

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, 2021, the State Depart-**  
5 **ment of Energy shall provide a report to the Legislative Assembly on**  
6 **the disposal of radioactive waste in the Chemical Waste Management**  
7 **of the Northwest facility in Arlington, Oregon. The report shall in-**  
8 **clude:**

9 **“(1) A description of the events and circumstances surrounding the**  
10 **disposal of radioactive waste by Oilfield Waste Logistics, Inc. in the**  
11 **Chemical Waste Management of the Northwest facility, including a**  
12 **discussion of the key causal factors in the occurrence of the disposal**  
13 **events;**

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

19 **“(3) A description of the required funding amounts and potential**  
20 **funding options to support an enhanced enforcement program to pre-**  
21 **vent the disposal of radioactive waste within the State of Oregon; and**

1       **“(4) Recommendations for any potential legislative changes neces-**  
2 **sary to prevent occurrences of disposal of radioactive waste in the**  
3 **State of Oregon in violation of law.**

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

5       “469.300. As used in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and  
6 469.992, unless the context requires otherwise:

7       “(1) ‘Applicant’ means any person who makes application for a site cer-  
8 tificate in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619,  
9 469.930 and 469.992.

10       “(2) ‘Application’ means a request for approval of a particular site or sites  
11 for the construction and operation of an energy facility or the construction  
12 and operation of an additional energy facility upon a site for which a cer-  
13 tificate has already been issued, filed in accordance with the procedures es-  
14 tablished pursuant to ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and  
15 469.992.

16       “(3) ‘Associated transmission lines’ means new transmission lines con-  
17 structed to connect an energy facility to the first point of junction of such  
18 transmission line or lines with either a power distribution system or an  
19 interconnected primary transmission system or both or to the Northwest  
20 Power Grid.

21       “(4) ‘Average electric generating capacity’ means the peak generating ca-  
22 pacity of the facility divided by one of the following factors:

23       “(a) For wind facilities, 3.00;

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

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

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

29       “(6) ‘Construction’ means work performed on a site, excluding surveying,  
30 exploration or other activities to define or characterize the site, the cost of

1 which exceeds \$250,000.

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

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

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

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

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

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

16 “(i) Thermal power;

17 “(ii) Combustion turbine power plant; or

18 “(iii) Solar thermal power plant.

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

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

23 “(i) Lines proposed for construction entirely within 500 feet of an existing  
24 corridor occupied by high voltage transmission lines with a capacity of  
25 230,000 volts or more;

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

28 “(iii) Associated transmission lines.

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

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

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

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

7       “(E) A pipeline that is:

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

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

14       “(I) A pipeline proposed for construction of which less than five miles of  
15 the pipeline is more than 50 feet from a public road, as defined in ORS  
16 368.001; or

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

22       “(iii) At least 16 inches in diameter and five or more miles in length used  
23 to carry a geothermal energy form in a gaseous state but excluding a pipeline  
24 used to distribute heat within a geothermal heating district established un-  
25 der ORS chapter 523.

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

30       “(G) A plant which converts biomass to a gas, liquid or solid product, or

1 combination of such products, intended to be used as a fuel and if any one  
2 of such products is capable of being burned to produce the equivalent of six  
3 billion Btu of heat a day.

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

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

11 “(i) The underground storage reservoir;

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

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

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

21 “(b) ‘Energy facility’ does not include a hydroelectric facility or an energy  
22 facility under paragraph (a)(A)(iii) or (D) of this subsection that is estab-  
23 lished on the site of a decommissioned United States Air Force facility that  
24 has adequate transmission capacity to serve the energy facility.

25 “(12) ‘Energy generation area’ means an area within which the effects of  
26 two or more small generating plants may accumulate so the small generating  
27 plants have effects of a magnitude similar to a single generating plant of 35  
28 megawatts average electric generating capacity or more. An ‘energy gener-  
29 ation area’ for facilities using a geothermal resource and covered by a unit  
30 agreement, as provided in ORS 522.405 to 522.545 or by federal law, shall be

1 defined in that unit agreement. If no such unit agreement exists, an energy  
2 generation area for facilities using a geothermal resource shall be the area  
3 that is within two miles, measured from the electrical generating equipment  
4 of the facility, of an existing or proposed geothermal electric power gener-  
5 ating plant, not including the site of any other such plant not owned or  
6 controlled by the same person.

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

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

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

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

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

23 “(18) ‘Nuclear incident’ means any occurrence, including an extraordinary  
24 nuclear occurrence, that results in bodily injury, sickness, disease, death,  
25 loss of or damage to property or loss of use of property due to the radioac-  
26 tive, toxic, explosive or other hazardous properties of source material, special  
27 nuclear material or by-product material as those terms are defined in ORS  
28 453.605.

29 “(19) ‘Nuclear installation’ means any power reactor, nuclear fuel fabri-  
30 cation plant, nuclear fuel reprocessing plant, waste disposal facility for ra-

1 dioactive waste, and any facility handling that quantity of fissionable  
2 materials sufficient to form a critical mass. ‘Nuclear installation’ does not  
3 include any such facilities that are part of a thermal power plant.

