

D R A F T

SUMMARY

Requires owners or operators of bulk oils and liquid fuels terminals to conduct and submit to Department of Environmental Quality seismic vulnerability assessments. Requires department to review and approve seismic vulnerability assessments. Requires owner or operator of existing bulk oils or liquid fuels terminal to submit seismic vulnerability assessment by June 1, 2024. Requires department to submit report on seismic vulnerability assessments to interim committees of Legislative Assembly by November 1, 2024.

Requires owner or operator of bulk oils or liquid fuels terminal to properly implement seismic risk implementation plan approved by department. Directs Environmental Quality Commission to, by rule, adopt seismic risk mitigation program for bulk oils or liquid fuels terminals.

Requires State Department of Energy to develop energy security plan and report plan to interim committees of Legislative Assembly by January 1, 2024.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to energy infrastructure resilience; and prescribing an effective
3 date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 4 of this 2022 Act are added to and made**
6 **a part of ORS chapter 468B.**

7 **SECTION 2. (1) As used in sections 2 to 4 of this 2022 Act:**

8 (a) **“Bulk oils or liquid fuels terminal” means an industrial facility**
9 **located in this state that is primarily engaged in the transport or bulk**
10 **storage of oils or liquid fuel products and is characterized by having:**

11 **(A) Marine, pipeline, railroad or vehicular transport access;**

1 **(B) Transloading facilities for transferring shipments of oils or liq-**
2 **uid fuel products between transportation modes; and**

3 **(C) One or more bulk storage tanks with a combined capacity of**
4 **two million gallons of liquid fuel products or more.**

5 **(2) An owner or operator of a bulk oils or liquid fuels terminal shall**
6 **conduct and submit to the Department of Environmental Quality a**
7 **comprehensive seismic vulnerability assessment for the entire bulk**
8 **oils or liquid fuels terminal. A seismic vulnerability assessment sub-**
9 **mitted to the department under this section must:**

10 **(a) Include a seismic risk assessment, or a series of seismic risk**
11 **assessments, conducted by qualified professionals using the most re-**
12 **cent industry standards for assessing seismic risk to:**

13 **(A) Buildings, structures and ancillary components;**

14 **(B) Pipelines, pipeline configurations, pipeline pathways and pipe-**
15 **line components, including connections, valves and racks;**

16 **(C) Bulk storage tanks;**

17 **(D) Spill containment structures;**

18 **(E) Transloading facilities, including wharves, piers, moorings and**
19 **retaining structures;**

20 **(F) Loading racks;**

21 **(G) Control equipment; and**

22 **(H) Any other structures and related or supporting facilities that**
23 **constitute the bulk oils or liquid fuels terminal;**

24 **(b) Include a determination of the bulk oils or liquid fuels**
25 **terminal's vulnerability to liquefaction triggering and liquefaction**
26 **consequences, such as lateral spreading and coseismic settlement, us-**
27 **ing standards in accordance with guidance contained in "National**
28 **Academies of Sciences, Engineering and Medicine, State of the Art and**
29 **Practice in the Assessment of Earthquake-Induced Soil Liquefaction**
30 **and Its Consequences, 2016";**

31 **(c) Include a determination of whether the existing structures and**

1 related or supporting facilities that constitute the bulk oils or liquid
2 fuels terminal have been designed, improved or retrofitted to reduce
3 the potential for significant structural damage to property or harm to
4 people or the environment in or adjacent to the bulk oils or liquid fu-
5 els terminal in the event of a magnitude 9.0 Cascadia Subduction Zone
6 earthquake, including impacts from the expected duration of shaking;
7 and

8 (d) Include a determination of the structures and related or sup-
9 porting facilities that are most vulnerable to seismic risks and the
10 potential of those structures and facilities to maintain safe operating
11 conditions, or safe shut down procedures, to protect public health, life
12 safety and environmental safety against releases of oils or liquid fuel
13 products, including information about operational procedures during
14 disasters.

15 (3) The department shall review a comprehensive seismic vulner-
16 ability assessment submitted under this section and approve the as-
17 sessment if it meets the requirements of subsection (2) of this section
18 and any other requirements for seismic vulnerability assessments that
19 the Environmental Quality Commission adopts by rule. Rules adopted
20 by the commission may require the owner or operator of a bulk oils
21 or liquid fuels terminal to submit seismic vulnerability assessment
22 updates to the department:

23 (a) Upon the retrofit or reconstruction of all or a part of a bulk oils
24 or liquid fuels terminal; or

25 (b) Based on new scientific or technical findings, but no more fre-
26 quently than once every three years.

