

House Bill 4100

Sponsored by Representatives ISADORE, NELSON, Senator REYNOLDS, Representative TRAN, Senator FREDERICK; Representatives ANDERSEN, EVANS, GAMBA, GOMBERG, RIEKE SMITH, WALTERS, Senators MANNING JR, PHAM K (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act makes owners of bulk oils and liquid fuels terminals show they can cover the costs of oil or fuel spills. (Flesch Readability Score: 80.6).

Requires owners or operators of bulk oils or liquid fuels terminals to obtain a certificate of financial responsibility from the Department of Environmental Quality.

Directs the Environmental Quality Commission to establish rules pertaining to certificates of financial responsibility. Requires the department to report to the Legislative Assembly on the implementation of the Act each even-numbered year.

Preempts local governments from requiring financial assurance that exceeds or is in addition to the requirements of the Act.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

Relating to bulk fuel terminals; creating new provisions; amending ORS 468B.513 and 468B.525; and declaring an emergency.

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

SECTION 1. Sections 2 to 5 of this 2026 Act are added to and made a part of ORS 468B.510 to 468B.525.

SECTION 2. The Legislative Assembly finds and declares that:

(1) Ensuring financial responsibility for bulk oils or liquid fuels terminals handling oil, liquid fuel and hazardous materials is essential to protecting the state's natural resources, economy and public health.

(2) Bulk oils or liquid fuels terminals must be financially capable of covering spill-related liabilities, including spill or release response, remediation and damages.

(3) Requirements for certificates of financial responsibility established by the Environmental Quality Commission under section 4 of this 2026 Act should ensure that bulk oils or liquid fuels terminals maintain sufficient financial assurances to address potential spill-related liabilities.

(4) Rules adopted by the commission under section 4 of this 2026 Act should:

(a) Be consistent with federal standards, where appropriate, while addressing state-specific risks and needs; and

(b) To promote consistency for regulated entities in the region, and as far as practicable, be consistent with requirements for financial responsibility established by the State of Washington.

SECTION 3. As used in sections 2 to 5 of this 2026 Act:

(1) "Certificate of financial responsibility" means a certification issued by the Department of Environmental Quality that confirms that a bulk oils or liquid fuels terminal has

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 demonstrated the financial ability to cover potential spill-related liabilities.

2 (2) "Financial assurance mechanism" means an instrument or other evidence that es-
3 tablishes financial assurance for spill-related liabilities, including but not limited to:

4 (a) Evidence of insurance;

5 (b) Surety bonds;

6 (c) A letter of credit;

7 (d) A trust; or

8 (e) Other evidence of financial responsibility deemed acceptable by the Environmental
9 Quality Commission.

10 (3) "Hazardous material" has the meaning given that term in ORS 466.605.

11 (4) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting,
12 releasing, leaking or placing of any oil, liquid fuel or hazardous material into the air or into
13 or on any land or waters of the state.

14 (5) "Spill-related liability" means the costs and damages incurred by the State of Oregon,
15 federally recognized Indian tribes, cities or counties as the result of an oil, liquid fuel or
16 hazardous material spill or release, including but not limited to:

17 (a) Spill or release response and cleanup expenses;

18 (b) Fire damage; and

19 (c) Natural resource damage assessments and restoration.

20 **SECTION 4.** (1) The owner or operator of a bulk oils or liquid fuels terminal shall acquire
21 and maintain a certificate of financial responsibility in accordance with rules adopted by the
22 Environmental Quality Commission under this section.

23 (2) Rules adopted by the commission must:

24 (a) Establish reasonable minimum amounts of financial assurance based on an evaluation
25 of:

26 (A) The type, size and operational risk of bulk oils or liquid fuels terminals;

27 (B) The maximum volume of oil, liquid fuel or hazardous materials handled by bulk oils
28 or liquid fuels terminals;

29 (C) Historical spill or release response costs and projected cleanup expenses in the areas
30 where bulk oils or liquid fuels terminals operate;

31 (D) The environmental sensitivity of the areas where bulk oils or liquid fuels terminals
32 operate;

33 (E) Commercially available financial assurance mechanisms, including maximum cover-
34 ages offered; and

35 (F) Financial assurance requirements in other jurisdictions.

