State of Oregon
DEQ Department of Environmental Quality

Certificates of Financial Responsibility Rulemaking Advisory Committee

Meeting 1 Materials

Document information

This document was prepared by Oregon Department of Environmental Quality

Fuel Tank Seismic Stability

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Executive summary

House Bill 4100 (2026) amends ORS 468B.513 to 468B.525 to require owner/operators of bulk oils or liquid fuel terminals within Columbia, Multnomah and Lane Counties with storage capacity of two million gallons or more to submit assurances to DEQ of their financial capability to cover the costs of spill-related liabilities, including spill response, environmental remediation and damages up to $300 million. Potential financial assurance (FA) mechanisms include, but are not limited to, insurance or self-insurance, surety bonds, a letter of credit, trusts or other such evidence. Facilities must submit evidence of sufficient financial assurance mechanisms to DEQ to obtain a Certificate of Financial Responsibility (COFR) with an initial deadline to apply for a COFR by March 31, 2027. COFRs must be renewed every three years with regular interim reports submitted to DEQ to ensure compliance.

To detail the requirements of HB 4100, DEQ has initiated a rulemaking process including the establishment of a Rulemaking Advisory Committee (RAC). This document contains materials for the first COFR RAC meeting, including the agenda, RAC charter, a discussion draft of amendments to Division 300, a discussion draft of the rule’s fiscal and racial equity impacts and additional white paper material on methods used by other jurisdictions to determine minimum financial assurance requirements.

Disclaimers

Meeting packet materials provide early-stage discussion drafts to facilitate RAC discussions and RAC member contributions. These preliminary documents do not represent DEQ's final proposed rule language. DEQ will put forward an official proposal of the rules and fiscal impact for public comment in October 2026 following RAC participation.

This discussion draft for amendments to Chapter 340, Division 300, focuses on implementing Certificates of Financial Responsibility per HB 4100 and DEQ does not intend to make substantive edits to the Fuel Tank Seismic Stability rules as part of this rulemaking process.

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COFR RAC Meeting 1 Agenda,

August 28, 2026

Time	Meeting Action
9:00 a.m.	Welcome, Introductions, and Meeting Overview • Welcome and Acknowledgements (5 minutes) • DEQ Team Members (5 minutes) • Rules Advisory Committee (RAC) Member Introductions (15 minutes)
9:25 a.m.	Rulemaking Schedule • DEQ Presents COFR RAC Workplan (5 minutes)
9:30 a.m.	RAC Ground Rules • DEQ Outlines RAC Charter (5 minutes) • DEQ Introduces the Technical Review Panel for COFR Rulemaking (5 minutes) • Questions From RAC (5 minutes)
9:45 a.m.	HB 4100 and COFR Program overview • Presentation From legislature or DEQ (10 Minutes) • Committee Discussion Time (10 Minutes)
10:05 a.m.	BREAK
10:15 a.m.	Draft Amendments to Division 300 Discussion • DEQ Presents Proposed Rule Table of Contents and Summary (10 Minutes) • Initial Discussion Topics Identified by DEQ (5 Minutes) • Committee Discussion Time (30 Minutes)
11:00 a.m.	BREAK (10 minutes)
11:10 a.m.	Draft Fiscal and Racial Equity Impact Statement • DEQ Presents Table of Contents and Discussion Topics (10 minutes) • Committee Discussion Time (30 minutes)
11:50 a.m.	Closing remarks • Please provide written comments in the subsequent weeks • Schedule one-on-one if haven’t yet • Thank you all for attending

Rulemaking Advisory Committee Work Plan

Oregon House Bill 4100 (2026), referred to here as HB4100, amends ORS 468B.510 to 468B.525, which established the DEQ's Fuel Tank Seismic Stability Program (OAR 340-300-0000 to OAR 340-300-0007). HB4100 requires facilities regulated under ORS 468B.510 to obtain financial assurance mechanisms capable of covering spill-related liabilities up to a statutory maximum of $300 million. Beginning March 31st, 2026, and then every three years thereafter, facilities are required to apply for and receive a Certificate of Financial Responsibility from the DEQ that certifies the facility maintains financial assurance mechanisms sufficient to meet its minimum financial assurance requirement as established by this rule.

To meet this statutory deadline, the DEQ is adopting a rulemaking timeline that ensures public participation while allowing facilities time to submit COFR applications by presenting the proposed rules to the Environmental Quality Commission in January 2026. The Rulemaking Advisory Committee established for this rulemaking will meet twice ahead of the public comment period to guide development of the proposed rules, including on the method to determine minimum financial assurance requirements, methods for the verification of financial assurances, potential fiscal and racial equity impacts of the proposed rules, and other requirements to meet the statute.

Table 1: RAC Meeting Schedule for HB4100 Rulemaking

Meeting:	Topic:	Date:	Comments Requested:
First RAC Meeting	Convene RAC, overview introductory materials and review draft rules, fiscal impact statement, EJ statement and Racial Impact Statement. Register for a Zoom Link here.	Aug. 28	Sept. 12
Second RAC Meeting	Review RAC comments on proposed rules and proposed fiscal impact statement. Register for a Zoom Link here.	Oct. 9	Oct. 21
Public Notice	DEQ issues proposed rule language and opens public comment through Nov. 21, 2026	Oct. 30	Nov. 21
Public Hearing	Zoom meeting will be scheduled	Nov. 18	n/a
EQC Meeting	DEQ presents proposed rules for EQC consideration	Jan. 14, 2027	n/a

Advisory Committee Charter

Objectives and scope

Policy objectives

House Bill 4100 (2026) amends ORS 468B.513 to 468B.525 to require owner/operators of bulk oils or liquid fuel terminals within Columbia, Multnomah and Lane Counties with storage capacity of two million gallons or more to submit assurances to DEQ of their financial capability to cover the costs of spill-related liabilities, including spill response, environmental remediation and damages up to $300 million. Potential financial assurance (FA) mechanisms include, but are not limited to, insurance or self-insurance, surety bonds, a letter of credit, trusts or other such evidence. Facilities must submit evidence of sufficient financial assurance mechanisms to DEQ to obtain a Certificate of Financial Responsibility (COFR) with an initial deadline to apply for a COFR by March 31, 2027. COFRs must be renewed every three years with regular interim reports submitted to DEQ to ensure compliance.

The proposed rules must be consistent with federal standards and must consider the State of Washington's financial responsibility requirements in development of the rules. The rules must also outline processes for:

- Verifying FA mechanisms;
- Adjusting the maximum and minimum FA requirements every three years;
- Enforcing statutory requirements including via civil penalties and shutdown authority.

Fiscal, economic and racial equity impacts

ORS 183.333 requires that DEQ ask the committee to consider the fiscal and economic impact of the proposed rules including:

- Whether the rules will have a fiscal impact, and if so, what the extent of that impact will be
- Whether the rules will have adverse impacts on small businesses, and if so, how DEQ can reduce the rules' negative fiscal impact on small businesses

ORS 183.335 (2)(a)(F) requires agencies to provide a statement identifying how adoption of the rule(s) will affect racial equity in Oregon. To aid in crafting this statement, DEQ will ask the committee to provide input on this question.

ORS 182.545 requires that natural resource agencies, such as DEQ, consider how their actions affect environmental justice in the state. DEQ will ask the committee to provide environmental justice considerations.

Roles

DEQ facilitator

The facilitator:

- Encourages open, candid and robust dialogue
- Starts and ends the meetings and agenda items on time
- Encourages innovation by listening to all ideas
- Tries not to lose good ideas to the consensus process
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the focus of the meeting

Committee members

Advisory committee members must attend each meeting to ensure continuity throughout the process. An alternate may be assigned if needed. However, it is each committee member’s responsibility to fully brief their alternate on all relevant issues and prior committee discussions in order to meet the meeting objectives and keep the project on schedule. The primary and alternate members of the committee cannot participate in the same meeting. If a member’s absence is unavoidable, please notify the DEQ project manager. Committee members should refrain from meeting in groups of eight or more to discuss the rulemaking.

The committee member:

- Prepares for and sets aside time for the meetings
- Provides DEQ staff with copies of relevant research and documentation cited during the meeting
- Stays focused on the specific agenda topics for each meeting
- Comments constructively and in good faith
- Consults regularly with constituencies to inform them on the process and gather their input
- Treats everyone and everyone’s opinions with respect
- Allow one person to speak at a time
- Is courteous by not engaging in sidebar discussions
- Avoid representing to the public or media the views of any other committee member or the committee as a whole

Non-committee member attendees

Those who attend the committee meetings but are not members of the committee are there only to observe and not to actively participate. If non-committee members are present at a meeting, DEQ may allow time during the meeting for their comments.

DEQ staff

DEQ is committed to making the most effective use of committee member's time by:

- Establishing clear committee goals, meeting objectives and agendas
- Giving committee members reasonable access to staff
- Encouraging all members to take part in discussions
- Providing a clear description of members' roles, the committee timeline, the level of agreement expected and feedback on how members' input is used

DEQ support and website

DEQ will post agendas and meeting materials on the advisory committee website at least one week in advance. DEQ administrative staff will provide meeting summaries that highlight committee discussions, different perspectives and input of committee members. DEQ will not prepare a formal committee report. DEQ will send draft meeting summaries to the advisory committee for review and input. Final meeting notes will be posted to the advisory committee website and will be part of the public record.

The advisory committee charter, a full roster of the committee, meeting agendas and minutes, and background materials will all be located on the advisory committee web page.

Committee meetings

1. All committee meetings will be:
    - Open to the public, although the committee can choose whether the public can actively participate in committee meetings
    - Advertised on DEQ's online Events Calendar two weeks before the meeting.
    - Noticed by email to the FTSS COFR Granicus (formerly GovDelivery) list
    - Held via Zoom Webinar
    - Accessible via a call-in number or computer
2. The committee is expected to meet two times via a Zoom Webinar meeting (meeting duration times may vary depending on topics and committee progress)
3. Meeting materials and agenda will be posted to the advisory committee web page

Decision making

DEQ will use the committee's discussions to form its draft rule, then propose the rule for broader public review and comment as part of DEQ's rulemaking process.

