

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4014**

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

3 On page 3, after line 4, insert:

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

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

11 **“(2) A description of actions that the State Department of Energy**
12 **has taken or plans to take to prevent reoccurrence of disposal of ra-**
13 **dioactive waste in Oregon, including a discussion of related activities**
14 **by the department and the plans of the department for an enhanced**
15 **enforcement program;**

16 **“(3) A description of the required funding amounts and potential**
17 **funding options to support an enhanced enforcement program to pre-**
18 **vent the disposal of radioactive waste in Oregon; and**

19 **“(4) Recommendations for any potential legislative changes neces-**
20 **sary to:**

21 **“(a) Prevent occurrences of the disposal of radioactive waste in**

1 **Oregon in violation of law;**

2 **“(b) Address the enforcement provisions set forth in section 8 of**
3 **this 2020 Act and any other enforcement authority available to, or that**
4 **should be made available to, the State Department of Energy or the**
5 **Energy Facility Siting Council to address the disposal of radioactive**
6 **waste in Oregon; and**

7 **“(c) Modify or develop requirements for the notification of local**
8 **governments and federally recognized Indian tribes that may be af-**
9 **ected by occurrences of the disposal of radioactive waste in Oregon**
10 **in violation of law.**

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

12 **“469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and**
13 **469.992, unless the context requires otherwise:**

14 **“(1) ‘Applicant’ means any person who makes application for a site cer-**
15 **tificate in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619,**
16 **469.930 and 469.992.**

17 **“(2) ‘Application’ means a request for approval of a particular site or sites**
18 **for the construction and operation of an energy facility or the construction**
19 **and operation of an additional energy facility upon a site for which a cer-**
20 **tificate has already been issued, filed in accordance with the procedures es-**
21 **tablished pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and**
22 **469.992.**

23 **“(3) ‘Associated transmission lines’ means new transmission lines con-**
24 **structed to connect an energy facility to the first point of junction of such**
25 **transmission line or lines with either a power distribution system or an**
26 **interconnected primary transmission system or both or to the Northwest**
27 **Power Grid.**

28 **“(4) ‘Average electric generating capacity’ means the peak generating ca-**
29 **capacity of the facility divided by one of the following factors:**

30 **“(a) For wind facilities, 3.00;**

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

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

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

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

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

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

13 “(9) ‘Director’ means the Director of the State Department of Energy ap-
14 pointed under ORS 469.040.

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

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

21 “(A) An electric power generating plant with a nominal electric generat-
22 ing capacity of 25 megawatts or more, including but not limited to:

23 “(i) Thermal power;

24 “(ii) Combustion turbine power plant; or

25 “(iii) Solar thermal power plant.

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

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

30 “(i) Lines proposed for construction entirely within 500 feet of an existing

1 corridor occupied by high voltage transmission lines with a capacity of
2 230,000 volts or more;

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

5 “(iii) Associated transmission lines.

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

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

8 “(ii) 1,280 acres located on land that is predominantly cultivated or that,
9 if not cultivated, is predominantly composed of soils that are in capability
10 classes I to IV, as specified by the National Cooperative Soil Survey operated
11 by the Natural Resources Conservation Service of the United States De-
12 partment of Agriculture; or

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

14 “(E) A pipeline that is:

15 “(i) At least six inches in diameter, and five or more miles in length, used
16 for the transportation of crude petroleum or a derivative thereof, liquefied
17 natural gas, a geothermal energy form in a liquid state or other fossil energy
18 resource, excluding a pipeline conveying natural or synthetic gas;

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

21 “(I) A pipeline proposed for construction of which less than five miles of
22 the pipeline is more than 50 feet from a public road, as defined in ORS
23 368.001; or

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

29 “(iii) At least 16 inches in diameter and five or more miles in length used
30 to carry a geothermal energy form in a gaseous state but excluding a pipeline

1 used to distribute heat within a geothermal heating district established un-
2 der ORS chapter 523.

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

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

11 “(H) A storage facility for liquefied natural gas constructed after Sep-
12 tember 29, 1991, that is designed to hold at least 70,000 gallons.

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

18 “(i) The underground storage reservoir;

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

21 “(iii) An underground gas storage reservoir into which gas is injected
22 solely for testing or reservoir maintenance purposes or to facilitate the sec-
23 ondary recovery of oil or other hydrocarbons.

24 “(J) An electric power generating plant with an average electric gener-
25 ating capacity of 50 megawatts or more if the power is produced from
26 geothermal or wind energy at a single energy facility or within a single en-
27 ergy generation area.

28 “(b) ‘Energy facility’ does not include a hydroelectric facility or an energy
29 facility under paragraph (a)(A)(iii) or (D) of this subsection that is estab-
30 lished on the site of a decommissioned United States Air Force facility that

1 has adequate transmission capacity to serve the energy facility.