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

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

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

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

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

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

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

30 “(24) ‘Related or supporting facilities’ means any structure, proposed by

1 the applicant, to be constructed or substantially modified in connection with  
2 the construction of an energy facility, including associated transmission  
3 lines, reservoirs, storage facilities, intake structures, road and rail access,  
4 pipelines, barge basins, office or public buildings, and commercial and in-  
5 dustrial structures. ‘Related or supporting facilities’ does not include  
6 geothermal or underground gas storage reservoirs, production, injection or  
7 monitoring wells or wellhead equipment or pumps.

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

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

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

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

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

29 “(30) ‘Utility’ includes:

30 “(a) A person, a regulated electrical company, a people’s utility district,



1 a joint operating agency, an electric cooperative, municipality or any com-  
2 bination thereof, engaged in or authorized to engage in the business of gen-  
3 erating, transmitting or distributing electric energy;

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

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

8 “(31) ‘Waste disposal facility’ means a geographical site in or upon which  
9 radioactive waste is held or placed but does not include a site at which ra-  
10 dioactive waste used or generated pursuant to a license granted under ORS  
11 453.635 is stored temporarily, a site of a thermal power plant used for the  
12 temporary storage of radioactive waste from that plant for which a site cer-  
13 tificate has been issued pursuant to this chapter or a site used for temporary  
14 storage of radioactive waste from a reactor operated by a college, university  
15 or graduate center for research purposes and not connected to the Northwest  
16 Power Grid. As used in this subsection, ‘temporary storage’ includes storage  
17 of radioactive waste on the site of a nuclear-fueled thermal power plant for  
18 which a site certificate has been issued until a permanent storage site is  
19 available by the federal government.

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

21 “469.525. (1) Notwithstanding any other provision of this chapter, **no ra-**  
22 **dioactive waste shall be disposed of in the State of Oregon, no person**  
23 **may arrange for the disposal of radioactive waste in the State of**  
24 **Oregon and** no waste disposal facility for any radioactive waste shall be  
25 established, operated or licensed within this state, except as follows:

26 “[1] (a) Wastes generated before June 1, 1981, through industrial or  
27 manufacturing processes which contain only naturally occurring radioactive  
28 isotopes which are disposed of at sites approved by the Energy Facility Sit-  
29 ing Council in accordance with ORS 469.375.

30 “[2] (b) Medical, industrial and research laboratory wastes contained in

1 small, sealed, discrete containers in which the radioactive material is dis-  
2 solved or dispersed in an organic solvent or biological fluid for the purpose  
3 of liquid scintillation counting and experimental animal carcasses shall be  
4 disposed of or treated at a hazardous waste disposal facility licensed by the  
5 Department of Environmental Quality and in a manner consistent with rules  
6 adopted by the Department of Environmental Quality after consultation with  
7 and approval by the Oregon Health Authority.

8 “[3] (c) Maintenance of radioactive coal ash at the site of a thermal  
9 power plant for which a site certificate has been issued pursuant to this  
10 chapter shall not constitute operation of a waste disposal facility so long as  
11 such coal ash is maintained in accordance with the terms of the site certifi-  
12 cate as amended from time to time as necessary to protect the public health  
13 and safety.

14 **“(2) The Energy Facility Siting Council shall, in accordance with**  
15 **the applicable provisions of ORS chapter 183, adopt standards and rules**  
16 **as reasonably necessary to prevent the disposal of radioactive waste**  
17 **in the State of Oregon.**

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

20 **“SECTION 8. (1) The Director of the State Department of Energy**  
21 **or the Energy Facility Siting Council may obtain from persons all**  
22 **necessary records or information to carry out and enforce ORS 469.525,**  
23 **469.550 (3) and 469.607. In obtaining information under this subsection,**  
24 **the director or the council, with the written consent of the Governor,**  
25 **may subpoena witnesses, material and relevant books, papers, ac-**  
26 **counts, records and memoranda, may administer oaths, and may cause**  
27 **the depositions of persons residing within or without the State of**  
28 **Oregon to be taken in the manner prescribed for depositions in civil**  
29 **actions in circuit courts.**

30 **“(2) The director or the council may require a person to take cor-**

1 **rective actions as necessary to correct a past violation of ORS 469.525,**  
2 **469.550 (3) or 469.607 or to ensure future compliance with ORS 469.525,**  
3 **469.550 (3) or 469.607 or rules adopted for the purposes of carrying out**  
4 **ORS 469.525, 469.550 (3) or 469.607. The director or council shall coor-**  
5 **ordinate with the Department of Environmental Quality prior to order-**  
6 **ing any corrective actions under this subsection.**

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

13 **“(b) If a person refuses to comply with this subsection, the depart-**  
14 **ment or a duly authorized and identified representative of the depart-**  
15 **ment may obtain a warrant or subpoena to allow the entry, inspection**  
16 **or sampling authorized by this subsection.”.**

17 In line 5, delete “4” and insert “9”.

18