When DEQ shares information with the group, DEQ will provide a reasonable timeframe for comments.

Membership

In convening this committee, DEQ selected members that reflect the range of stakeholders the proposed rules affect, both directly and indirectly. Representatives should be able to consider the policy, fiscal and economic impact of the proposed standard on the business or organization they represent.

Committee members

Table 3: The members of the Rulemaking Advisory Committee

Name	Affiliation	Representing
Representative Thuy Tran	Oregon House of Representatives	Designee of the Chief Sponsor of Bill
Sarah Hardisty	Tribal Response Resource Specialist, Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians	Sovereign Government
Keri Handaly	Environmental Policy Analyst, Confederated Tribes of Grand Ronde	Sovereign Government
Arjorie Arberry-Baribeault	Environmental Justice Coordinator, Beyond Toxics Eugene	Community/Environmental Advocate
Antonio Machado	Northwest Technical Senior Manager, Western States Petroleum Association	Regulated Industry
Cassie Cohen	Executive Director, Portland Harbor Coalition	Community/Environmental Advocate
Chris West	Senior Vice President of Operations, Pac/West Resources	Regulated Industry
Daniel Hurley	Public Works Director, Lane County Public Works	Local Government

Name	Affiliation	Representing
Jay Jackson	Senior Project Manager, Kinder Morgan	Regulated Industry
John Wasiutynski	Director, Multnomah County – Office of Sustainability	Local Government
Kevin White	Structural Engineer, Member, OSSPAC	OSSPAC
Lindsey Hutchison	Staff Attorney, Willamette River Keepers	Community/Environmental Advocate
Nichole Rutherford	City Manager, City of Coos Bay	Local Government
Nikki Mandell	Member, CEI Hub Task Force	Community/Environmental Advocate
Raven Collins	Senior Policy Advisor, Oregon Dept. of Consumer and Business Services - Division of Financial Regulation	State Agency
Sharla Moffett	Senior Policy Director, Oregon Business and Industry	Regulated Industry
Tom Armstrong	Supervising Planner, City of Portland – Bureau of Planning and Sustainability	Local Government

Technical review panel

DEQ convened a technical review panel to assist in developing this rulemaking and advise DEQ on the technical aspects of financial assurance mechanisms and risks. The panel members have expertise in financial assurance mechanisms, emergency response analysis, environmental advocacy and economics. The technical review panel is not a decision-making body but will provide technical review and input on DEQ's analyses and recommendations to the advisory committee.

Table 4: Members of the Technical Review Panel

Name	Affiliation	Area of Expertise
Center for Public Service	Portland State University	Research
WA Department of Ecology	State of Washington	COFR regulations
Jay Wilson	Clackamas County Emergency Response	Emergency response
Paul Edison-Lahm	Geological Society of the Oregon Country, Board of Department of Geology and Mineral Industries	Policy, law, geology
John Talberth	Center for Sustainable Economy, President & Senior Economist	Economics, environmental policy
Jeff Wyatt	Hanford Cleanup Board, Chair	Environmental cleanup, engineering, oil terminals

Travel expenses

DEQ is able to reimburse any in-state out-of-town committee members for travel expenses, if DEQ approves them in advance.

Public records and confidentiality

Committee communications and records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records and are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

Information exchange

Committee members will provide information as much in advance as possible of the meeting at which such information is used. The members will also share all relevant information with DEQ to the maximum extent possible which DEQ will then share with the rest of the committee members where appropriate. If a member believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it. Committee members should only send emails (and other communications) to DEQ and not the committee because including all members on an email could constitute a violation of Oregon’s Public Meetings Law.

Public involvement

All meetings will be open to the public. The committee can choose whether to allow public input during a committee meeting. DEQ may set aside time for the public to speak.

Once the committee process is complete, DEQ will develop draft rules and conduct a public rulemaking process. That process will include a specified period during which the public can submit comments on the proposed rules. DEQ will also hold a public hearing during which any member of the public can submit written or verbal comments. Individual committee members may provide comments to DEQ on the full draft rule at this time. DEQ may modify the final proposed rules based on public comment. DEQ intends to take a final proposed rule to the Environmental Quality Commission for consideration at its January 2027 meeting.

Guide to reading proposed rules

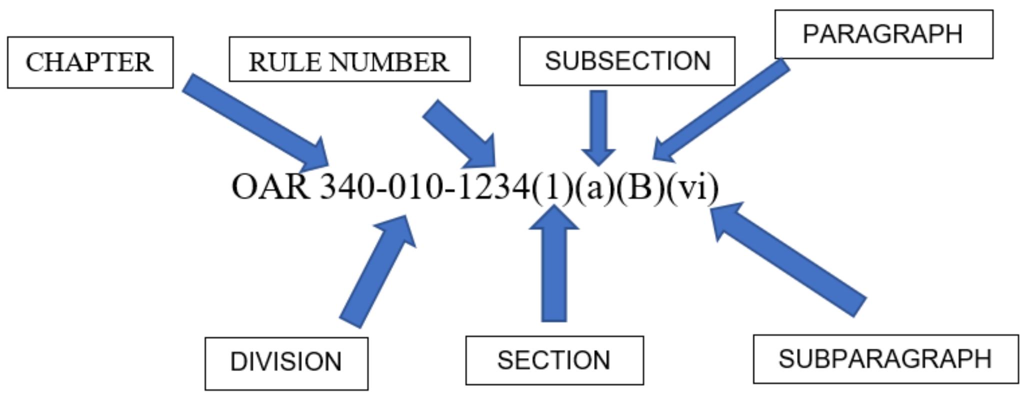
Key to identifying changed text:

- Existing text
- ~~Deleted Text~~
- **New/inserted text**
- ~~Text deleted from one location~~ - and moved to another location
- [Discussion notes on rationale, sources, authority, etc.]

Figure 1: Rule formatting guide.

There is a designated, required format for numbering rules and rule sub-parts:

Chapter – Division - Rule number - Section - Subsection - Paragraph - Subparagraph



This discussion draft for amendments to Chapter 340, Division 300 is focused on implementing Certificates of Financial Responsibility per HB 4100 and DEQ does not intend to make substantive edits to the Fuel Tank Seismic Stability rules as part of this rulemaking process.

Discussion Draft for Proposed Amendments to Division 300

340-300-0000

Context

(1) A Cascadia Subduction Zone earthquake impacting the large capacity fuel handling facilities in Oregon could create widespread environmental damage, fires, endanger health and safety of surrounding communities and place impossible demands on the state's emergency response capabilities.

(2) The 2022 Oregon legislature adopted Senate Bill 1567 enacted as chapter 99 of Oregon Laws 2022. The law authorizes the Environmental Quality Commissions to adopt requirements for Seismic Vulnerability Assessments and the Risk Mitigation Implementation Plans for large capacity bulk fuels terminals in Columbia, Lane and Multnomah counties.

(3) The 2026 Oregon legislature adopted House Bill 4100, amending 468B.510 to 468B.525 to include additional requirements for facilities to maintain Certificates of Financial Responsibility (COFR). The bill authorizes the Environmental Quality Commission to adopt requirements for these certificates including determination of reasonable minimum financial assurance amounts and procedures for certificate application, timelines and enforcement to confirm that facilities maintain sufficient financial assurances to cover potential spill-related liabilities.

[**Authority:** HB 4100 (2026) Section 1, Section 2, Section 3.]

Statutory/Other Authority: ORS 468.020 & SB 1567 (2022), HB 4100 (2026)
Statutes/Other Implemented: SB 1567 (2022), HB 4100 (2026)
History:
DEQ 13-2023, adopt filed 09/14/2023, effective 09/14/2023

340-300-0001

Purpose and Applicability

(1) The purpose of these rules is to protect public health, life safety and environmental safety against fires and release of fuel products and establish:

(a) The process and criteria for completion of facility-wide Seismic Vulnerability Assessments, including vulnerability to shaking associated with the Cascadia Subduction Zone and other earthquake sources and related post-earthquake secondary effects, performed by the facilities and submitted to DEQ for review and approval.

(b) The process and criteria for development of Risk Mitigation Implementation Plans to minimize risk to people and environment and to be prepared by facilities and submitted to DEQ for review and approval.

(c) Fees for Seismic Vulnerability Assessment reviews.

(d) Fees for Risk Mitigation Implementation Plan reviews.

(e) The process, criteria, and schedule for Risk Mitigation Implementation Plans implementation.

(f) Fees for ongoing implementation compliance.

(g) Reporting requirements.

(h) Enforcement provisions.

(i) Requirements for facilities to obtain a COFR from DEQ certifying financial assurance mechanisms are in place to cover potential spill-related liabilities (Detailed in OAR 340-300-0008).

[**Authority:** HB 4100 (2026) Sections 1-3]

(j) The method for determining a facility's minimum financial assurance requirement (Detailed in OAR 340-300-0009).

[**Authority:** HB 4100 (2026) Section 4(2)(a)]

(k) Standards for acceptable financial assurance mechanisms to meet financial assurance requirements (Detailed in OAR 340-300-0010).

[**Authority:** HB 4100 (2026) Section 3(2), Section 4(2)(b)]

(l) Procedures for applying to receive a COFR including submission timelines and ongoing reporting requirements (Detailed in OAR 340-300-0011)

[**Authority:** HB 4100 (2026) Section 4(2)(f-g), Section 8]

(m) The process and criteria for DEQ review, approval, provision, revocation and enforcement of COFRs (Detailed in OAR 340-300-0012).

[**Authority:** HB 4100 (2026) Section 4(1), Section 4(2)(e, h)]

(n) DEQ's process to update minimum and maximum financial assurance requirements every three years beginning in 2027 (Detailed in OAR-300-0013).

[**Authority:** HB 4100 (2026) Section 4(4)(a-b), Section 4(5), Section 7]

(2) The owners and operators of bulk fuel terminals or industrial facilities with at least 2-million-gallon oil or liquid fuel products storage capacity located in Columbia, Multnomah and Lane counties must:

(a) Prepare and submit to DEQ the facility-wide Seismic Vulnerability Assessment.

