State of Oregon
DEQ Department of Environmental Quality

Draft Meeting Summary
FTSS Certificates of Financial Responsibility Rulemaking
2026 Advisory Committee Meeting # 1

Purpose of Meeting

On August 28th, 2026, DEQ convened the Rulemaking Advisory Committee meeting to introduce the rulemaking process for House Bill 4100 (2026), which updates ORS 468B.513–468B.525 to require bulk oil and liquid fuel terminals in Columbia, Multnomah, and Lane Counties with storage capacities of two million gallons or more to obtain a Certificate of Financial Responsibility demonstrating adequate financial assurance. DEQ reviewed the meeting agenda, summarized HB4100 and the COFR rulemaking, and described the composition and role of the Rulemaking Advisory Committee (RAC). FTSS Program Manager Svetlana Lazarev introduced the DEQ team and the Technical Review Panel, after which RAC members introduced themselves, beginning with remarks from Rep. Tran on the significance of HB4100 and appreciation for RAC participation. DEQ provided an overview of the pre-meeting packet materials, explained the function of rules and the agency's rulemaking process, and outlined the timeline including opportunities for public comment and participation.

Meeting Attendees

RAC Members in Attendence:

- Rep. Thuy Tran – Sponsor of the bill
- Raven Collins – Department of Consumer and Business Services, Division of Financial Regulation
- Kevin White – Oregon Seismic Safety Policy Advisory Committee
- Keri Handaly – Confederated Tribes of the Grand Ronde
- John Wasiutynski – Multnomah County
- Tom Armstrong – City of Portland
- Nichole Rutherford – City of Coos Bay
- Nikki Mandel – CEI Hub Task Force
- Cassie Cohen – Portland Harbor Coalition
- Arjorie Arberry-Baribeault – Beyond Toxics
- Lindsey Hutchison – Willamette Riverkeepers
- Sharla Moffett – Oregon Business and Industry (OBI)
- Antonio Machado – Western States Petroleum Association
- Jay Jackson – Kinder Morgan, Products Operations Support Group
- Chris West – Pac/West Resources, President/Owner

DEQ Team and Other Technical Experts:

- Svetlana Lazarev, FTSS Manager
- Luke Hanst, Rulemaking Lead

- Michael Loch, Public Affairs Specialist, Facilitator
- Jennifer Flynt, Public Affairs Specialist
- Kali Sullivan, Legislative Affairs Specialist
- Esther Westbrook, Office of Compliance and Enforcement
- Ian Johnson, FTSS Inspector
- Heidi Williams, FTSS Engineer
- Diana Davis – Washington Dept. of Ecology, Financial Responsibility Unit Supervisor

Approximately 50 members of the public were in attendance.

Welcome, Introductions and Program Overview

DEQ opened the meeting with an overview of the Fuel Tank Seismic Stability (FTSS) Program and provided a summary of House Bill 4100, including the rule elements required by the legislation. DEQ outlined the purpose of the rulemaking effort and set context for the Rulemaking Advisory Committee's (RAC) role. This introduction established how HB4100 intersects with existing program implementation, financial assurance requirements, and broader regulatory frameworks, preparing RAC members for an in-depth discussion of rule components and implications.

Questions and Discussion

- **FTSS Program Implementation Update:**
  - RAC members asked for the status of FTSS implementation.
  - DEQ provided a link to their recent annual report and shared that all facilities submitted initial Seismic Vulnerability Assessments (SVAs); three facilities have approved SVAs and two have approved RMIPs and are advancing mitigation, while the remaining 13 larger facilities are actively working with DEQ to complete their SVAs.
- **Financial Assurance Review Cycle and Self-Insurance Criteria:**
  - RAC members emphasized the importance of revisiting minimum and maximum financial assurance levels every three years and expressed interest in criteria applied to self-insured entities.
- **Sources of Liability Under HB4100:**
  - RAC members asked whether HB4100 changes liability sources for regulated entities and how it connects to ORS 466.640 and OPA 90, which define liability and exemptions.
  - DEQ acknowledged the need to clarify how these state and federal statutes intersect with HB4100's requirements.
- **Interaction with Federal and State Financial Assurance Requirements:**
  - RAC members asked whether HB4100's financial assurance requirements were additive to existing federal/state operational permit requirements.
  - DEQ responded that assurances meeting Oregon's rules requirements could count toward the $300 million requirement.
  - RAC members requested clarity on existing assurance obligations, noting some may relate to DEQ Water Quality Permits, and suggested that assurances serving different regulatory purposes should not be treated as interchangeable.

RAC Discussions on the Initial Rule Draft

DEQ introduced the discussion draft by summarizing the methodology used to develop the rule language and walked through the draft's table of contents. RAC members engaged in a detailed and technical conversation focused on how worst-case discharge scenarios, spill-related liabilities, financial assurance mechanisms, facility operations, seismic risks, and regulatory expectations should inform the minimum financial assurance requirements under HB4100. Members emphasized the need for realistic spill scenarios, consideration of cumulative seismic impacts, clarity about interactions with federal requirements, and strong oversight of financial assurance mechanisms. Additional discussion explored the reliability of different mechanisms, the role of insurance and parent-company guarantees, audit frequency, standby trust funds, and the state's appropriate role in oversight of COFR-related funds.

