

(Seismic Risk to Bulk Oils or Liquid Fuels Terminals)

468B.510 Seismic vulnerability assessment required for bulk oils or liquid fuels terminal; rules. (1) As used in ORS 468B.510 to 468B.525, “bulk oils or liquid fuels terminal” means an industrial facility located in Columbia, Multnomah or Lane County that is primarily engaged in the transport or bulk storage of oils or liquid fuel products and is characterized by having:

- (a) Marine, pipeline, railroad or vehicular transport access;
 - (b) Transloading facilities for transferring shipments of oils or liquid fuel products between transportation modes; and
 - (c) One or more bulk storage tanks with a combined capacity of two million gallons or more.
- (2) An owner or operator of a bulk oils or liquid fuels terminal shall conduct and submit to the Department of Environmental Quality a comprehensive seismic vulnerability assessment for the entire bulk oils or liquid fuels terminal. A seismic vulnerability assessment submitted to the department under this section must:

(a) Include a seismic risk assessment, or a series of seismic risk assessments, conducted by qualified professionals using the most recent industry standards for assessing seismic risk to:

- (A) Buildings, structures and ancillary components;
- (B) Bulk storage tanks;
- (C) Spill containment structures;
- (D) Transloading facilities, including wharves, piers, moorings and retaining structures;
- (E) Loading racks;
- (F) Control equipment; and
- (G) Any other structures and related or supporting facilities that constitute the bulk oils or liquid fuels terminal;

(b) Include a determination of the bulk oils or liquid fuels terminal’s vulnerability to liquefaction triggering and liquefaction consequences, such as lateral spreading and coseismic settlement, using standards in accordance with guidance contained in “National Academies of Sciences, Engineering and Medicine, State of the Art and Practice in the Assessment of Earthquake-Induced Soil Liquefaction and Its Consequences, 2016”;

(c) Include a determination of whether the existing structures and related or supporting facilities that constitute the bulk oils or liquid fuels terminal have been designed, improved or retrofitted to reduce the potential for significant structural damage to property or harm to people or the environment in or adjacent to the bulk oils or liquid fuels terminal in the event of a magnitude 9.0 Cascadia Subduction Zone earthquake, including impacts from the expected duration of shaking; and

(d) Include a determination of the structures and related or supporting facilities that are most vulnerable to seismic risks and the potential of those structures and facilities to maintain safe operating conditions, or safe shutdown procedures, to protect public health, life safety and environmental safety against releases of oils or liquid fuel products, including information about operational procedures during disasters.

(3) The department shall review a seismic vulnerability assessment submitted under this section and approve the assessment if it meets the requirements of subsection (2) of this section and any other requirements for seismic vulnerability assessments contained in rules adopted under subsection (4) of this section.

(4)(a) The Environmental Quality Commission, in consultation with the State Department of Geology and Mineral Industries, may adopt by rule requirements for seismic vulnerability assessments submitted to the Department of Environmental Quality under this section.

(b) Rules adopted by the commission may require the owner or operator of a bulk oils or liquid fuels terminal to submit seismic vulnerability assessment updates to the department:

- (A) Upon the retrofit or reconstruction of all or a part of a bulk oils or liquid fuels terminal; or
 - (B) Based on new scientific or technical findings, but no more frequently than once every three years.
- (c) Notwithstanding subsection (2)(b) of this section, the commission may by rule adopt revised or additional standards for determining a bulk oils or liquid fuels terminal’s vulnerability to liquefaction triggering and liquefaction consequences if the commission determines that guidance contained in “National Academies of Sciences, Engineering and Medicine, State of the Art and Practice in the Assessment of Earthquake-Induced Soil Liquefaction and Its Consequences, 2016” no longer represents the most recent industry standards for determining vulnerability to soil liquefaction triggering and liquefaction consequences. [2022 c.99 §2]

468B.513 Seismic risk mitigation implementation program; plan; fees; rules. (1) The owner or operator of a bulk oils or liquid fuels terminal shall properly implement a seismic risk mitigation implementation plan that has been approved by the Department of Environmental Quality. A seismic risk mitigation implementation plan must, at a minimum, identify actions, with timelines, to protect public health, life safety and environmental safety within the facility, in areas adjacent to the facility and in other areas that may be affected as a result of damages to the facility. A seismic risk mitigation implementation plan, as a risk-based assessment, must include consideration of the likelihood of a magnitude 9.0 Cascadia Subduction Zone earthquake, the potential consequences of that event and the resources needed to respond to that event.

(2) The Environmental Quality Commission, in consultation with the State Department of Geology and Mineral Industries, shall adopt by rule a seismic risk mitigation implementation program for bulk oils or liquid fuels terminals that is based on risk. To the extent feasible and appropriate, the program adopted under this section shall be consistent and coordinated with the program established under ORS 468B.345 to 468B.415. Rules adopted under this section shall include, but not be limited to:

(a) Rules for the required content of seismic risk mitigation implementation plans and rules for approval by the Department of Environmental Quality of seismic risk mitigation implementation plans.