(b) Prepare and submit to DEQ the facility-wide Seismic Risk Mitigation Implementation Plan designed to:

(A) Mitigate earthquake-induced damage in order to reduce the potential of fuel spills and fires;

(B) Address potential of facility to safely shut down during or immediately after a damaging earthquake, if needed, in order to minimize spills as required by the performance objective defined in 340-300-0002;

(c) Provide risk mitigation measures implementation plans and timeline; and

(d) Provide periodic reports of the ongoing implementation of mitigation measures.

(e) Implement the risk minimization measures described in Risk Mitigation Implementation Plans when approved by DEQ within the approved timeline.

(f) Prepare and submit to DEQ post-implementation reports documenting completion of mitigation work and addressing residual risks.

(g) Apply for, receive, maintain and renew every three years a COFR from DEQ that meets the requirements of OAR 340-300-0008 through OAR 340-300-0013 confirming that financial assurance mechanisms are in place to cover potential spill-related liabilities.

[**Authority:** HB 4100 (2026)]

(h) Notify DEQ of significant changes to COFR applicant materials as detailed in OAR-300-0011.

[**Authority:** HB 4100 (2026)]

Statutory/Other Authority: ORS 468.020 & SB 1567 (2022), HB 4100 (2026)
Statutes/Other Implemented: SB 1567 (2022), HB 4100 (2026)
History:
DEQ 13-2023, adopt filed 09/14/2023, effective 09/14/2023

340-300-0002
Definitions and Acronyms as used in this Division

(1) **“**ASCE” means American Society of Civil Engineers

(2) “API” means American Petroleum Institute

(3) “Assessment team” means a multidisciplinary team consisting of one or more of the following as applicable: project manager, on-site team leader, structural inspection professional, structural engineer, electrical inspection and design professional, mechanical inspection and design professional, fire inspection and design professional; corrosion specialist, cathodic protection specialist, geotechnical engineer, and any other specialists needed.

(4) “Codes and Standards” means the adopted codes by State of Oregon Building Codes Division in effect on September 1, 2023 and their mandated standards, performance objectives and performance criteria for seismic design, evaluation and retrofit including but not limited to the following:

(a) For seismic design criteria ASCE 7;

(b) For existing building structures ASCE 41;

(c) For any building structures Oregon Structural Specialty Code and ASCE 7;

(d) For tanks ASCE 7 and reference standard for seismic criteria such as API 650 and API 653;

(e) For piping and piping racks ASCE 7;

(f) For secondary containment structures ASCE 7;

(g) For piers, wharves and other waterfront structures ASCE 61;

(h) Other applicable standards.

(5) “Confidential business information” means information as described in 19 C.F.R. 201.6 and OAR 340-090-0420.

(6) “DEQ” means the Oregon Department of Environmental Quality.

(7) “Design Level Earthquake” means earthquake ground motions used in the design, evaluation or retrofit of structures to achieve a certain performance standard. For the purpose of this rule, the design level earthquake for all structures at each site will be determined in accordance with ASCE 7.

(8) “Seismic hazard” means earthquake-induced ground shaking and secondary effects.

(9) “Equity” means environmental justice considerations as addressed by the Oregon Environmental Justice Council and House Bill 4077 (2022).

(10) “Facility” means the entire bulk oils or fuel terminal including any above-ground or underground tanks, piping, buildings, structures, ancillary components, spill containment structures, walls, and berms, transloading facilities, wharves, piers, moorings and retaining structures, loading racks, control equipment and any other structures within the property line or properties operated together.

(11) “Facility owner or operator” means any person or entity that owns, leases, and/or operates a facility. "Owner or Operator" does not include any person or entity that owns the land underlying a facility if the person or entity is not involved in the operations of the facility.

(12) “Oils or liquid fuel products” means petroleum product or biological oils and blends of any kind, that are liquid at atmospheric temperature and pressure or liquified by reducing its temperature and increasing pressure including, but not limited to, petroleum, gasoline, reformulated gasoline, reclaimed oil, crude oil, asphalt, benzene, benzol, kerosene, fuel oil, diesel oil, liquified natural gas, propane, oil sludge, oil refuse, and oil mixed with wastes other than dredge spoil or any other volatile and inflammable liquid.

(13) “Maximum Allowable Uncontained Spill” or “MAUS” means a not to exceed volume of oil or liquid fuel released to the ground or water from a tank, including associated fuel handling equipment, or any other equipment not associated with a tank as a result of the Design Level Earthquake. The MAUS is measured per tank at the facility and is equivalent to the minimum reportable volume as provided in OAR 340-142.

(14) “Minimize risk” means to ensure a facility’s resilience to earthquake induced damages as to reduce the severity of fuel releases and the resulting harm to people and environment in accordance with required performance objective.

(15) “Mitigation” means an action that reduces the severity of harm caused to a facility, surrounding communities and the environment in the event of an earthquake.

(16) “Off-site” means the environment outside of facility’s property line but in the vicinity of the impact of the residual risk.

(17) “Limiting Performance Level” means a limiting structural damage state that results in a spill volume over the Maximum Allowable Uncontained Spill. (18) “Performance objective” means that the Limiting Performance Level is not exceeded given ground motions consistent with the Design Level Earthquake.

(19) “Residual Risk” means potential risk remaining after all risk mitigation measures identified in the Risk Mitigation Implementation Plan are implemented.

(20) “Risk” means the chance of harmful effects to human health resulting from exposure to danger that can be determined by probability (how likely is event to occur) and impact (the determination of the consequences of an event).

(21) “Risk Mitigation Implementation Plan” means a written document that outlines risk mitigation actions and steps to accomplish the goal of implementing the outlined actions to achieve the required performance objective to minimize the risk of damage to a facility, surrounding communities and the environment. The plan must include the implementation schedule of all proposed risk minimizing measures.

(22) “Secondary effects” means liquefaction, settlement, lateral spread, subsidence or uplift, fires, landslides, tsunamis, seiche, ground and/or slope failures, floods, explosions, spills that occur due to earthquake shaking and the resulting damage to a facility.

(23) “Seismic Vulnerability Assessment” means detailed facility-wide site-specific evaluation of the risk of seismically induced damage and secondary effects to a facility and environment when subject to the Design level earthquake with a goal of identifying risk mitigation measures.

(24) “Transloading” as used in Senate Bill 1567 and these rules means transfer of fuels from one storage location to another, one transportation mode to another, one tank to another, pipeline to a tank, pipeline from a tank to a generator.

(25) “Qualified Professional” means Professional Engineer registered in Oregon as required in OAR 820-10-1000 and ORS 670.310 & 672.255.

(26) “Certificate of Financial Responsibility,” or COFR, means a certification issued by the Department of Environmental Quality that confirms a bulk oils or liquid fuels terminal maintains the financial ability to cover potential spill-related liabilities.

[**Authority:** HB 4100 (2026) Section 3(1)]

(27) “Financial Assurance Mechanism” means an instrument or other evidence that establishes financial assurance for spill-related liabilities that meets the requirements of OAR 340-300-0010.

[**Authority:** HB 4100 (2026) Section 3(2)]

(28) “Minimum financial assurance requirement” means the amount of financial assurance a facility must maintain as determined by OAR 340-300-0009 and which cannot be greater than the maximum financial assurance requirement amount.

[**Authority:** HB 4100 (2026) Section 4(2)(1)]

(29) “Maximum financial assurance requirement” means a $300,000,000 maximum financial assurance amount for COFR requirements which may be amended every three years beginning in 2027 according to the procedures in OAR 340-300-0013.

[**Authority:** HB 4100 (2026) Section 4(4)]

(30) “Hazardous Materials” has the meaning given that term in ORS 466.605.

[**Authority:** HB 4100 (2026) Section 3(3)]

(31) “Spill or Release” means the discharge, deposit, injection, dumping, spilling, emitting, releasing, leaking or placing of any oil, liquid fuel or hazardous material into the air or into or on any land or waters of the state.

[**Authority:** HB 4100 (2026) Section 3(4)]

(32) “Spill-related Liability” means the costs and damages incurred by the State of Oregon, federally recognized Indian tribes, cities or counties as the result of an oil, liquid fuel or hazardous material spill or release, including but not limited to: Spill or release response and cleanup expenses; Fire damage; and Natural resource damage assessments and restoration.

[**Authority:** HB 4100 (2026) Section 3(5)]

(33) “Authorized representative” means a person who has the authority, or delegated authority, to submit and attest to information relevant to the COFR process.

[**Source:** WAC 173-187-040. (1)]

Statutory/Other Authority: ORS 468.020, SB 1567 (2022) & HB 4100 (2026)
Statutes/Other Implemented: SB 1567 (2022), HB 4100 (2026)
History:
DEQ 13-2023, adopt filed 09/14/2023, effective 09/14/2023

340-300-0003
Seismic Vulnerability Assessment Requirements and Timeline

340-300-0004
Risk Mitigation Implementation Plan Requirements, Timeline and Approval Criteria

340-300-0005
Reporting Requirements and Inspections

340-300-0006
Program Administration and Compliance Fees

340-300-0007
DEQ Review and Approval of Seismic Vulnerability Assessments and Risk Mitigation Implementation Plans

340-300-0008
Certificates of Financial Responsibility Requirements

(1) The owner or operator of a facility must obtain an Oregon COFR that confirms:

(a) The facility has one or more financial assurance mechanisms in place to meet the Minimum financial assurance requirement as determined by OAR 340-300-0009.

[**Authority:** HB 4100 (2026) Section 4(2)(a)]

(b) The facility's financial assurance mechanisms meet the acceptability standards of OAR 340-300-0010.

[**Authority:** HB 4100 (2026) Section 3(2), Section 4(2)(b)]

(2) Facilities must apply for Oregon COFRs and notify DEQ of significant changes to COFRs to financial or operational information provided in CODE applications according to the procedures and timelines of OAR 340-300-0011.

[**Authority:** HB 4100 (2026) Section 4(2)(f-g), Section 8]

Statutory/Other Authority: HB4100 (2026)
Statutes/Other Implemented: HB4100 (2026)
History:

340-300-0009
Determination of Financial Assurance Requirement

(1) The owner or operator of a facility must demonstrate financial responsibility in the amount of $12,500 per barrel times the worst-case discharge volume as defined in the applicant's Oil Spill Contingency Plan, up to the maximum financial assurance requirement.

