’ means the binding agreement between the State of Oregon and the appli-

1 cant, authorizing the applicant to construct and operate a facility on an approved site, incorporating
2 all conditions imposed by the council on the applicant.

3 “(27) ‘Thermal power plant’ means an electrical facility using any source of thermal energy with
4 a nominal electric generating capacity of 25 megawatts or more, for generation and distribution of
5 electricity, and associated transmission lines, including but not limited to a nuclear-fueled,
6 geothermal-fueled or fossil-fueled power plant, but not including a portable power plant the principal
7 use of which is to supply power in emergencies. ‘Thermal power plant’ includes a nuclear-fueled
8 thermal power plant that has ceased to operate.

9 “(28) ‘Transportation’ means the transport within the borders of the State of Oregon of radio-
10 active material destined for or derived from any location.

11 “(29) ‘Underground gas storage reservoir’ means any subsurface sand, strata, formation, aquifer,
12 cavern or void, whether natural or artificially created, suitable for the injection, storage and with-
13 drawal of natural gas or other gaseous substances. ‘Underground gas storage reservoir’ includes a
14 pool as defined in ORS 520.005.

15 “(30) ‘Utility’ includes:

16 “(a) A person, a regulated electrical company, a people’s utility district, a joint operating
17 agency, an electric cooperative, municipality or any combination thereof, engaged in or authorized
18 to engage in the business of generating, transmitting or distributing electric energy;

19 “(b) A person or public agency generating electric energy from an energy facility for its own
20 consumption; and

21 “(c) A person engaged in this state in the transmission or distribution of natural or synthetic
22 gas.

23 “(31) ‘Waste disposal facility’ means a geographical site in or upon which radioactive waste is
24 held or placed but does not include a site at which radioactive waste used or generated pursuant
25 to a license granted under ORS 453.635 is stored temporarily, a site of a thermal power plant used
26 for the temporary storage of radioactive waste from that plant for which a site certificate has been
27 issued pursuant to this chapter or a site used for temporary storage of radioactive waste from a
28 reactor operated by a college, university or graduate center for research purposes and not con-
29 nected to the Northwest Power Grid. As used in this subsection, ‘temporary storage’ includes
30 storage of radioactive waste on the site of a nuclear-fueled thermal power plant for which a site
31 certificate has been issued until a permanent storage site is available by the federal government.

32 “**SECTION 6.** ORS 469.525 is amended to read:

33 “469.525. (1) Notwithstanding any other provision of this chapter, no waste disposal facility for
34 any radioactive waste shall be established, operated or licensed within this state, except as follows:

35 “[1] (a) Wastes generated before June 1, 1981, through industrial or manufacturing processes
36 which contain only naturally occurring radioactive isotopes which are disposed of at sites approved
37 by the Energy Facility Siting Council in accordance with ORS 469.375.

38 “[2] (b) Medical, industrial and research laboratory wastes contained in small, sealed, discrete
39 containers in which the radioactive material is dissolved or dispersed in an organic solvent or bi-
40 ological fluid for the purpose of liquid scintillation counting and experimental animal carcasses shall
41 be disposed of or treated at a hazardous waste disposal facility licensed by the Department of En-
42 vironmental Quality and in a manner consistent with rules adopted by the Department of Environ-
43 mental Quality after consultation with and approval by the Oregon Health Authority.

44 “[3] (c) Maintenance of radioactive coal ash at the site of a thermal power plant for which a
45 site certificate has been issued pursuant to this chapter shall not constitute operation of a waste

1 disposal facility so long as such coal ash is maintained in accordance with the terms of the site
2 certificate as amended from time to time as necessary to protect the public health and safety.

3 **“(2) The Energy Facility Siting Council shall, in accordance with the applicable provisions
4 of ORS chapter 183, adopt standards and rules as necessary to prevent the disposal of ra-
5 dioactive waste in Oregon.**

6 **“SECTION 7. Section 8 of this 2020 Act is added to and made a part of ORS 469.300 to
7 469.619.**

8 **“SECTION 8. (1) The Director of the State Department of Energy or the Energy Facility
9 Siting Council may obtain from persons all necessary records or information to carry out
10 and enforce ORS 469.525, 469.550 (3) and 469.607. In obtaining information under this sub-
11 section, the director or the council, with the written consent of the Governor, may subpoena
12 witnesses, material and relevant books, papers, accounts, records and memoranda, may ad-
13 minister oaths and may cause the depositions of persons residing within or without Oregon
14 to be taken in the manner prescribed for depositions in civil actions in circuit courts.**

15 **“(2) The director or the council may require a person to take corrective actions as nec-
16 essary to correct a past violation of ORS 469.525, 469.550 (3) or 469.607 or to ensure future
17 compliance with ORS 469.525, 469.550 (3) or 469.607 or rules adopted for the purposes of car-
18 rying out ORS 469.525, 469.550 (3) or 469.607. The director or the council shall coordinate with
19 the Department of Environmental Quality prior to ordering any corrective actions under this
20 subsection.**