2 “(12) ‘Energy generation area’ means an area within which the effects of
3 two or more small generating plants may accumulate so the small generating
4 plants have effects of a magnitude similar to a single generating plant of 35
5 megawatts average electric generating capacity or more. An ‘energy gener-
6 ation area’ for facilities using a geothermal resource and covered by a unit
7 agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be
8 defined in that unit agreement. If no such unit agreement exists, an energy
9 generation area for facilities using a geothermal resource shall be the area
10 that is within two miles, measured from the electrical generating equipment
11 of the facility, of an existing or proposed geothermal electric power gener-
12 ating plant, not including the site of any other such plant not owned or
13 controlled by the same person.

14 “(13) ‘Extraordinary nuclear occurrence’ means any event causing a dis-
15 charge or dispersal of source material, special nuclear material or by-product
16 material as those terms are defined in ORS 453.605, from its intended place
17 of confinement off-site, or causing radiation levels off-site, that the United
18 States Nuclear Regulatory Commission or its successor determines to be
19 substantial and to have resulted in or to be likely to result in substantial
20 damages to persons or property off-site.

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

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

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

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

30 “(18) ‘Nuclear incident’ means any occurrence, including an extraordinary

1 nuclear occurrence, that results in bodily injury, sickness, disease, death,
2 loss of or damage to property or loss of use of property due to the radioac-
3 tive, toxic, explosive or other hazardous properties of source material, special
4 nuclear material or by-product material as those terms are defined in ORS
5 453.605.

6 “(19) ‘Nuclear installation’ means any power reactor, nuclear fuel fabri-
7 cation plant, nuclear fuel reprocessing plant, waste disposal facility for ra-
8 dioactive waste, and any facility handling that quantity of fissionable
9 materials sufficient to form a critical mass. ‘Nuclear installation’ does not
10 include any such facilities that are part of a thermal power plant.

11 “(20) ‘Nuclear power plant’ means an electrical or any other facility using
12 nuclear energy with a nominal electric generating capacity of 25 megawatts
13 or more, for generation and distribution of electricity, and associated trans-
14 mission lines.

15 “(21) ‘Person’ means an individual, partnership, joint venture, private or
16 public corporation, association, firm, public service company, political sub-
17 division, municipal corporation, government agency, people’s utility district,
18 or any other entity, public or private, however organized.

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

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

30 “(b) [*Notwithstanding paragraph (a) of this subsection,*] ‘Radioactive

1 waste' does not include:

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

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

7 “(24) ‘Related or supporting facilities’ means any structure, proposed by
8 the applicant, to be constructed or substantially modified in connection with
9 the construction of an energy facility, including associated transmission
10 lines, reservoirs, storage facilities, intake structures, road and rail access,
11 pipelines, barge basins, office or public buildings, and commercial and in-
12 dustrial structures. ‘Related or supporting facilities’ does not include
13 geothermal or underground gas storage reservoirs, production, injection or
14 monitoring wells or wellhead equipment or pumps.

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

17 “(26) ‘Site certificate’ means the binding agreement between the State of
18 Oregon and the applicant, authorizing the applicant to construct and operate
19 a facility on an approved site, incorporating all conditions imposed by the
20 council on the applicant.

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

29 “(28) ‘Transportation’ means the transport within the borders of the State
30 of Oregon of radioactive material destined for or derived from any location.

1 “(29) ‘Underground gas storage reservoir’ means any subsurface sand,
2 strata, formation, aquifer, cavern or void, whether natural or artificially
3 created, suitable for the injection, storage and withdrawal of natural gas or
4 other gaseous substances. ‘Underground gas storage reservoir’ includes a
5 pool as defined in ORS 520.005.

6 “(30) ‘Utility’ includes:

7 “(a) A person, a regulated electrical company, a people’s utility district,
8 a joint operating agency, an electric cooperative, municipality or any com-
9 bination thereof, engaged in or authorized to engage in the business of gen-
10 erating, transmitting or distributing electric energy;

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

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

15 “(31) ‘Waste disposal facility’ means a geographical site in or upon which
16 radioactive waste is held or placed but does not include a site at which ra-
17 dioactive waste used or generated pursuant to a license granted under ORS
18 453.635 is stored temporarily, a site of a thermal power plant used for the
19 temporary storage of radioactive waste from that plant for which a site cer-
20 tificate has been issued pursuant to this chapter or a site used for temporary
21 storage of radioactive waste from a reactor operated by a college, university
22 or graduate center for research purposes and not connected to the Northwest
23 Power Grid. As used in this subsection, ‘temporary storage’ includes storage
24 of radioactive waste on the site of a nuclear-fueled thermal power plant for
25 which a site certificate has been issued until a permanent storage site is
26 available by the federal government.

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

28 “469.525. (1) Notwithstanding any other provision of this chapter, no
29 waste disposal facility for any radioactive waste shall be established, oper-
30 ated or licensed within this state, except as follows:

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

5 “[(2)] (b) Medical, industrial and research laboratory wastes contained in
6 small, sealed, discrete containers in which the radioactive material is dis-
7 solved or dispersed in an organic solvent or biological fluid for the purpose
8 of liquid scintillation counting and experimental animal carcasses shall be
9 disposed of or treated at a hazardous waste disposal facility licensed by the
10 Department of Environmental Quality and in a manner consistent with rules
11 adopted by the Department of Environmental Quality after consultation with
12 and approval by the Oregon Health Authority.