[**Source:** WAC 173-187-100; CCR §791.7.h.1.B.1

Authority: HB4100 (2026) Section 4(2)(a)

Rationale: Pending the review of HB4100 Section 4(2)(a)'s variables including operational risk, maximum volumes of materials, historical incident costs and the environmental sensitivity of the impacted areas and discussion with RAC Members, Washington and California's Financial Responsibility requirement equation of $12,500 per barrel times the worst-case discharge volume is used as a placeholder and as DEQ's starting point. A preliminary discussion of alternative methods to determine Minimum financial assurance requirements is available in Appendix A. Using this placeholder equation, DEQ estimates that all or nearly all the regulated facilities would be required to maintain the maximum financial assurance requirement. Alternatively, it may be possible to determine a cost per barrel multiplier to be used with total facility capacity to better reflect the language of HB4100 and the need to ensure sufficient financial assurances for earthquake hazards which impact a whole facility, not just the single largest tank used in contingency plans.]

(2) The minimum and maximum required amounts of financial responsibility in no way restrict or set financial limitations on any duty, obligation, or liability of the facility.

[**Source:** WAC 173-187-010 (2)]

Statutory/Other Authority: HB4100 (2026)
Statutes/Other Implemented: HB4100 (2026)
History:

340-300-0010
Acceptable Financial Assurance Mechanisms

(1) The owner or operator of a facility must demonstrate financial responsibility through one or more of the financial assurance mechanisms described in this rule. If multiple financial assurance mechanisms are used, the total demonstrated financial responsibility must be greater than or equal to the minimum financial assurance requirement.

[**Source:** WAC 173-187-220 (6)

Rationale: Financial assurance mechanisms standards in this rule focus on mechanisms identified in HB4100 and mechanisms defined in WAC 173-187-220.

Other Financial assurance mechanisms are available but based on discussion with WA, AK and CA, few mechanisms besides insurance and guarantees or self-insurance from a parent company are used by bulk oils and liquid fuels terminals. Section 8 of this rule provides an option for “Other FA Mechanisms.”

“Trusts” are identified in HB 4100 (2026), however existing rule language does not exist in Washington, California, or Alaska relating to the use of trusts as a financial assurance mechanism outside of the use of standby trust funds to accompany other financial assurance mechanisms. Pending discussion, DEQ will not provide additional details on “trusts” as a financial mechanism and will defer their use to “Other FA Mechanisms.”]

(2) Evidence of Insurance:

[**Authority**: HB4100 (2026) Section 3(2)(a)]

(a) The owner or operator of a facility may demonstrate financial responsibility through one or more insurance policies. The applicant must provide proof of insurance issued by an insurer who is authorized to sell insurance in Oregon under a certificate of authority issued by the Oregon state insurance commissioner or that is procured through a licensed surplus line broker in accordance with OAR […] The insurer providing coverage must also have a current AM Best rating of at least B+.

[**Source:** WAC 173-187-220 (6)(a)(i)]

(b) Submit a certificate of insurance signed by an authorized representative of the insurer.

[**Source:** WAC 173-187-220 (6)(a)(ii)]

(c) In addition to the certificate of insurance, the applicant must submit proof of insurance in the form of a binder or a copy of the policy. If a binder is submitted to meet the requirements of this subsection, a copy of the underlying insurance policy must also be provided to DEQ within 90 calendar days of submitting an Oregon DEQ COFR Application.

[**Source:** WAC 173-187-220 (6)(a)(iii)]

(d) The proof of insurance must include:

[**Source:** WAC 173-187-220 (6)(a)(iv)]

(A) Name and address of insured;

(B) Name and principal characteristics of facility covered;

(C) Name and address of insurer(s);

(D) Policy number(s);

(E) Effective date and term of coverage;

(F) All conditions and limitations of the policy or certificate which may affect coverage in the event of a spill or release;

(G) An attestation that the policy covers spill-related liabilities as defined in OAR 340-300-0002.

[Source materials altered to reflect "spill-related liabilities"

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(a)(iv)(G)]

(H) Dollar amounts of the insurance policy or certificate of insurance;

(I) Amount of deductibles and self-insured retention; and

(J) Language that termination or cancellation of this policy, insofar as it serves as proof of the insured's financial responsibility for damages for spills or releases and the unlawful discharge of oil, liquid fuel or hazardous materials, must not become effective until 30 calendar days after a notice of termination or cancellation has been submitted to DEQ. However, this policy must only remain in effect for 10 calendar days after a notice of termination or cancellation for failure to pay the premium by the due date has been submitted to DEQ, and the notice was issued after the date the premium was due.

[Source materials altered to reflect "spill or release" and "oil, liquid fuel or hazardous materials"

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(a)(iv)(J)]

(e) A deductible provision in any policy of insurance, binder, or certificate is acceptable if the deductible provision provides for a loss reimbursement plan that contains language guaranteeing that the insurer will be responsible for the payment of all claims on a first dollar basis.

[**Source:** WAC 173-187-220 (6)(a)(v)(B)]

(f) No later than 30 calendar days following the expiration of a policy period, an applicant using insurance as evidence of financial responsibility must submit a certificate of insurance, or other written documentation acceptable to DEQ demonstrating that the renewal of the applicant's insurance policy occurred on or before the previous policy's expiration date. Failure to submit the certificate of insurance or other acceptable written documentation within 30 calendar days following the expiration of the current policy period may result in the revocation of the Oregon COFR.

[**Source:** WAC 173-187-220 (6)(a)(vi)]

(3) Self-Insurance:

[**Authority**: HB4100 (2026) Section 3(2)(a)]

(a) Must satisfy one of two tests:

(A)Test One, Solvency Ratio:

[**Authority:** HB4100 (2026) Section 4(2)(d)(A)(i)]

(i) Total liabilities to net worth less than 1.5, or cash and cash equivalents at end of year or quarter minus $20,000,000 to total liabilities greater than 0.1; and

[**Source:** WAC 173-187-220 (6)(g)(i)(A)(I)]

(ii) Worldwide owner’s equity minus intangible assets (i.e., tangible net worth) greater than $20,000,000 plus two times the amount of self-insurance that is required; and

[**Source:** WAC 173-187-220 (6)(g)(i)(A)(II)]

(iii) United States assets, not including assets that are oil, liquid fuel or hazardous materials inventory that may be affected by a spill or release from a facility covered by self-insurance, equal to or greater than 90 percent of total assets or at least two times the amount of required self-insurance.

[Source materials altered to reflect “spill or release” and “oil, liquid fuel or hazardous materials”

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(g)(i)(A)(III)]

(B) Test two: Current Credit Rating:

[**Authority:** HB4100 (2026) Section 4(2)(d)(A)(ii)]

(i) A current credit rating of BBB- stable or better from Standard and Poor’s, Baa or better by Moody’s, or commercial paper rate of A1, A2, or the equivalent, and

[**Source:** WAC 173-187-220 (6)(g)(i)(B)(I)]

(ii) Worldwide owner’s equity minus intangible assets (i.e., tangible net worth) greater than $20,000,000 plus two times the amount of self-insurance that is required; and

[**Source:** WAC 173-187-220 (6)(g)(i)(B)(II)]

(iii) United States assets, not including assets that are oil, liquid fuel or hazardous materials inventory that may be affected by a spill or release from a facility covered by self-insurance, equal to or greater than 90 percent of total assets or at least two times the amount of required self-insurance.

[Source materials altered to reflect “spill or release” and “oil, liquid fuel or hazardous materials”

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(g)(i)(B)(III)]

(b) Documentation required. A self-insurance letter signed by a financial officer, a general partner, the proprietor of a sole proprietorship, or an authorized representative of the applicant, stating:

[**Source:** WAC 173-187-220 (6)(g)(ii)]

(A) They are a financial officer, general partner, proprietor, or authorized representative of the organization or business entity;

[**Source:** WAC 173-187-220 (6)(g)(ii)(A)]

(B) That the letter supports the use of a financial test to demonstrate financial responsibility by self-insurance pursuant to this section; and

[**Source:** WAC 173-187-220 (6)(g)(ii)(B)]

(C) Whether the applicant, parent entity of the applicant, or a subsidiary of the applicant is the owner or operator of the facility described in the application or is the owner of oil, liquid fuel or hazardous materials.

[Source materials altered to reflect “oil, liquid fuel or hazardous materials”

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(g)(ii)(C)]

(c) The proof of financial responsibility required under this section must be supported by the following, which must be submitted with the application for approval, and which must be later supplemented as described:

[**Source:** WAC 173-187-220 (6)(g)(iii)]

(A) Annual audited financial statements for consolidated holdings in the United States for the fiscal year ending immediately before each initial or renewal application, certified by an independent certified public accountant. If the financial statements do not specify what portion of the applicant's assets are located in the United States, the statements must be supplemented by an affidavit from the applicant's chief financial officer or treasurer, or a sworn statement by the certified public accountant who prepared the audit, certifying that the assets located in the United States are in an amount equal to the applicable amount required under this division; or

[**Source:** WAC 173-187-220 (6)(g)(iii)(A)]

(B) A self-insuring applicant may provide DEQ with a copy of the applicant's Form 10K as filed with the United States Securities and Exchange Commission for the fiscal year preceding application or renewal, and each Form 10Q subsequently filed with that commission, subject to the following conditions:

[**Source:** WAC 173-187-220 (6)(g)(iii)(B)]

(i) If the applicant's fiscal year ended six months or more before initial application, the applicant's Form 10Q for the first quarter of the current fiscal year must also be submitted with the initial application; and

[**Source:** WAC 173-187-220 (6)(g)(iii)(B)(I)]

(ii) If the applicant's United States Securities and Exchange Commission forms do not specify what portion of its assets are located in the United States, those forms must be supplemented by an affidavit from the applicant's chief financial officer or treasurer, or a sworn statement by the certified public accountant who prepared the form, certifying that the assets located in the United States are in an amount equal to the applicable amount required under this division.

