

84th OREGON LEGISLATIVE ASSEMBLY – 2027 Regular Session

Senate Bill XXXX

Sponsored by Senators XX, XX...

SUMMARY

Establishes the obligation for decommissioning, clean up, and site restoration of bulk oils or liquid fuels storage facilities and energy facilities that do not require site certificates under ORS 469.320 within one year of abandonment or idling. Requires owners to develop plans and maintain current cost estimates for this work and to acquire and maintain a certificate of financial responsibility in accordance with rules adopted by the Energy Facility Siting Council.

A BILL FOR AN ACT

Relating to financial responsibility for decommissioning, clean-up and site restoration of certain energy facilities presently unregulated by the Energy Facility Siting Council.

Be it Enacted by the People of the State of Oregon:

SECTION 1: Sections 2 to 5 o this 2027 are added to and made part of ORS 469.501 to 469.

DEFINITIONS

SECTION 2: As used in sections 2 to 5 of this 2027 act:

(1) “Certificate of financial responsibility” means a certification issued by the Energy Facility Siting Council that confirms that a covered energy facility has demonstrated the financial ability to cover all costs related to decommissioning, clean-up, and site restoration.

(2) “Covered energy facility” means commercial energy facilities that fall below the size thresholds in ORS 469.320, bulk oils or liquid fuels storage facilities with a capacity of 10,000 gallons or more, excluding underground storage tanks regulated under ORS 466.720, and any facility that produces, collects, conditions, upgrades, compresses, stores, or transports biogas, renewable natural gas, or biomethane, including anaerobic digesters.

(3) “Financial assurance mechanism” means an instrument or other evidence that establishes financial responsibility for decommissioning, clean-up and site restoration liabilities, including:

- (a) Evidence of insurance;
(b) Surety or performance bonds;
(c) A letter of credit;
(d) A trust; or
(e) Other evidence of financial responsibility deemed acceptable by the Energy Facility Siting Council, excluding self-bonding or self-insurance.

DUTY TO DECOMMISSION AND RESTORE ENERGY FACILITY SITES

SECTION 3: (1) Owners of covered energy facilities shall decommission all or any portion of a facility that has been idled or abandoned for one year or more and engage in clean-up and restoration of affected sites in accordance with rules adopted pursuant to section 5 of this 2027 act.

(2) If owners of covered energy facilities fail to decommission facilities and restore sites as required by subsection 1 of this section, then the Energy Facility Siting Council and the Oregon Department of Energy may:

- (a) Issue compliance orders and assess civil penalties of up to \$25,000 per day, and
(b) Contract with appropriate entities to complete the work using funds drawn from claims against the financial assurance mechanism(s) specified in an owner's certificate of financial responsibility.

COST ESTIMATES AND CERTIFICATES OF FINANCIAL RESPONSIBILITY

SECTION 4: (1) Unless exempted under rules adopted by the Energy Facility Siting Council under section 5 of this 2027 act, an owner of a covered energy facility shall:

- (a) Maintain cost estimates of the amount of financial assurance that is necessary for decommissioning, clean-up, and restoration of sites;
(b) Update cost estimates on an annual basis, and;
(c) Acquire and maintain a certificate of financial responsibility adequate to cover such costs from the Energy Facility Siting Council in accordance with rules adopted under section 5 of this 2027 act.

(2) The Energy Facility Siting Council may, at its discretion, review the accuracy of cost estimates required by subsection 1 of this section and direct owners of covered energy facilities to update cost estimates to correct any errors or incorporate more accurate estimates from cost data at similar sites.

63 RULEMAKING

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65 **SECTION 5:** (1) In accordance with applicable provisions of ORS 469.470 and 469.501, the
66 Energy Facility Siting Council and the Department of Energy may adopt rules for financial
67 responsibility established by this 2027 act.

68 (2) Rules adopted by the Energy Facility Siting Council shall:

69 (a) If necessary, exempt certain covered energy facilities from requirements of this act if
70 decommissioning is impractical or creates risks to human health and safety;

71 (b) Add to the list of energy facilities covered by requirements of this act when warranted;

72 (c) Establish standards for proper decommissioning, clean-up, and site restoration that
73 ensure all hazardous materials and infrastructure are removed and that sites are
74 revegetated and restored to a condition that eliminates any risks to public health and
75 safety;

76 (d) Define the type and content of financial assurance mechanisms owners of covered
77 energy facilities must provide to obtain certificates of financial responsibility;

78 (e) Establish timelines, forms, and rules of procedure for obtaining certificates of financial
79 responsibility;

80 (f) Require that a certificate of financial responsibility be renewed:

81 (i) Every three years; and

82 (ii) Each time there is a change in ownership of the bulk oils or liquid fuels terminal or in
83 the identity of the person that holds the certificate of financial responsibility.

84 (d) Establish policies and procedures for enforcing this section, including:

85 (i) A process for verifying a covered energy facility's evidence of financial assurance;

86 (ii) Standards for restricting or suspending the operations of covered energy facilities that
87 do not satisfy the requirements of this section; and

88 (C) In accordance with ORS 469.992, the imposition of a civil penalty for each day that a
89 bulk oils or liquid fuels terminal operates without a certificate of financial responsibility.