27 (4) Notwithstanding subsection (2)(b) of this section, the commis-
28 sion may by rule adopt revised or additional standards for determining
29 a bulk oils or liquid fuels terminal's vulnerability to liquefaction trig-
30 gering and liquefaction consequences if the commission determines
31 that guidance contained in "National Academies of Sciences, Engi-

1 **neering and Medicine, State of the Art and Practice in the Assessment**
2 **of Earthquake-Induced Soil Liquefaction and Its Consequences, 2016”**
3 **no longer represents the most recent industry standards for deter-**
4 **mining vulnerability to soil liquefaction triggering and liquefaction**
5 **consequences.**

6 **SECTION 3. (1) The owner or operator of a bulk oils or liquid fuels**
7 **terminal shall properly implement a seismic risk mitigation imple-**
8 **mentation plan that has been approved by the Department of Envi-**
9 **ronmental Quality. A seismic risk mitigation implementation plan**
10 **must, at a minimum, identify actions, with timelines, to protect public**
11 **health, life safety and environmental safety within the facility, in**
12 **areas adjacent to the facility and in other areas that may be affected**
13 **as a result of damages to the facility.**

14 **(2) The Environmental Quality Commission shall adopt by rule a**
15 **seismic risk mitigation implementation program for bulk oils or liquid**
16 **fuels terminals. To the extent feasible and appropriate, the program**
17 **adopted under this section shall be consistent and coordinated with the**
18 **program established under ORS 468B.345 to 468B.415. Rules adopted**
19 **under this section shall include, but not be limited to:**

20 **(a) Rules for the required content of seismic risk mitigation imple-**
21 **mentation plans and rules for approval by the department of seismic**
22 **risk mitigation implementation plans.**

23 **(b) Provisions for training, response exercises, external peer re-**
24 **views, inspections and tests in order to verify the ability of the facility**
25 **to sustain safe conditions and respond to uncontrolled releases of**
26 **hazardous materials from the bulk oils or liquid fuels terminal due to**
27 **an earthquake.**

28 **(c) Requirements to minimize harmful impacts to local communi-**
29 **ties and natural resources due to uncontrolled releases of hazardous**
30 **materials from the bulk oils or liquid fuels terminal due to an earth-**
31 **quake and its associated direct and indirect impacts, including fires**

1 and flooding.

2 (d) Requirements for the inspection of bulk storage tanks at bulk
3 oils or liquid fuels terminals.

4 (e) Design and construction standards for new bulk storage tanks
5 constructed at bulk oils or liquid fuels terminals.

6 (f) Design and construction standards for seismic mitigation of ex-
7 isting bulk storage tanks, piping and related structures constructed
8 at bulk oils or liquid fuels terminals.

9 (g) Provisions requiring the proper installation of seismically certi-
10 fied generators to power critical operations, or at a minimum, the in-
11 stallation of electrical hookups for emergency generators.

12 (h) Provisions for the review of seismic vulnerability assessments
13 required under section 2 of this 2022 Act and seismic risk mitigation
14 implementation plans required under subsection (1) of this section by
15 other state agencies with expertise in earthquake hazards, risk miti-
16 gation and emergency preparedness or management.

17 (i) Provisions requiring the owner or operator of a bulk oils or liq-
18 uid fuels terminal to submit seismic vulnerability mitigation imple-
19 mentation plan updates to the department:

20 (A) Upon the retrofit or reconstruction of all or a part of a bulk
21 oils or liquid fuels terminal; or

22 (B) Based on new scientific or technical findings, but no more fre-
23 quently than once every three years.

24 (3) The department shall establish a fee to defray any portion of the
25 costs of operating the seismic risk mitigation program not appropri-
26 ated to the department by the Legislative Assembly for that purpose.
27 The owner or operator of a bulk oils or liquid fuels terminal shall
28 submit the fee to the department at the time a seismic risk mitigation
29 implementation plan is submitted to the department for approval.

30 **SECTION 4.** Information containing trade secrets submitted to the
31 Department of Environmental Quality by the owner or operator of a

1 **bulk oils or liquid fuels terminal under section 2 or 3 of this 2022 Act**
2 **is confidential and not subject to public disclosure under ORS 192.311**
3 **to 192.478, except that the department may disclose summarized in-**
4 **formation or aggregated data if the information or data does not di-**
5 **rectly or indirectly identify the trade secrets.**

6 **SECTION 5. A person who owns or operates an existing bulk oils**
7 **or liquid fuels terminal on the effective date of this 2022 Act shall**
8 **submit the seismic vulnerability assessment required by section 2 of**
9 **this 2022 Act no later than June 1, 2024.**

10 **SECTION 6. (1) Section 3 of this 2022 Act becomes operative June**
11 **1, 2024.**