[**Source:** WAC 173-187-220 (6)(g)(iii)(B)(II)]

(C) Each quarter the applicant must report to the DEQ:

[**Authority:** HB4100 (2026) Section 4(2)(d)(B)]

(i) The applicant must submit Form 10Q within two calendar months after the quarter ends; and

[**Source:** WAC 173-187-220 (6)(g)(iii)(C)(I)]

(ii) Along with the Form 10Q, the applicant must submit subsequent quarterly affidavits attesting that the amounts of assets located in the United States are equal to the applicable amount required under this division; and

[**Source:** WAC 173-187-220 (6)(g)(iii)(C)(II)]

(D) Each year the applicant must report to the DEQ:

[**Authority:** HB4100 (2026) Section 4(2)(d)(C)]

(i) The applicant must submit Form 10K within four calendar months after the applicant's fiscal year ends; and

[**Source:** WAC 173-187-220 (6)(g)(iii)(D)(I)]

(ii) Along with the Form 10Q, the applicant must submit a subsequent affidavit attesting that the amounts of assets located in the United States are equal to the amount required under this division; and

[**Source:** WAC 173-187-220 (6)(g)(iii)(D)(II)]

(E) The applicant must notify DEQ within seven calendar days if, at any time, the applicant fails to meet the self-insurance test criteria.

[**Source:** WAC 173-187-220 (6)(g)(iii)(E)]

(4) Surety Bonds:

[**Authority:** HB4100 (2026) Section 3(2)(b)

(a) The owner or operator of a facility may demonstrate financial responsibility with a surety bond for the amount required, in full or in part.

[**Source:** WAC 173-187-220 (6)(b)(i)]

(b) The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

[**Source:** WAC 173-187-220 (6)(b)(ii)]

(c) Under the terms of the bond, the bond must be subject to and governed by the laws of the State of Oregon.

[**Source:** WAC 173-187-220 (6)(b)(iii)]

(d) The bond must not contain additional terms or conditions which limit the surety company's obligation to pay for costs and damages arising due to damages for oil, liquid fuel or hazardous materials pollution claims and/or the unlawful discharge of oil, liquid fuel or hazardous materials. The bond must possess an underwriting limitation of risk at least equal to the amount of the bond.

[Source materials altered to reflect “oil, liquid fuel or hazardous materials”

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(b)(iv)]

(e) An applicant utilizing a surety bond to demonstrate evidence of financial responsibility must establish a standby trust fund. Under the terms of the bond, all payments made thereunder must be deposited by the surety directly into the standby trust fund.

[**Source:** WAC 173-187-220 (6)(b)(v)]

(f) Termination or cancellation of a surety bond that serves as proof of financial responsibility hereunder may not become effective until 60 calendar days after a notice of termination or cancellation has been submitted to DEQ. The surety remains liable for any discharge occurring before the effective date of termination or cancellation.

[**Source:** WAC 173-187-220 (6)(b)(vi)]

(5) Letters of Credit:

[**Authority:** HB4100 (2026) Section 3(2)(c)

(a) The owner or operator of a facility may demonstrate financial responsibility with a letter of credit, in favor of the state of Oregon, for the amount required, in full or in part.

[**Source:** WAC 173-187-220 (6)(d)(i)]

(b) The letter of credit must be irrevocable in favor of the state of Oregon, must be subject to and be governed by the laws of the state of Oregon, must be effective on or before the approval date of the Oregon COFR, and must specifically note the effective date and the expiration date.

[**Source:** WAC 173-187-220 (6)(d)(ii)]

(c) The letter of credit must be issued by a financial institution that has the authority to issue letters of credit, and that is regulated and examined by state and federal banking agencies.

[**Source:** WAC 173-187-220 (6)(d)(iii)]

(d) The letter of credit may not be used as collateral and may not be drawn upon by the owner or operator of the facility except to cover oil, liquid fuel or hazardous materials clean-up or damage costs.

[Source materials altered to reflect “oil, liquid fuel or hazardous materials”

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(d)(iv)]

(e) The letter of credit must not contain additional terms or conditions which limit the issuing institution's obligation to pay for costs and damages arising due to damages for oil, liquid fuel or hazardous materials pollution claims and/or the unlawful discharge of oil, liquid fuel or hazardous materials.

[Source materials altered to reflect “oil, liquid fuel or hazardous materials”

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(d)(v)]

(f) An applicant utilizing a letter of credit to demonstrate evidence of financial responsibility must establish a standby trust fund. Under the terms of the letter of credit, all payments made thereunder must be deposited by the issuing institution directly into the standby trust fund.

[**Source:** WAC 173-187-220 (6)(d)(vi)]

(6) Guarantees:

[**Source:** WAC 173-187-220 (6)(c)]

(a) The owner or operator of a facility may demonstrate financial responsibility with a guarantee for the amount required in full or in part.

[**Source:** WAC 173-187-220 (6)(c)(i)]

(b) The guarantee document must be executed and signed by the guarantor and must have a designated agent, located in the state of Oregon, for service of process by the guarantor. The guarantor must be subject to and governed by the laws of the state of Oregon.

[**Source:** WAC 173-187-220 (6)(c)(ii)]

(c) The guarantee must indicate the expiration date of the guarantee or that it is a "continuing" guarantee.

[**Source:** WAC 173-187-220 (6)(c)(iii)]

(d) The guarantee must indicate the maximum amount of financial responsibility that the guarantor is providing.

[**Source:** WAC 173-187-220 (6)(c)(iv)]

(e) The guarantee must not contain additional terms or conditions which limit the guarantee's obligation to pay for costs and damages arising due to damages for oil, liquid fuel or hazardous materials pollution claims and/or the unlawful discharge of oil, liquid fuel or hazardous materials.

[Source materials altered to reflect “oil, liquid fuel or hazardous materials”

Authority: HB4100 (2026) Section 3;

Source: WAC 173-187-220 (6)(c)(v)]

(f) The issuer of the guarantee must meet the financial, application, and reporting requirements of Section 3 of this rule [self-insurance reporting requirements].

[**Source:** WAC 173-187-220 (6)(c)(vi)]

(g) An applicant utilizing a guarantee to demonstrate evidence of financial responsibility must establish a standby trust fund. Under the terms of the guarantee, all payments made thereunder must be deposited by the guarantor directly into the standby trust fund.

[**Source:** WAC 173-187-220 (6)(c)(vii)]

(h) Termination or cancellation of a guarantee that serves as proof of financial responsibility may not become effective until 60 calendar days after a notice of termination or cancellation has been submitted to DEQ. The guarantor remains liable for any discharge occurring before the effective date of termination or cancellation.

[**Source:** WAC 173-187-220 (6)(c)(viii)]

(7) Certificates of deposit:

[**Source:** WAC 173-187-220 (6)(e)]

(a) The owner or operator of a facility may demonstrate financial responsibility with a certificate of deposit, in favor of the state of Oregon, for the amount required, in full or in part.

[**Source:** WAC 173-187-220 (6)(e)(i)]

(b) The certificate of deposit must be held by a financial institution that has the authority to hold certificate of deposit, that is regulated and examined by state and federal banking agencies and that is a member of the Federal Deposit Insurance Corporation or National Credit Union Administration.

[**Source:** WAC 173-187-220 (6)(e)(ii)]

(c) The certificate of deposit must be irrevocable in favor of the state of Oregon with an automatically renewable term, must be subject to and be governed by the laws of the state of Oregon, and must be effective on or before the approval date of the Oregon COFR. The initial term and the automatic renewal term must be stated on the certificate of deposit.

[**Source:** WAC 173-187-220 (6)(e)(iii)]

(d) The certificate of deposit may not be used as collateral and may not be drawn upon by the owner or operator of the facility except to cover spill-related liabilities.

[Source materials altered to reflect "spill-related liabilities"

Authority: HB4100 (2026) Section 3

Source: WAC 173-187-220 (6)(e)(iv)]

(e) An applicant utilizing a certificate of deposit to demonstrate evidence of financial responsibility must establish a standby trust fund. Under the terms of the certificate of deposit, all payments made thereunder must be de posited by the issuing institution directly into the standby trust fund.

[**Source:** WAC 173-187-220 (6)(e)(v)]

(8) Other financial assurance mechanisms that serve as evidence of financial responsibility deemed acceptable by DEQ.

[**Authority:** HB4100 (2026) Section 3(2)(e)

Source: WAC 173-187-220 (6)(h)]

Statutory/Other Authority: HB4100 (2026)
Statutes/Other Implemented: HB4100 (2026)
History:

340-300-0011
COFR Application Process, Timeline and Notification of Significant Change

(1) The owner or operator of a facility that is required to demonstrate financial responsibility under this division, or their authorized representative, must apply for an Oregon COFR using the Oregon DEQ COFR Application Form (Forthcoming) and other guidance posted on DEQ's website.

(2) Applications and associated materials must meet the following format requirements:

[**Source:** WAC 173-187-220 (2)]

(a) All documents must be in English and all monetary terms must be in United States currency; and

[**Source:** WAC 173-187-220 (2)(a)]

(b) All fields in the application form must be completed with the requested information or the phrase "not applicable."

[**Source:** WAC 173-187-220 (2)(b)]

(3) The application must include the following:

[**Source:** WAC 173-187-220 (3)]

(a) Proof of financial responsibility provided by one or more of the financial responsibility instruments described in OAR 340-300-0010;

[**Source:** WAC 173-187-220 (3)(a)]

(b) Evidence of dollar amounts;

[**Source:** WAC 173-187-220 (3)(b)]

(c) Effective date and term of coverage.

[**Source:** WAC 173-187-220 (3)(c)]

(4) All applications, including renewal applications, must include a statement which attests to the accuracy and completeness of the application and is signed by the owner, operator, or authorized representative of the owner or operator, whose title must be indicated on the attestation. An authorized representative must have delegated authority to attest to the accuracy of the application and to bind the owner or operator to the financial responsibility amounts required under this division. If an authorized representative applies for an Oregon COFR on behalf of an owner or operator, delegation of authority must be included with the application.

[**Source:** WAC 173-187-220 (4)]

(5) The submitted application for financial responsibility shall bind the owner or operator of the facility to the financial responsibility amounts required under this division.