21 **“(3)(a) At any reasonable time, an employee of or a duly authorized and identified rep-
22 resentative of the State Department of Energy may enter upon, inspect and obtain samples
23 from any public or private property, premises or place for the purpose of determining com-
24 pliance with ORS 469.525, 469.550 (3) or 469.607 or rules adopted for the purposes of carrying
25 out ORS 469.525, 469.550 (3) or 469.607.**

26 **“(b) If a person refuses to comply with this subsection, the department or a duly au-
27 thorized and identified representative of the department may obtain a warrant or subpoena
28 to allow the entry, inspection or sampling authorized by this subsection.**

29 **“SECTION 9. Section 10 of this 2020 Act is added to and made a part of ORS chapter 215.**

30 **“SECTION 10. (1) As used in this section:**

31 **“(a) ‘Accessory dwelling unit’ has the meaning given that term in ORS 215.501.**

32 **“(b) ‘Area zoned for rural residential use’ has the meaning given that term in ORS
33 215.501.**

34 **“(c) ‘Single-family dwelling’ has the meaning given that term in ORS 215.501.**

35 **“(d) ‘Vacation occupancy’ has the meaning given that term in ORS 90.100.**

36 **“(2) Consistent with a county’s comprehensive plan, a county may allow an owner of a
37 lot or parcel within an area zoned for rural residential use to construct one accessory
38 dwelling unit on the lot or parcel, provided:**

39 **“(a) The lot or parcel is not located within an area designated as an urban reserve as
40 defined in ORS 195.137;**

41 **“(b) The lot or parcel is at least two acres in size;**

42 **“(c) One single-family dwelling is sited on the lot or parcel;**

43 **“(d) The existing single-family dwelling property on the lot or parcel is not subject to an
44 order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;**

45 **“(e) The accessory dwelling unit will comply with all applicable laws and regulations re-**

1 lating to sanitation and wastewater disposal and treatment;

2 “(f) The accessory dwelling unit will not include more than 900 square feet of useable
3 floor area;

4 “(g) The accessory dwelling unit will be located no farther than 100 feet from the existing
5 single-family dwelling;

6 “(h) If the water supply source for the accessory dwelling unit or associated lands or
7 gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or
8 parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b)
9 or (d) have been restricted by the Water Resources Commission;

10 “(i) No portion of the lot or parcel is within a designated area of critical state concern;

11 “(j) The lot or parcel is within a rural fire protection district organized under ORS
12 chapter 478;

13 “(k) The lot or parcel and accessory dwelling unit comply with rules of the State Board
14 of Forestry under ORS 477.015 to 477.061; and

15 “(L) Statewide wildfire risk maps have been approved and the accessory dwelling unit
16 complies with the Oregon residential specialty code relating to wildfire hazard mitigation for
17 the mapped area.

18 “(3)(a) A county may not permit both the existing single-family dwelling and the acces-
19 sory dwelling unit allowed under this section to be used simultaneously for vacation occu-
20 pancy:

21 “(A) During more than one week per year; and

22 “(B) Unless the county has been notified in advance.

23 “(b) If a county allows the use of an accessory dwelling unit for vacation occupancy, the
24 county may impose conditions including:

25 “(A) Requiring the owner to use the existing single-family dwelling as a primary resi-
26 dence.

27 “(B) Requiring neighbor notification.

28 “(C) Requiring a local point of contact for vacation occupants and neighbors.

29 “(D) Registration with the county.

30 “(4) A county that allows construction of an accessory dwelling unit under this section
31 may not approve:

32 “(a) A subdivision, partition or other division of the lot or parcel so that the existing
33 single-family dwelling is situated on a different lot or parcel than the accessory dwelling unit.

34 “(b) Construction of an additional accessory dwelling unit on the same lot or parcel.

35 “(5) A county may require that an accessory dwelling unit constructed under this section
36 be served by the same water supply source or water supply system as the existing single-
37 family dwelling. If the accessory dwelling unit is served by a well, the construction of the
38 accessory dwelling unit shall maintain all setbacks from the well required by the Water Re-
39 sources Commission or Water Resources Department.

40 “(6) An existing single-family dwelling and an accessory dwelling unit allowed under this
41 section are considered a single unit for the purposes of calculating exemptions under ORS
42 537.545 (1).

43 “(7) Nothing in this section requires a county to allow any accessory dwelling units in
44 areas zoned for rural residential use or prohibits a county from imposing any additional re-
45 strictions on accessory dwelling units in areas zoned for rural residential use, including re-

1 **strictions on the construction of garages and outbuildings that support an accessory dwelling**
2 **unit.”.**

3 In line 5, delete “4” and insert “11”.

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