12 **(2) The Environmental Quality Commission and the Department of**
13 **Environmental Quality may adopt rules and take any action before the**
14 **operative date specified in subsection (1) of this section that is neces-**
15 **sary to enable the commission and the department, on and after the**
16 **operative date specified in subsection (1) of this section, to exercise**
17 **all of the duties, powers and functions conferred on the commission**
18 **and the department by section 3 of this 2022 Act.**

19 **SECTION 7. (1) The State Department of Energy shall develop an**
20 **energy security plan. The energy security plan must meet the re-**
21 **quirements for a state energy security plan described in 42 U.S.C. 6326.**

22 **(2) To the extent consistent with the requirements of 42 U.S.C. 6326,**
23 **the energy security plan must align with strategies in the Oregon Fuel**
24 **Action Plan developed by the department and must include, but need**
25 **not be limited to:**

26 **(a) An evaluation of the state's ability to recover quickly from**
27 **physical threats, including a magnitude 9.0 Cascadia Subduction Zone**
28 **earthquake, and cybersecurity threats.**

29 **(b) Recommendations for increasing the geographic diversity of fuel**
30 **storage capacity throughout this state.**

31 **(c) An assessment of the seismic resilience of existing fuel storage**

1 facilities throughout this state.

2 (d) Consistent with state programs to reduce greenhouse gas emis-
3 sions associated with transportation fuels, an assessment of the use
4 of renewable fuels and other innovative alternatives to improve disas-
5 ter resilience.

6 (e) An evaluation of strategies for mitigating barriers to imple-
7 menting a geographically distributed fuel network throughout this
8 state, including:

9 (A) Adoption of Oregon Fuel Action Plan criteria for predesignated
10 fuel points of distribution for receiving emergency fuel supplies at se-
11 lected fuel diversification sites.

12 (B) Strategies for expanding storage capacities at public facilities
13 with existing capability to store and dispense unleaded, diesel or avi-
14 ation fuel, including an evaluation of whether fuel storage sites con-
15 tain properly installed seismically certified generators and adequate
16 on-site fuel storage capacity to power backup generators so that in-
17 dependent operations can be maintained for three or more weeks after
18 a Cascadia Subduction Zone earthquake.

19 (C) Partnerships with private-sector companies to build fuel storage
20 capacity at identified, prioritized locations, especially private-sector
21 companies that provide an emergency or essential service mission to
22 save or sustain life or support the restoration of critical lifelines and
23 services in support of the state's overall response and recovery effort.

24 (D) Strategies for increasing geographically distributed fuel storage
25 that prioritize areas of this state that are expected to be most vul-
26 nerable to a Cascadia Subduction Zone earthquake, including local or
27 regional islanding effects that would isolate a region from the rest of
28 this state as a result of road or bridge damage.

29 (E) An evaluation of potential impacts to communities adjacent to
30 potential locations for emergency fuel storage or expanded fuel stor-
31 age, including consultation and outreach with those communities.

1 **(3) In developing and implementing the energy security plan, the**
2 **department shall consult with:**

3 **(a) Relevant state government agencies, including the Public Utility**
4 **Commission, the Department of Environmental Quality, the Depart-**
5 **ment of Transportation, the Oregon Department of Aviation, the Of-**
6 **ice of Emergency Management, the State Department of Geology and**
7 **Mineral Industries and the Environmental Justice Task Force;**

8 **(b) Local governments;**

9 **(c) Tribal governments;**

10 **(d) Consumer-owned and investor-owned electric utilities;**

11 **(e) Natural gas utilities;**

12 **(f) Fuel suppliers;**

13 **(g) Qualified technical experts in disaster resilience; and**

14 **(h) Any other person with relevant knowledge or experience.**

15 **(4) No later than September 15 of each even-numbered year, the**
16 **department shall provide to the interim committees of the Legislative**
17 **Assembly related to energy a report in the manner provided under**
18 **ORS 192.245 describing the implementation or revision of the energy**
19 **security plan developed under this section.**

20 **SECTION 8.** Section 7 of this 2022 Act is amended to read:

21 Sec. 7. (1) The State Department of Energy shall develop an energy secu-
22 rity plan. The energy security plan must meet the requirements for a state
23 energy security plan described in 42 U.S.C. 6326.

24 (2) To the extent consistent with the requirements of 42 U.S.C. 6326, the
25 energy security plan must align with strategies in the Oregon Fuel Action
26 Plan developed by the department and must include, but need not be limited
27 to:

28 (a) An evaluation of the state's ability to recover quickly from physical
29 threats, including a magnitude 9.0 Cascadia Subduction Zone earthquake,
30 and cybersecurity threats.