[**Source:** WAC 173-187-010 (5)]

(6) Owners and operators of facilities must apply for an Oregon COFR by March 31, 2027, and must reapply every three years thereafter or upon Notification of Significant Change, when applicable.

[**Authority:** HB 4100 (2026) Section 4(2)(f-g), Section 8]

(7) Owners and operators of facilities that are beginning new operations in the state after the effective date of this rule are required to submit a completed and signed application for an Oregon COFR at least 65 calendar days before beginning operations

[**Source:** WAC 173-187-240 (1)]

(8) The owner or operator of the facility must apply to renew their Oregon COFR at least 30 calendar days, but no more than 90 calendar days, before the expiration date of the Oregon COFR.

[**Source:** WAC 173-187-260]

(9) Significant changes to Oregon COFRs require notification to the DEQ:

[**Source:** WAC 173-187-300]

(a) If the owner or operator of a facility becomes aware of a significant change to the facility operating status or financial assurance mechanisms after DEQ has issued an Oregon COFR, they must notify DEQ of the change within seven calendar days after becoming aware of the significant change. DEQ may suspend or terminate an Oregon COFR if the owner or operator can no longer demonstrate financial responsibility based on the significant change. Significant changes include, but are not limited to:

[**Source:** WAC 173-187-300 (1)]

(A) A change in ownership or operational control;

[**Source:** WAC 173-187-300 (1)(a)]

(B) A method of demonstrating financial responsibility will be terminated, or any coverage thereunder will cease;

[**Source:** WAC 173-187-300 (1)(b)]

(C) Any financial responsibility coverage amount that will be changed or adjusted.

[**Source:** WAC 173-187-300 (1)(c)]

(b) If there is a change in applicant name, facility name change, if the Oregon COFR expires, or there is any change in the financial responsibility coverage amount, a new Oregon COFR will be necessary.

[**Source:** WAC 173-187-300 (2)]

(c) The holder of an Oregon COFR under this division must notify DEQ of a spill or release in state waters consistent with OAR [….]

[Source materials altered to reflect "spill or release"
Authority: HB4100 (2026) Section 3
Source: WAC 173-187-300 (3)]

(d) In addition to other DEQ spill reporting requirements, the holder of an Oregon COFR must notify DEQ Fuel Tank Seismic Stability program within 10 calendar days if it experiences a spill or release in Oregon or in another jurisdiction for which it may be liable and which may incur damages that exceed 15 percent of the financial assurances reflected by the Oregon COFR.

[Source materials altered to reflect "spill or release"
Authority: HB4100 (2026) Section 3
Source: WAC 173-187-300 (3)(a)]

(e) Upon notification of an oil spill or discharge or other potential liability by the owner or operator of a facility that holds an Oregon COFR, DEQ may reevaluate the validity of the Oregon COFR under this division. DEQ must reevaluate the validity of an Oregon COFR under this division upon notification of a spill for which the Oregon COFR holder may be liable and which may incur damages that exceed 25 percent of the financial resources reflected by the Oregon COFR. DEQ may suspend or revoke an Oregon COFR if DEQ determines that, because of a spill or release or other action or potential liability, the holder of the Oregon COFR is likely to no longer have the financial resources to both pay damages for the oil spill or discharge or other action or potential liability and have resources remaining available in an amount sufficient to meet the requirements of this division, effective 10 calendar days after its determination.

[Source materials altered to reflect “spill or release”
Authority: HB4100 (2026) Section 3
Source: WAC 173-187-300 (3)(b)]

(11) DEQ will regularly review financial institution ratings and facility financial information to ensure the applicant’s financial assurance mechanisms continue to meet the standards of OAR 340-300-0010. DEQ will provide notice to a facility owner or operator requiring corrective action and DEQ may revoke a COFR if corrective action is not taken.

[**Authority:** HB4100 (2026) Section 4(2)(h)(A)

(13) [FORTHCOMING]. “Standards for restricting or suspending the operations of bulk oils or liquid fuels terminals that do not satisfy the requirements of this section.”

[**Authority:** HB4100 (2026) Section 4(2)(h)(B)

Rationale: DEQ is preparing a proposal to best implement the mandate from HB 4100 (2026) to develop “standards for restricting or suspending the operations of bulk oils or liquid fuels terminals that do not satisfy the requirements of this section” and intends to present a draft ahead of the second RAC Meeting.]

Other Authority: HB4100 (2026)
Statutes/Other Implemented: HB4100 (2026)
History:

340-300-0012
DEQ Review of COFR Applications

(1) DEQ will review applications and issue Oregon COFRs for facilities within 30 days of receipt of a complete application.

[**Source:** WAC 173-187-250 (1)]

(2) If DEQ approves the application for financial responsibility, it will issue an Oregon COFR to the applicant stating that the proof of financial responsibility requirements has been met for the facility identified in the application. The Oregon COFR will then be emailed to the applicant.

[**Source:** WAC 173-187-250 (2)]

(3) Oregon COFRs expire three years after the issuance date.

[**Source:** WAC 173-187-250 (3)]

(4) The effective date and the expiration date will be marked on the Oregon COFR.

[**Source:** WAC 173-187-250 (4)]

(5) The original Oregon COFR, or a copy of the original Oregon COFR, demonstrating financial responsibility must be available for inspection by DEQ upon request.

[**Source:** WAC 173-187-250 (5)]

Statutory/Other Authority: HB4100 (2026)
Statutes/Other Implemented: HB4100 (2026)
History:

340-300-0013
Triennial Update of Financial Assurance Requirements

(1) Every three years beginning Jan 1, 2030, DEQ will evaluate and may choose to adjust the maximum financial assurance requirement. If DEQ adjusts the maximum financial assurance requirement, DEQ will adjust the amount of financial assurance required for each facility accordingly.

[**Authority**: HB4100 (2026) Section 4(4)(b), Section 7]

(2) DEQ's evaluation of the maximum financial assurance requirement will entail…

[**Discussion Prompt**: What should this evaluation entail? This section could refer to the same variables HB 4100 refers to in Section 4 (2)(a) that must be considered in the determination of reasonable minimum financial assurance requirements.]

(3) Adjustments to the maximum financial assurance requirement must be approved by the Environmental Quality Commission.

[**Rationale**: HB4100 (2026) provides the EQC authority to determine minimum financial assurance requirements, therefore EQC approval for proposed adjustments seems appropriate.]

(4) Every three years beginning January 1, 2030, the DEQ may update the multipliers used in the determination of minimum financial assurance requirements to reflect: (a) Inflation and other economic conditions; (b) Industry changes and improvements; (c) Emerging Risks; (d) Lessons learned from spill or release response efforts.

[**Authority**: HB4100 (2026) Section 4(5)]

(5) Updates to the multipliers used to determine the minimum financial assurance requirement must be approved by the Environmental Quality Commission.

[**Rationale**: HB4100 (2026) provides the EQC authority to determine minimum financial assurance requirements, therefore EQC approval for proposed multiplier updates seems appropriate.]

Statutory/Other Authority: HB4100 (2026)
Statutes/Other Implemented: HB4100 (2026)
History:

340-012-0064
Fuel Tank Seismic Stability Enforcement Classification of Violations

(1) Class I:

(a) Failure to timely submit a facility Seismic Vulnerability Assessment as required under OAR 340-300-0004.

(b) Failure to timely submit a facility Risk Mitigation Implementation Plan or a final post-implementation report as required under OAR 340-300-0005.

(c) Failure to implement DEQ approved Risk Mitigation Implementation Plan.

(d) Failure to maintain equipment, personnel and training at levels described in an approved Risk Mitigation Implementation Plan.

(e) Operating a bulk fuel terminal without an approved facility Seismic Vulnerability Assessment or Risk Mitigation Implementation Plan.

(f) Operating a facility without an approved Oregon COFR.

(2) Class II:

(a) Failure to allow access for facility inspection when requested.

(b) Failure to submit a modification request prior to changing an approved Seismic Vulnerability Assessment or Risk Mitigation Implementation Plan.

(c) Failure to implement required changes to an approved Seismic Vulnerability Assessment or Risk Mitigation Implementation Plan.

(d) Failure to notify DEQ of significant changes to a facility COFR as required in OAR 340-300-0011(9).

(e) Failure to submit a certificate of insurance or other written documentation demonstrating the renewal of an insurance policy as required in OAR 340-300-0010(2)

(f) Failure to submit financial statements for self-insured facilities as required in OAR 340-300-0010(3).

(3) Class III:

(a) Failure to provide maintenance and inspections records of the storage and transfer facilities to DEQ upon request.

(b) Failing to notify DEQ within 14 calendar days of any significant changes that could affect implementation of a required Risk Mitigation Implementation Plan.

(c) Failing to retain records of Seismic Vulnerability Assessment or Risk Mitigation Implementation Plan as required in 340-300-0003(11) and 340-300-003(13).

Statutory/Other Authority: ORS 468.020 & SB 1567 (2022)
Statutes/Other Implemented: SB 1567 (2022)
History:
DEQ 13-2023, adopt filed 09/14/2023, effective 09/14/2023

Certificate of Financial Responsibility Draft Fiscal Impact Statement

Introduction

This is a draft fiscal impact statement developed by DEQ for the Fuel Tanks Seismic Stability (FTSS) program's Certificate of Financial Responsibility (COFR) Rulemaking. This document is being presented to the Rules Advisory Committee for discussion. As part of the rulemaking process, the Rules Advisory Committee must review the Fiscal Impact Statement and Racial Equity Statement to determine whether the proposed rules would have a fiscal impact, the extent of that impact, and if the proposed rules would have a significant adverse impact on small businesses. If the committee determines that small businesses may face significant adverse impacts, the committee should assist DEQ in developing alternatives to reduce the adverse impacts on small businesses to comply with ORS 183.540. The RAC's input will be reflected in the draft version shared for public comment and the final proposal to the Environmental Quality Commission.

DEQ is conducting the House Bill 4100 mandated rulemaking to create the Certificate of Financial Responsibility requirements within the Fuel Tank Seismic Stability program. The new requirements apply to facilities in Columbia, Lane and Multnomah counties that have the capacity to store two million gallons or more of oil, fuel or hazardous materials. The facilities are required to submit proof of sufficient financial assurance to address spill-related liabilities to DEQ by March 31, 2027.

