

Risk Bond Coalition Position on SB4100

The Risk Bond Coalition is a group of community members working to encourage county, state, and city governments to require financial assurances (aka Risk Bonds) from fuel-tank operators in Oregon, especially in the CEI hub. The group is comprised of members from a variety of organizations, including: the Linnton Neighborhood Association, Oregon Physicians for Social Responsibility, Oregon Sierra Club, 350PDX, EcoFaith Recovery, Tank the Tanks, XRpdx, and the CEI Task Force.

An accident or natural disaster that causes significant spillage of fossil fuels in Oregon is coming--it is not a question of if, but when. In particular, the Critical Energy Infrastructure (CEI) Hub in Portland is built on unstable soil along the Willamette River and stores 90% of Oregon's fuel. When the inevitable earthquake or fire happens, the state will be severely impacted in our ability to transport people and products, in addition to bearing the burden for the health and environmental damages to our residents, businesses, lands and rivers.

Risk Bonds or financial assurances are an important method to ensure that money is available to pay for possible damages. Just as a damage deposit promotes more careful behavior by renters, requiring risk bonds/financial assurances creates an incentive for safety among fossil-fuel tank operators. With financial assurances in place, money to remediate damages can be disbursed quickly, relieving the burden on taxpayers.

The Risk Bond Coalition supports HB4100, assuming amendments proposed by Representative Isadore are included in the final bill. We will discuss the needed amendments later. First we will note the advantages in the current bill.

1. HB4100 builds on the important work of SB1567, the Fuel Tank Seismic Stability Program. As such, it applies to the same facilities as SB1567, and administration of the law will be funded by increased fees on these facilities, meaning no additional costs to the state.
2. The amount of bonding required will be reviewed and adjusted every 3 years, considering operational risks, volume of fuel/materials handled, historical costs of clean-ups, environmental sensitivity of the area, and other important factors.
3. The rule-making committee will be composed of industry members, local government representatives and community members, giving voice to all stakeholders.

The amendments proposed by Representative Isadore are necessary for our support of the bill, because they substantially increase the protection to the public that this bill will provide.

- Date certain by which proof of assurances must be provided to DEQ of March 31, 2027 ensures that protections are in place promptly. Since another Cascadia Subduction earthquake could happen any day, time is of the essence.

- Re-evaluation of bond-level maximums and minimums every 3 years provides a timely mechanism for ensuring required financial assurances are in line with actual anticipated damage costs.
- Allowing the rule-making committee to consider but not be held to existing Washington regulations gives the committee the discretion to make appropriate decisions for Oregon, while understanding the context of existing rules in other jurisdictions.

In addition, the coalition feels strongly that while many types of financial assurances can be acceptable to meet the requirements of this law, we urge legislators and rule-makers to be careful about allowing insurance. In particular, we have strong concerns about some qualities of insurance:

- Acceptable insurance policies must pay out in all cases of spills, including those caused by Acts of God, such as an earthquake. Science has demonstrated an earthquake is coming to our region, and insurance must not treat this as something unforeseen, and therefore not covered.
- Self-insurance, if allowed at all, must be carefully restricted. Self-insurance is simply a promise that an entity will have money to cover damages, and does not truly provide financial assurance. There are countless examples of individuals and entities avoiding paying out on damages by declaring bankruptcy or by spending years litigating responsibility. We note that Representative Isadore's proposed amendment in regards to self-insurance places a number of requirements to ensure funds would be available in the event of a spill. Our support for the bill is conditional on following the self-insurance restrictions Representative Isadore proposes.

In summary, the Risk Bond Coalition is grateful to see this committee addressing the important safety issues in our state through HB4100. We urge you to amend the bill as requested by Representative Isadore, We also urge you to ensure that the rules for implementing the law require strong and meaningful financial assurance tools. In so doing, you will have taken important steps to make our precious state and its citizens safer. Thank you.