13 “[(3)] (c) Maintenance of radioactive coal ash at the site of a thermal
14 power plant for which a site certificate has been issued pursuant to this
15 chapter shall not constitute operation of a waste disposal facility so long as
16 such coal ash is maintained in accordance with the terms of the site certifi-
17 cate as amended from time to time as necessary to protect the public health
18 and safety.

19 “(2) **The Energy Facility Siting Council shall, in accordance with**
20 **the applicable provisions of ORS chapter 183, adopt standards and rules**
21 **as necessary to prevent the disposal of radioactive waste in Oregon.**

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

24 “**SECTION 8. (1) The Director of the State Department of Energy**
25 **or the Energy Facility Siting Council may obtain from persons all**
26 **necessary records or information to carry out and enforce ORS 469.525,**
27 **469.550 (3) and 469.607. In obtaining information under this subsection,**
28 **the director or the council, with the written consent of the Governor,**
29 **may subpoena witnesses, material and relevant books, papers, ac-**
30 **counts, records and memoranda, may administer oaths and may cause**

1 the depositions of persons residing within or without Oregon to be
2 taken in the manner prescribed for depositions in civil actions in cir-
3 cuit courts.

4 “(2) The director or the council may require a person to take cor-
5 rective actions as necessary to correct a past violation of ORS 469.525,
6 469.550 (3) or 469.607 or to ensure future compliance with ORS 469.525,
7 469.550 (3) or 469.607 or rules adopted for the purposes of carrying out
8 ORS 469.525, 469.550 (3) or 469.607. The director or the council shall
9 coordinate with the Department of Environmental Quality prior to
10 ordering any corrective actions under this subsection.

11 “(3)(a) At any reasonable time, an employee of or a duly authorized
12 and identified representative of the State Department of Energy may
13 enter upon, inspect and obtain samples from any public or private
14 property, premises or place for the purpose of determining compliance
15 with ORS 469.525, 469.550 (3) or 469.607 or rules adopted for the purposes
16 of carrying out ORS 469.525, 469.550 (3) or 469.607.

17 “(b) If a person refuses to comply with this subsection, the depart-
18 ment or a duly authorized and identified representative of the depart-
19 ment may obtain a warrant or subpoena to allow the entry, inspection
20 or sampling authorized by this subsection.

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

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

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

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

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

30 “(d) ‘Vacation occupancy’ has the meaning given that term in ORS

1 **90.100.**

2 **“(2) Consistent with a county’s comprehensive plan, a county may**
3 **allow an owner of a lot or parcel within an area zoned for rural resi-**
4 **dential use to construct one accessory dwelling unit on the lot or**
5 **parcel, provided:**

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

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

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

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

13 **“(e) The accessory dwelling unit will comply with all applicable laws**
14 **and regulations relating to sanitation and wastewater disposal and**
15 **treatment;**

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

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

20 **“(h) If the water supply source for the accessory dwelling unit or**
21 **associated lands or gardens will be a well using water under ORS**
22 **537.545 (1)(b) or (d), no portion of the lot or parcel is within an area**
23 **in which new or existing ground water uses under ORS 537.545 (1)(b)**
24 **or (d) have been restricted by the Water Resources Commission;**

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

27 **“(j) The lot or parcel is within a rural fire protection district or-**
28 **ganized under ORS chapter 478;**

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

1 “(L) Statewide wildfire risk maps have been approved and the ac-
2 cessory dwelling unit complies with the Oregon residential specialty
3 code relating to wildfire hazard mitigation for the mapped area.

4 “(3)(a) A county may not permit both the existing single-family
5 dwelling and the accessory dwelling unit allowed under this section to
6 be used simultaneously for vacation occupancy:

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

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

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

11 “(A) Requiring the owner to use the existing single-family dwelling
12 as a primary residence.

13 “(B) Requiring neighbor notification.

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

16 “(D) Registration with the county.

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

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

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

24 “(5) A county may require that an accessory dwelling unit con-
25 structed under this section be served by the same water supply source
26 or water supply system as the existing single-family dwelling. If the
27 accessory dwelling unit is served by a well, the construction of the
28 accessory dwelling unit shall maintain all setbacks from the well re-
29 quired by the Water Resources Commission or Water Resources De-
30 partment.

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

4 **“(7) Nothing in this section requires a county to allow any acces-**
5 **sory dwelling units in areas zoned for rural residential use or prohibits**
6 **a county from imposing any additional restrictions on accessory**
7 **dwelling units in areas zoned for rural residential use, including re-**
8 **strictions on the construction of garages and outbuildings that support**
9 **an accessory dwelling unit.”.**

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

11