The purpose of the financial assurance requirement is to ensure funding is available to reimburse costs associated with spill-related liabilities from the regulated facilities. These funds are intended to assist in paying for response costs, spill cleanup expenses, natural resource damage assessments and remediation, or other damages caused by spills or releases from the facilities. The specific financial assurance minimums, maximums, the application process, DEQ approval process and other programmatic details will be finalized with input from technical experts and a Rulemaking Advisory Committee.

Fee analysis

This rulemaking does not involve fees. A fee increase for facilities regulated under the Fuel Tank Seismic Stability program was implemented as provided in the HB 4100 (2026) budget report.

Statement of fiscal and economic impact

Fiscal and economic impact

House Bill 4100 created new provisions within ORS 468B.513 and 468B.525 that establish financial responsibility requirements for facilities with two million gallons or more storage capacity of liquid fuel, bulk oils or other hazardous materials in Multnomah, Lane, and Columbia counties. The facilities regulated under the Fuel Tank Seismic Stability program have over four hundred million gallons of reported capacity for fuels and oils and are a key access point through which 90% of Oregon's fuel and oil supply flows. A major spill stemming from these facilities would be a danger to public health, the environment and the economy of the state. The determination of financial assurance requirements and the establishment of rules to guide Oregon COFRs aims to ensure the owners and operators of the regulated facilities have the financial means to address potential spill-related damage to the state's natural resources, economy and public health.

A 2022 report from ECONorthwest estimated a large-scale spill or release from the CEI Hub could reach up to 194 million gallons of fuel, oil and other hazardous materials from fuel facilities in Oregon's CEI Hub. Up to 82 million gallons of the fuel contained in this area could flow into the Willamette River. ECONorthwest estimated the costs of a catastrophic spill of these facilities as including: injury to persons costs up to $75 million, property impacts up to $36 million, impacts to imports and exports from the Columbia River up to $18 million, long-term public health impact costs of up to $249 million, cleanup costs of up to $1.4 billion, and impacts to fuel prices of up to $119 million, with further impacts expected to loss of consumption, economic value and delays of fuel deliveries causing impacts to emergency services and recovery efforts. This report estimates total damages of up to $2.6 billion from spills or releases during Cascadia Subduction Zone earthquakes given present-day facility conditions[1].

Other economic impacts from an uncontained spill stemming from the regulated facilities could include impacts to commercial shipping along the Columbia River and damage to the commercial fishing industry in Oregon, both along the river and on the coast. Commercial traffic on the Columbia River has an estimated annual economic impact of $24 billion[2]. In 2025, commercial fisheries in the Columbia and on the Oregon Coast represented roughly 10,300 jobs, $517 million in household income and $1.1 billion in economic activity[3]. These two sectors

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[1] ECONorthwest. 2022. "Chapter 1: Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub." https://multco.us/file/critical_energy_infrastructure_hub_report_-_full_report/download

[2] U.S. Army Corps of Engineers. 2026. *Lower Columbia River Channel Maintenance, Draft Integrated Dredged Material Management Plan and Environmental Impact Statement*. https://www.nwp.usace.army.mil/lcrchannelmaintenance/

[3] Oregon Coast Visitor's Association. 2026. *Oregon Commercial Fishing Industry Trends 2020-2025*. https://industry.visittheoregoncoast.com/wp-content/uploads/2026/03/OCVA-fishery-trends-rpt-summary-March-13-2026.pdf

would likely experience significant, potentially long-term impacts in the event of a large-scale spill originating at the CEI Hub.

This rulemaking's purpose is to establish the requirements that a regulated facility's financial assurance should meet, with the overarching goal of mitigating the above impacts. The requirements established during the rulemaking will address how DEQ will determine the required maximum for each facility, the minimum financial assurance required, which methods of financial assurance are acceptable and the processes DEQ will use to implement this program. These decisions will determine the financial impact of the rules, including the associated compliance costs for facilities.

Statement of cost of compliance

State agencies

DEQ is consulting with Portland State University, Washington Department of Ecology and a small panel of technical experts for this rulemaking and future program implementation. These parties are expected to provide input and technical support during the program's rulemaking phase. Portland State University, Washington Department of Ecology and Oregon Department of Geology and Mineral Industries are under contract with the DEQ Fuel Tank Seismic Stability program, so any costs associated with advisory and technical assistance are already included in the contract and fall under the Fuel Tank Seismic Stability program.

Other state agencies are unlikely to be impacted by the Certificate of Financial Responsibility rulemaking and future implementation. There may be beneficial impacts on these agencies due to the Financial Responsibility requirements providing increased surety of funds available to pay for spill-related costs incurred by state agencies.

Local governments

No negative fiscal impacts to local governments are expected. Local governments could benefit due to the increased surety of funds available for cleanup, response or remediation costs, damages awarded and other costs incurred during a spill or release event.

Tribal nations that may be affected by spill or release events would see similar potential benefits.

Public

The proposed rule may indirectly impact the members of the public through negligible increases in fuel and infrastructure costs due to increased costs of compliance for regulated facilities, which could be passed on to consumers as marginally higher fuel costs.

Large businesses - businesses with more than 50 employees

The proposed rule may impact large businesses due to added annual expenses from acquiring or increasing coverage from certain forms of financial assurance, such as pollution liability insurance. According to information obtained from insurance professionals and from the financial impact analysis carried out by Washington State's Department of Ecology during the department's Financial Responsibility rulemaking, there are limitations to the available financial assurance methods:

- Insurance policies for oil spills worth $200 million or more do not generally exist, thus requiring a "stacking" of multiple policies equaling the required amount
    - For coverage at $200 million, premiums range from 0.5% to 2.5% per annum, with a cost ranging from about $1 million to $5 million per annum
- Environmental surety bonds above $30 million in coverage are generally uncommon, and annual rates range from 1% to 10% of the total bond value.
- For the maximum coverage required by statute of $300 million, Ecology estimated that the annual cost could range from $4.2 million to $9.7 million per year[4].

Small businesses – businesses with 50 or fewer employees

ORS 183.336 Cost of Compliance Effect on Small Businesses

a. The estimated number of small businesses subject to this rule is one. McCall Oil and Chemical Corporation is a supplier of asphalt, renewable and biodiesel, and other oil-derived or chemical products, located in Northwest Portland. They are the only facility regulated by the Fuel Tank Seismic Stability program categorized as a small business. Using Washington and California's method to determine Minimum Financial Assurance Requirements, DEQ estimates that McCall would be required to maintain the Maximum Financial Assurance Requirement of $300 million, which could cost between $1 million and $10 million per year, or more, depending on the method of financial assurance.
b. The proposed rule may indirectly impact small businesses not regulated by the FTSS program by marginally increasing fuel and infrastructure costs.
c. The primary cost for small businesses to comply with the proposed rule will be the acquisition and submission of documents demonstrating the facility's ability to be financially responsible in the event of spill- or release-related liabilities. See the above section titled "Large Businesses" for the estimated annual cost of compliance with these rules.
d. The proposed rules do not require any additional activities. The only costs associated with compliance with this rule are associated with the costs of purchasing or holding the required amount of financial assurance.

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[4] Spill Prevention, Preparedness, and Response Program, Washington Department of Ecology. 2024. *Preliminary Regulatory Analyses: Chapter 173-187 WAC Financial Responsibility* (24-08-001).

e. DEQ has included the Oregon Business & Industry Association as a member of the Rulemaking Advisory Committee for their perspectives on businesses, industries and regulations. Additionally, we will reach out to the one small business subject to this rule to hear their perspective on the rule and the potential costs to their business.

Documents relied on for fiscal and economic impact

Table 5: A list of the documents DEQ used to inform the fiscal and economic impact statement

Document title	Document location
CEI Hub Seismic Risk Analysis: Impacts of Fuel Releases from the CEI Hub	Multnomah County Office of Sustainability 501 SE Hawthorne Boulevard, #600 Portland, OR 97214 CEI Hub Seismic Risk Analysis
Preliminary Regulatory Analyses: Chapter 173-187 WAC Financial Responsibility	Washington Department of Ecology 300 Desmond Dr SE Lacey WA 98503 Spill Prevention, Preparedness, and Response Program, Certificate of Financial Responsibility

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would most likely have no impact on development costs of housing. Any secondary economic impacts resulting from the increased costs to regulated businesses are likely to be negligible, and the number of regulated facilities which have impacts on housing and development costs are very few. If any impact were to occur, it would primarily be in the cost of transportation and the cost of roofing and asphalt and would likely be too small to accurately calculate.

Racial equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

This rulemaking aims to promote and improve racial and environmental equity in the state by preventing marginalized communities from bearing the brunt of the costs of industrial disasters. Oregon HB 4100 mandates that owners and operators of bulk oil and liquid fuel terminals obtain a Certificate of Financial Responsibility from DEQ, which helps to ensure they have the funds to cover emergency response and cleanup costs following a fuel spill or natural disaster. This rulemaking is intended to create standards that facilities must meet to receive a Certificate of Financial Responsibility from DEQ. Industrial facilities like the Critical Energy Infrastructure Hub in Multnomah County are historically and disproportionately located near lower-income neighborhoods and communities of color. By legally requiring operators to guarantee disaster cleanup funds, the bill and adoption of this rule directly protect these adjacent communities from facing long-term, unaddressed toxic exposure if a major spill occurs.

Historically, when a party responsible for a spill files bankruptcy or lacks the funds to handle cleanup, the financial burden of cleanup is placed on local taxpayers. Diverting public state and county funds to spill cleanup reduces the funding for social safety nets, infrastructure, and equity-focused public programs that minority communities rely upon heavily. HB 4100 and this rulemaking protect those public dollars.

Environmental justice considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues.

