

## **Fossil Fuel Risk Bond Ordinance, King County, (2023)**

### Ordinance 2023-0092 text

(1) As part of permit application submittal, the applicant shall demonstrate financial responsibility in an amount necessary to compensate for the cost of decommissioning, and for the maximum damages that might occur from an explosion resulting from a worst-case release, as defined in the 40 C.F.R. Sec. 68.3, of flammable gases and flammable liquids.

(2) The amount of financial responsibility necessary to compensate for damages that might occur from an explosion shall be determined by the director based on a study of the maximum potential damages. The study shall:

- (a) incorporate the volume of oils, gases, refrigerants and other flammable or explosive chemicals stored, used or generated within the facility;
- (b) consider such matters as: the frequency of facility operations; facility layout and vegetation that could cause flammable vapor accumulation; the damages that could result from the explosion to public and private structures onsite and offsite, public infrastructure and environmental resources and functions; and the potential loss of life and injury to persons onsite and to members of the public;
- (c) include modeling and disclosure of a nil or very low wind condition vapor cloud explosion scenario;
- (d) be prepared by a person accredited in vapor cloud explosion analysis, or an equally qualified individual as authorized by the director, at the applicant's expense; and
- (e) undergo third-party validation by a qualified entity to be hired upon mutual agreement of the applicant and the department, at the applicant's expense.

(3) The amount of financial responsibility necessary to compensate for facility decommissioning shall be determined by the director based on a decommissioning plan for the closure of the facility. The plan shall include, but need not be limited to, the following:

- (a) listing of the hazardous substances, as defined in RCW 70A.305.020, that will be stored, handled or generated within the facility; the range of potential release volumes requiring cleanup in the event of failures of technological or safety catchment features; and whether such releases have the potential to contaminate groundwater or surface waters on or adjacent to the site;
- (b) the range of cleanup activities that would be required to address such hazardous substances;
- (c) detailed estimates of the cost to implement the plan, including conducting cleanup and facility closure, based on the cost of hiring a third party to conduct all activities. All cost estimates must be in current dollars and may not include a net present value adjustment or offsets for salvage value of wastes or other property; and
- (d) methods for estimating closure costs.

(4) Financial responsibility shall be provided for the duration of fossil fuel facility operations, to be verified in periodic review of the facilities in keeping with K.C.C. chapter 21A.22. Financial

responsibility required by this subsection B.27.e. may be established by any one of, or a combination of, the following methods acceptable to the department:

- (a) evidence of insurance;
- (b) surety bonds issued by a bonding company authorized to do business in the United States; and
- (c) other evidence of financial responsibility deemed acceptable by the department.
- (d) self-bonding, as defined in the 30 C.F.R. Sec. 800.5, shall not be an accepted method of providing financial responsibility.

(5) Where enforcement of this subsection B.27.e. would conflict with chapter 36.32 RCW, the director may request the applicant to sign an agreement to complete retention of required financial responsibility consistent with K.C.C. 27A.30.060, in an amount equivalent to that indicated by the study of the damages, prior to the issuance of a clearing and grading permit.