31 (b) Recommendations for increasing the geographic diversity of fuel stor-

1 age capacity throughout this state.

2 (c) An assessment of the seismic resilience of existing fuel storage facili-
3 ties throughout this state.

4 (d) Consistent with state programs to reduce greenhouse gas emissions
5 associated with transportation fuels, an assessment of the use of renewable
6 fuels and other innovative alternatives to improve disaster resilience.

7 (e) An evaluation of strategies for mitigating barriers to implementing a
8 geographically distributed fuel network throughout this state, including:

9 (A) Adoption of Oregon Fuel Action Plan criteria for predesignated fuel
10 points of distribution for receiving emergency fuel supplies at selected fuel
11 diversification sites.

12 (B) Strategies for expanding storage capacities at public facilities with
13 existing capability to store and dispense unleaded, diesel or aviation fuel,
14 including an evaluation of whether fuel storage sites contain properly in-
15 stalled seismically certified generators and adequate on-site fuel storage ca-
16 pacity to power backup generators so that independent operations can be
17 maintained for three or more weeks after a Cascadia Subduction Zone
18 earthquake.

19 (C) Partnerships with private-sector companies to build fuel storage ca-
20 pacity at identified, prioritized locations, especially private-sector companies
21 that provide an emergency or essential service mission to save or sustain life
22 or support the restoration of critical lifelines and services in support of the
23 state's overall response and recovery effort.

24 (D) Strategies for increasing geographically distributed fuel storage that
25 prioritize areas of this state that are expected to be most vulnerable to a
26 Cascadia Subduction Zone earthquake, including local or regional islanding
27 effects that would isolate a region from the rest of this state as a result of
28 road or bridge damage.

29 (E) An evaluation of potential impacts to communities adjacent to po-
30 tential locations for emergency fuel storage or expanded fuel storage, in-
31 cluding consultation and outreach with those communities.

1 (3) In developing and implementing the energy security plan, the depart-
2 ment shall consult with:

3 (a) Relevant state government agencies, including the Public Utility
4 Commission, the Oregon Department of Environmental Quality, the Depart-
5 ment of Transportation, the Department of Aviation, the [Office] **Oregon**
6 **Department** of Emergency Management, the State Department of Geology
7 and Mineral Industries and the Environmental Justice Task Force;

8 (b) Local governments;

9 (c) Tribal governments;

10 (d) Consumer-owned and investor-owned electric utilities;

11 (e) Natural gas utilities;

12 (f) Fuel suppliers;

13 (g) Qualified technical experts in disaster resilience; and

14 (h) Any other person with relevant knowledge or experience.

15 (4) No later than September 15 of each even-numbered year, the depart-
16 ment shall provide to the interim committees of the Legislative Assembly
17 related to energy a report in the manner provided under ORS 192.245 de-
18 scribing the implementation or revision of the energy security plan developed
19 under this section.

20 **SECTION 9. The amendments to section 7 of this 2022 Act by section**
21 **8 of this 2022 Act become operative on July 1, 2022.**

22 **SECTION 10. (1) The Energy Security Plan Fund is established in**
23 **the State Treasury, separate and distinct from the General Fund.**
24 **Moneys in the fund shall consist of:**

25 (a) **Federal financial assistance made available to the state for the**
26 **development, implementation, review and revision of a state energy**
27 **security plan described in 42 U.S.C. 6326; and**

28 (b) **Moneys transferred or appropriated to the fund by the Legisla-**
29 **tive Assembly.**

30 (2) **All moneys in the fund are continuously appropriated to the**
31 **State Department of Energy for the development, implementation,**

1 review and revision of the energy security plan developed under sec-
2 tion 7 of this 2022 Act.

3 **SECTION 11.** No later than November 1, 2024, the Department of
4 Environmental Quality shall provide to the interim committees of the
5 Legislative Assembly related to energy, in the manner provided under
6 ORS 192.245, a report summarizing information received by the de-
7 partment under section 2 of this 2022 Act and including recommen-
8 dations for legislation.

9 **SECTION 12.** The State Department of Energy shall submit the
10 energy security plan developed under section 7 of this 2022 Act in a
11 report to the interim committees of the Legislative Assembly related
12 to energy, in the manner provided under ORS 192.245, no later than
13 January 1, 2024.

14 **SECTION 13.** Sections 11 and 12 of this 2022 Act are repealed on
15 January 2, 2025.

16 **SECTION 14.** This 2022 Act takes effect on the 91st day after the
17 date on which the 2022 regular session of the Eighty-first Legislative
18 Assembly adjourns sine die.

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