ORS 182.545 “Duties of natural resource agencies,” states that in order to provide greater public participation and to ensure that all persons affected by decisions of the natural resource agencies have a voice in those decisions, each natural resource agency shall:

(1) In making a determination whether and how to act, consider the effects of the action on environmental justice issues.
(2) Hold hearings at times and in locations that are convenient for people in the communities that will be affected by the decisions stemming from the hearings.
(3) Engage in public outreach activities in the communities that will be affected by decisions of the agency.
(4) Create a citizen advocate position that is responsible for:
    (a) Encouraging public participation;
    (b) Ensuring that the agency considers environmental justice issues; and
    (c) Informing the agency of the effect of its decisions on communities traditionally underrepresented in public processes.

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues. DEQ considered these effects by contracting with Portland State University's Institute for Sustainable Solutions during the original FTSS 2022 rulemaking process to conduct an environmental justice review. This review used a social vulnerability assessment model and engaged community focus groups to understand the community's perspective on fuel storage facilities and to identify areas of concern. The study consisted of geospatial regional and site-specific analyses of Columbia, Lane and Multnomah counties, field analysis and focus group community discussions. The spatial analysis of social vulnerability revealed varying patterns across areas. The study considered the following demographic factors[5]:

- Population density – more populated communities require more resources prior to, during, and after a hazard event;
- Population over 65 years of age – older people require more assistance during and after a hazard event;
- Non-White Population – need more resources to recover after a disaster;
- Population without high school diploma – have less access to information and resources;
- Renters – have fewer resources to recover after a disaster;
- Low-income population – fewer resources before, during and after a hazard event;
- Linguistically isolated population – require more assistance and outreach before, during and after a hazard event.

Categories not addressed in the PSU study but mentioned in the Eugene-Springfield Climate and Hazard Vulnerability Assessment[6] include:

- Population with flammable roof, vegetation within 10 meters of home;
- Geographically isolated population;
- Population isolated from public agencies for fear of interacting with public agencies;
- Population without health insurance;

[5] Social Vulnerability to Environmental Hazards
https://onlinelibrary.wiley.com/doi/abs/10.1111/1540-6237.8402002

[6] Eugene-Springfield Climate and Hazard Vulnerability Assessment
www.eugene-or.gov/DocumentCenter/View/20644/2014-EugeneSpringfield-Climate-and-Hazards-Vulnerability-Assessment

- Population without a vehicle;
- Disabled; and
- Institutionalized.

The study's results show that in Multnomah County, the census block groups that are located between multiple fuel facilities, especially those directly adjacent to industrial areas in northwest Portland and the Portland airport, are of particular concern and contain numerous socially vulnerable neighborhoods. Approximately 32% of all child daycare centers in Multnomah and Washington counties are located within the four-mile radius of the fuel terminals, as are 38% of all nursing homes. In Lane County, the area around the fuel storage facility exhibits high social vulnerability, and a greater proportion of socially vulnerable neighborhoods are found within a four-mile radius than the rest of the county. In this county, more than 28% of senior homes, and about 31% of child daycare centers are located within the four-mile radius of the fuel storage facility. Columbia County analysis did not identify any high social vulnerability areas in the vicinity of the fuel storage facilities. However, focus group discussions highlighted concerns about impacts on regional tribal populations and fisheries, farmland and workers, the natural watershed, and migratory and native birds.

The facilities regulated under this program sit on liquefiable soils that are vulnerable to earthquakes and pose potential major health, safety, and fuel-spill risks. Communities that are adjacent to or near fuel terminals are disproportionately impacted by emissions and safety risks and are traditionally lower-income and have a higher percentage of Black, indigenous, and other residents who are people of color. These communities subjected to environmental injustice have been historically overburdened by environmental hazards and are being impacted by climate change first and hardest[7], as evidenced by the 2019 heat wave. Climate change and air pollution are present additional cumulative impacts that exacerbate disparities between different racial groups in Oregon. Lower-income Oregonians are disproportionately non-white[8] and are more likely to work in frontline occupations. Frontline workers, and especially those who work outdoors, such as fuel terminal workers, bear disproportionate exposure to the negative impacts of climate change, worsening air quality and any potential natural disasters. In addition, the houseless population is also disproportionately exposed to environmental and industrial hazards.

[7] Oregon Health Authority Climate and Health in Oregon report: https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/CLIMATECHANGE/Documents/2020/Climate%20and%20Health%20in%20Oregon%202020%20-%20Full%20Report.pdf

[8] US Census Bureau's American Community Survey: US Census Bureau's American Community Survey

Appendix A: Minimum Financial Assurance Requirement Briefing Materials

HB4100 Section (4)(1)(a) requires the proposed rule to "establish reasonable minimum amounts of financial assurance based on an evaluation of:

> (A) The type, size and operational risk of bulk oils or liquid fuels terminals;
>
> (B) The maximum volume of oil, liquid fuel or hazardous materials handled by bulk oils or liquid fuels terminals;
>
> (C) Historical spill or release response costs and projected cleanup expenses in the areas where bulk oils or liquid fuels terminals operate;
>
> (D) The environmental sensitivity of the areas where bulk oils or liquid fuels terminals operate;
>
> (E) Commercially available financial assurance mechanisms, including maximum coverages offered; and
>
> (F) Financial assurance requirements in other jurisdictions."

DEQ's review of financial assurance requirements in Washington, California and Alaska identified two equations used by facilities to determine their financial assurance requirements.

> Method 1: In Washington and California, facilities must provide financial assurances equal to $12,500 per barrel of oil in a facility's worst-case discharge scenario (WCS) per their facility response plan (i.e., the capacity of the largest tank) up to a maximum of $300 million. California's multiplier and maximum were set in statute and have not been subject to inflation. California is currently undergoing a multi-year re-evaluation of this multiplier set to conclude in 2027 or 2028. Washington's multiplier and maximum were set by rule in 2023.
>
> Method 2: In Alaska, facilities must provide financial assurances equal to ~$56 per barrel in a facility's total capacity up to ~$110 million, and all crude oil facilities must maintain ~$110 million in financial assurances. Alaska's multiplier and requirement maximum were established by legislature in the 1980s with initial requirements set to $25 per barrel and a $50 million maximum which has been adjusted according to the Anchorage CPI to account for inflation; resulting in today's values of ~$56 per barrel multiplier and ~$110 million maximum requirement.

Table 6 shows the estimated financial assurance requirements of each regulated facility based on these two methods with values rounded up to the nearest million dollars.

Given the variance between these two methods for determining financial assurance requirements, this rulemaking must determine the equation and multiplier most suitable for Oregon and HB 4100. In establishing their COFR requirements, Washington determined that the Alaska financial assurance multipliers and maximums were not applicable, as they do not reflect the anticipated costs of response and remediation in Washington. Washington considered higher requirements financial assurance requirements, as high as $600 million in financial assurance, but decided this would exceed available insurance options and would place a significant burden on regulated entities.

DEQ is seeking input from the Rules Advisory Committee about the applicability of the Washington and Alaska financial assurance multipliers to fulfill the intention of HB 4100. DEQ also seeks RAC discussion on whether to use a total facility capacity multiplier (as in Alaska) or a WCS volume multiplier (as in Washington).

Other differences between Washington's rule and the statutory requirements of HB4100 warrant consideration of a novel multiplier or equation to determine minimum financial assurance requirements in Oregon. For example, Oregon's minimum financial assurance requirements should consider operational risks, maximum volumes handled, historical spill costs and environmental sensitivity of potentially impacted areas (i.e., HB4100 Section (4)(1)(a)(A through F) listed above). Additionally, less conservative methods for determining financial assurance requirements could reduce compliance costs for some regulated entities.

An analysis of potential spill response costs due to a Cascadia Subduction Zone earthquake prepared by ECONorthwest (2022) on behalf of Multnomah County, estimated that earthquake-induced releases from ten facilities in the CEI Hub could exceed $2.6 billion in damages.[9] Translating these estimates into a per barrel liability amount is under consideration and may require more detailed estimates to be applicable.

Portland State University is on contract to support DEQ's COFR rulemaking. PSU will investigate both historical spill and cleanup costs along with the cost implications of different environmental sensitivities and intends to present draft findings during the second COFR RAC meeting on Oct. 9, 2026.

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[9] ECONorthwest. 2022. "Impacts of Fuel Releases from the CEI Hub Due to a Cascadia Subduction Zone Earthquake." *Multnomah County.*

Table 6: Estimated Financial Assurance Requirements Comparing Washington and California to Alaska.

Facility Name	Facility WCS (bbls)***	FA Estimate (WA)	Facility Capacity (bbls)**	FA Estimate (AK)
Kinder Morgan - Willbridge	121,000	$1,513,000,000	1,550,000	$87,000,000
Zenith Energy	151,000	$1,888,000,000	1,518,200	$86,000,000
NuStar Energy Shore terminals LLC	100,000*	$1,250,000,000	1,192,857	$67,000,000
Chevron Willbridge Terminal	147,619	$1,846,000,000	1,090,476	$62,000,000
McCall Oil & Chemical Corporation	280,000	$3,500,000,000	904,762	$51,000,000
Phillips 66	82,000	$1,025,000,000	854,762	$48,000,000
Kinder Morgan - Eugene	58,000	$725,000,000	707,143	$40,000,000
Seaport Midstream Partners	106,000	$1,325,000,000	588,095	$33,000,000
Kinder Morgan - Linnton	73,000	$913,000,000	416,667	$24,000,000
PGE Beaver Plant	Not available	Not available	295,238	$17,000,000
Pacific Terminals Services	80,000	$1,000,000,000	276,190	$16,000,000
Triton West LLC - Shell	Not available	Not available	276,190	$16,000,000
Owens & Corning Roofing and Asphalt	Not available	Not available	185,714	$11,000,000
Cascade Kelly Holdings (Columbia Pacific Bio-Refinery)	90,000	$1,125,000,000	178,571	$10,000,000
NW Natural	175,000*	$2,188,000,000	176,190	$10,000,000
PDX Fuel Company, LLC (Post-RMIP)	20,000*	$250,000,000	60,000*	$4,000,000

*Estimated based on information in facility Seismic Vulnerability Assessment or Risk Mitigation Implementation Plan.

** Based on estimates provided by facilities to DEQ in 2024.

*** WCS – worst case discharge scenario is the capacity of the largest tank at the facility