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

(c) Requirements to minimize harmful impacts to local communities and natural resources due to uncontrolled releases of hazardous materials from the bulk oils or liquid fuels terminal due to an earthquake and its associated direct and indirect impacts, including fires and flooding.

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

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

(f) Design and construction standards for seismic mitigation of existing bulk storage tanks, piping and related structures constructed at bulk oils or liquid fuels terminals.

(g) Provisions requiring the proper installation of seismically certified generators to power critical operations, or at a minimum, the installation of electrical hookups for emergency generators.

(h) Provisions for the review of seismic vulnerability assessments required under ORS 468B.510 and seismic risk mitigation implementation plans required under subsection (1) of this section by state agencies with expertise in earthquake hazards, risk mitigation or emergency preparedness or management.

(i) Provisions requiring the owner or operator of a bulk oils or liquid fuels terminal to submit seismic vulnerability mitigation implementation plan updates to the department:

(A) According to a schedule established by the commission;

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

(C) Based on new scientific or technical findings, but no more frequently than once every three years.

(j) Provisions establishing a fee calculated to cover the costs to the department of reviewing seismic risk mitigation implementation plans submitted under this section and seismic risk assessments submitted under ORS 468B.510, less any federal funds received by the department for those purposes. Fees received by the department under this paragraph shall be deposited in the Seismic Risk Mitigation Fund established under ORS 468B.525.

(k) Provisions establishing grants or other financial assistance to owners or operators of bulk oils or liquid fuels terminals for improvements to existing infrastructure, provided that federal funds are made available to the department for that purpose. [2022 c.99 §3]

Note: 468B.513 becomes operative June 1, 2024. See section 11, chapter 99, Oregon Laws 2022.

468B.516 Confidential business information. Confidential business information submitted to the Department of Environmental Quality by the owner or operator of a bulk oils or liquid fuels terminal under ORS 468B.510 or 468B.513 is confidential and not subject to public disclosure under ORS 192.311 to 192.478, except that the department may disclose summarized information or aggregated data if the information or data does not directly or indirectly identify the confidential business information. [2022 c.99 §4]

468B.519 Whistleblower protection for employees. (1) It is an unlawful employment practice for the owner or operator of a bulk oils or liquid fuels terminal to discharge, demote, suspend or in any manner

discriminate or retaliate against an employee of the bulk oils or liquid fuels terminal with regard to promotion, compensation or other terms, conditions or privileges of employment because the employee has in good faith:

(a) Reported information that the employee believes is evidence of a violation of a state or federal law, rule or regulation; or

(b) Provided information regarding a public health, life safety or environmental safety risk at the bulk oils or liquid fuels terminal to a federal, state or local government official or a person conducting a seismic risk assessment under ORS 468B.510.

(2) This section is subject to enforcement under ORS chapter 659A.

(3) The remedies provided by ORS chapter 659A are in addition to any common law remedy or other remedy that may be available to an employee for the conduct constituting a violation of this section. [2022 c.99 §5]

468B.522 Federally preempted requirements not applicable. The requirements of ORS 468B.510 to 468B.525 do not apply to a bulk oils or liquid fuels terminal to the extent those requirements are preempted by the federal Pipeline Safety Improvement Act of 2002, 49 U.S.C. 60101 et seq. [2022 c.99 §3a]

468B.525 Seismic Risk Mitigation Fund. (1) The Seismic Risk Mitigation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Seismic Risk Mitigation Fund shall be credited to the fund.

(2) Moneys in the Seismic Risk Mitigation Fund shall consist of:

(a) Money appropriated to the fund by the Legislative Assembly;

(b) Fees deposited in the fund under ORS 468B.513;

(c) Moneys transferred to the fund from the federal or state government; or

(d) Gifts, grants and donations received from any source.

(3) All moneys in the Seismic Risk Mitigation Fund are continuously appropriated to the Department of Environmental Quality for the purposes of:

(a) Reviewing seismic risk mitigation implementation plans submitted under ORS 468B.513 and seismic risk assessments submitted under ORS 468B.510; and

(b) Providing grants or other financial assistance to owners or operators of bulk oils or liquid fuels terminals under ORS 468B.513 (2)(k). [2022 c.99 §6]

Note: Sections 15 and 17, chapter 99, Oregon Laws 2022, provide:

Sec. 15. Report on seismic vulnerability. No later than November 1, 2024, the Department of Environmental Quality shall provide a report, including recommendations for legislation, to the interim committees of the Legislative Assembly related to energy, in the manner provided under ORS 192.245. The report required under this section must include:

(1) A summary of information received by the department under section 2 of this 2022 Act [468B.510]; and

(2) Policy recommendations for making the provisions of sections 2 to 6 of this 2022 Act [468B.510 to 468B.525] applicable to additional regions of this state, based on the risk to each additional region from an earthquake or tsunami. [2022 c.99 §15]

Sec. 17. Sections 15 and 16 of this 2022 Act are repealed on January 2, 2025. [2022 c.99 §17]