➢ Minimum Financial Assurance Requirements and Worst-Case Discharge Scenarios

- RAC members asked whether the facility response plan's worst-case discharge should consider full facility contents rather than just the largest tank.
- RAC members questioned whether a facility's Maximum Allowable Uncontained Spill (MAUS) from facility seismic risk mitigation implementation plans could function as the worst-case discharge under HB4100.
- RAC stressed the need to consider cascading failures and layered impacts from major seismic events.
- DEQ clarified that HB4100's use of "spill-related liabilities" applies to spills from any source, not limited to earthquakes, raising questions about MAUS applicability.
- RAC members shared OAR definitions (largest tank + adverse weather) and encouraged DEQ to consider total facility capacity, noting elevated risks from co-located fuel supplies.
- Members explained typical operational practices: tanks rarely remain full, operate dynamically to meet market surges, and serve system reliability.
- RAC urged DEQ to base minimum assurance on credible spill scenarios, not worst-case only in theory.
- One RAC member noted the WA ECY minimum financial assurance requirement equation would push most regulated entities beyond the $300M limit.
- RAC members pointed out that disasters can occur when tanks are at higher-than-average fill levels; average-fill data might be available from the state Fire Marshall Community Right-to-Know.
- RAC members acknowledged that different fuel products carry distinct risks and liabilities.
- DEQ shared that Portland State University is conducting a study to inform minimum financial assurance amounts.

➢ Interaction of RMIPs and COFR Requirements

- RAC members expressed interest in recalibrating facility liability after seismic mitigation implementation plans (RMIPs).
- Some asked if this should be handled through insurance; others argued RMIPs should not reduce COFR requirements and may instead reduce insurance costs.
- Members stressed that uncertainty in seismic hazards argues against lowering COFR requirements with seismic mitigation.

➢ Audits and Compliance Evidence

- RAC members requested more frequent audits than a three-year cycle associated with COFR renewal and asked how DEQ assesses insurance company reliability.
- DEQ noted quarterly reporting requirements are in place along with notification requirements around insurance policy renewals that will ensure compliance ahead of the three-year COFR expiration.

- WA ECY noted they will support DEQ's audit processes.

➢ **Financial Assurance Mechanism Reliability and Usage**

- RAC asked about reliability across mechanisms, examples of self-insurance being activated, and risks of subsidiaries being allowed to fail.
- They asked whether DEQ can prefer specific mechanisms.
- RAC members warned against restricting financial assurance options, noting parent-company guarantees ensure fast availability of funds and strong alignment with incident command.
- RAC hope COFR will support rapid response as well as long-term recovery.
- Members asked to review detailed policy requirements for insurance, trusts, etc.; DEQ intends to provide draft forms before the next meeting.
- Members requested a clear method for determining "whose oil is whose" after an earthquake.

➢ **Insights from Washington Department of Ecology (WA ECY)**

- WA ECY explained parent-company guarantees are most common and accompanied by standby trust funds.
- If a company fails to pay for a spill, the guarantee is liquidated into the trust, with the state as beneficiary.
- Insurance must pay claims on a first dollar basis and cannot require deductibles prior to triggering payments.
- Past spills have been paid either out of pocket or through insurance with renewed policies afterward.

➢ **Standby Trust Funds and Legislative Intent**

- RAC stressed the importance of standby trust funds and DEQ's intermediary role.
- WA ECY clarified that federally authorized banks manage these trusts for all mechanisms except insurance and self-insurance; the state sends instructions for payment to the bank.

➢ **Spill Response Responsibilities and Oversight**

- RAC asked how cleanup typically proceeds and how the state verifies COFR-related expenditures, especially if the full $300M is used.
- Members emphasized the need for strong state oversight of response costs.

RAC Discussions of the Draft Fiscal Impact and Racial Equality Statements

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Questions and Discussion Points

➢ Small Business Determination

- RAC asked what qualifies as a small business and whether ownership structures matter.
- DEQ provided statutory definition: fewer than 50 employees across all operations and parent companies.
- DEQ identified one small business among regulated entities: McCall Oil and Chemical.

➢ Assessing Significance of Impacts

- RAC asked how business revenue should be considered in determining significance.
- DEQ explained this is a flexible RAC determination.
- Members noted the CEI Hub houses a range of business types—from refining-based systems to warehouse-style operations.

➢ Historical Spill Context and Climate Change Considerations

- RAC asked whether DEQ is reviewing historical spills, including non-West Coast incidents.
- DEQ plans to share spill information via PSU's report and the Technical Review Panel.
- RAC asked how climate change and increasing hazards affect the reliability of financial assurance mechanisms.

➢ Scale of Financial Impacts on Business

- RAC members noted that compliance costs are likely small relative to company profits.
- Members also emphasized that higher fuel prices could be offset by avoided losses to small businesses and communities after a large-scale incident.

➢ Racial Equality Impacts

- RAC stressed that depleted local government resources and long-term disruptions could significantly affect communities of color and tribal governments.
- Members highlighted tribal treaty rights involving cultural resources, usual and accustomed places, and fisheries, as well as potential severe air-quality impacts.
- RAC asked whether structural mechanisms could ensure portions of COFR funds support directly impacted communities.

➢ Limits of Statutory Authority

- RAC cautioned that allocating COFR funds and specifying allowable financial assurance mechanisms must remain within statutory limits.
- Members discussed whether the racial equity statement should focus strictly on impacts of adopting the rule rather than potential spill outcomes.

Next Steps

DEQ outlined several next steps for the RAC following the first meeting. RAC members are asked to submit comments on the initial meeting materials by September 11, and DEQ expressed interest in scheduling additional one-on-one or small group discussions with members and technical experts. RAC members are encouraged to email DEQ to request connections with Technical Review Panelists, and DEQ will facilitate those meetings, including small-group sessions as needed. DEQ also previewed plans for the second RAC meeting, where additional draft materials and technical information will be shared.

Meeting adjourned at 12 p.m.
Meeting materials are available on the rulemaking website.
Next RAC meeting is scheduled for Oct. 9, 2026.

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