36 (b) Describe acceptable financial assurance mechanisms.

37 (c) Require that, before a certificate of financial responsibility is issued to a bulk oils or
38 liquid fuels terminal, one or more financial assurance mechanisms will cover the bulk oils
39 or liquid fuels terminal's potential spill-related liabilities.

40 (d) Establish initial deadlines for bulk oils or liquid fuels terminals to apply for a certif-
41 icate of financial responsibility.

42 (e) Establish policies and procedures for enforcing this section, including:

43 (A) A process for verifying a bulk oils or liquid fuels terminal's evidence of financial as-
44 surance;

45 (B) Standards for restricting or suspending the operations of bulk oils or liquid fuels

terminals that do not satisfy the requirements of this section; and

(C) In accordance with ORS 468.130 and rules adopted pursuant to ORS 468.130, the imposition of a civil penalty for each day that a bulk oils or liquid fuels terminal operates without a certificate of financial assurance.

(f) Be consistent with the requirements of federal law, including the federal Oil Pollution Act of 1990 (P.L. 101-380), while accounting for state-specific needs.

(g) As far as practicable, be consistent with financial responsibility requirements established by the State of Washington.

(3)(a) Rules adopted under this section may not require a bulk oils or liquid fuels terminal to obtain an amount of financial assurance that is greater than \$300 million.

(b) No more than once every three years, the Department of Environmental Quality may evaluate and adjust the maximum amount of financial assurance listed in paragraph (a) of this subsection.

(4) The commission shall, at regular times established by the commission by rule, update the minimum amounts of financial assurance established under subsection (2)(a) of this section to reflect:

(a) Inflation and other economic conditions;

(b) Industry changes and improvements;

(c) Emerging risks; and

(d) Lessons learned from spill or release response efforts.

(5)(a) The commission shall appoint an advisory committee to assist the commission in drafting rules under this section and ensure that the requirements for financial responsibility established under this section are fair and effective.

(b) The advisory committee shall be composed of, in equal proportions:

(A) Industry stakeholders;

(B) Local government representatives; and

(C) Community members.

(c) The advisory committee may consult with or be advised by any person with expertise relevant to the duties of the advisory committee.

(6) A local government, as defined in ORS 174.116, may not adopt or enforce any ordinance, rule or regulation requiring the owner or operator of a bulk oils or liquid fuels terminal to obtain a financial assurance mechanism that exceeds or is in addition to the requirements of this section or rules adopted by the commission pursuant to this section.

SECTION 5. No later than September 15 of each even-numbered year, the Department of Environmental Quality shall submit a report to the interim committees of the Legislative Assembly related to emergency management and the environment, in the manner provided by ORS 192.245, that describes the department's implementation of sections 2 to 5 of this 2026 Act.

SECTION 6. Notwithstanding section 5 of this 2026 Act, the Department of Environmental Quality shall first submit the report described in section 5 of this 2026 Act to the interim committees of the Legislative Assembly related to emergency management and the environment no later than September 15, 2027.

SECTION 7. Notwithstanding section 4 (3) of this 2026 Act, the Department of Environmental Quality may not evaluate or adjust the maximum amount of financial assurance listed in section 4 (3) of this 2026 Act before January 1, 2030.

SECTION 8. ORS 468B.513 is amended to read:

468B.513. (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,]* **carrying out ORS 468B.510 to 468B.525**, less any federal funds

received by the department for *[those purposes]* **that purpose**. 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.

SECTION 9. ORS 468B.525 is amended to read:

468B.525. (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]* **Carrying out ORS 468B.510 to 468B.525;**
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).

SECTION 10. This 2026 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2026 Act takes effect on its passage.
