

Summary of Rulemaking Advisory Committee Meeting 2, Oct. 9, 2026

Fuel Tank Seismic Stability Program Certificate of Financial Responsibility Rulemaking

Purpose of the meeting

On Oct. 9, 2026, the Department of Environmental Quality convened its second Rulemaking Advisory Committee meeting to present updated draft Certificate of Financial Responsibility rules. The meeting focused on the six elements required under House Bill 4100, addressed feedback from the first RAC meeting, and discussed key topics including minimum financial assurance requirements, acceptable assurance mechanisms, application and review procedures, enforcement and the three-year reassessment cycle.

Attendance

DEQ Team:

- Svetlana Lazarev, Fuel Tank Seismic Stability Program Manager
- Luke Hanst, Rulemaking Lead
- Killian Stoltenburg, Rulemaking Support
- Michael Loch, Public Affairs Specialist, Facilitator

RAC Members:

- Rep. Thuy Thran, Oregon House of Representatives, District 45
- Keri Handaly, Confederated Tribes of Grand Ronde
- Sarah Hardisty, Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians
- Arjorie Arberry-Baribeault, Beyond Toxics Eugene
- Antonio Machado, Western States Petroleum Association
- Cassie Cohen, Portland Harbor Community Coalition
- Chris West, Pac/West Resources
- Daniel Hurley, Lane County Public Works
- Jay Jackson, Kinder Morgan
- Tom Armstrong, City of Portland
- John Wasiutynski, Multnomah County Office of Sustainability
- Kevin White, Oregon Seismic Safety Policy Advisory Commission
- Sharla Moffett, Oregon Business and Industry
- Lindsey Hutchison, Willamette Riverkeeper
- Nichole Rutherford, City of Coos Bay

- Nikki Mandell, CEI Hub Task Force
- Raven Collins, Oregon Dept. of Consumer and Business Services, Division of Financial Regulation

Approximately 25 members of the public were in attendance.

Introduction and program overview

DEQ opened the meeting by welcoming Rulemaking Advisory Committee members, technical reviewers, and members of the public by expressing appreciation for the group's continued commitment to supporting development of Oregon's Certificate of Financial Responsibility rules under HB 4100. Staff acknowledged the significant expertise represented across communities, industries, local governments, Tribal governments, and state and federal partners, and highlighted how these diverse perspectives strengthen the rulemaking process. DEQ also expressed appreciation for the comments received and the discussions held following the first meeting.

DEQ outlined the scope of the rulemaking and the statutory constraints to ensure the process aligns with legislative intent and supports the program's long-term goals.

DEQ also summarized progress since the first RAC meeting, including updates to draft rules, incorporation of the committee's feedback, coordination with the Technical Review Panel and alignment with financial assurance frameworks in Washington and California. The overview emphasized that the primary goal of this meeting was to present updated draft rule language and receive RAC feedback on the six rule elements required under HB 4100: minimum financial assurance, acceptable mechanisms, application process, verification, enforcement, and the three-year review cycle.

The program introduction concluded with an invitation for the committee members to ask clarifying questions throughout the discussion to ensure shared understanding as the rulemaking advances.

Rulemaking elements required under House Bill 4100

The meeting reviewed the following six required rule components:

1. Reasonable minimum financial assurance requirements.
2. Standards for acceptable financial assurance mechanisms.
3. Application process and reporting requirements.
4. Process for reviewing and verifying COFR applications.
5. Enforcement of COFR requirements.
6. Process for reviewing and adjusting requirements every three years, beginning Jan.1, 2030.

Reasonable minimum financial assurance requirements

- **Summary of DEQ presentation:**

DEQ presented a minimum financial assurance formula based on \$12,500 per barrel, multiplied by 50% of the facility's shell capacity (adjusted to the 95% fire-code limit), capped at \$300 million. DEQ also described how this approach aligns with Washington and California COFR practices while being Oregon-specific and meeting the criteria required under HB 4100.

➤ **Rulemaking Advisory Committee discussion:**

Members raised questions about whether average fill assumptions should be replaced with facility-specific data, whether using maximum volume handled would warrant higher assurance amounts, and whether fire damages and natural resource damages are adequately accounted for. Several members also noted concerns about insurance market capacity above \$200 million.

Some members emphasized the importance of incorporating environmental justice considerations and assessing impacts on communities adjacent to the Critical Energy Infrastructure Hub, or the CEI Hub.

Standards for acceptable financial assurance mechanisms

➤ **Summary of DEQ presentation:**

DEQ reviewed allowable financial mechanisms, such as insurance, letters of credit, surety bonds, guarantees, and self-insurance, and highlighted key requirements, including prohibiting earthquake or disaster-related exclusions and the use of shared mechanisms across facilities exposed to the same hazard. DEQ also noted that standby trust funds will enable the agency to access funds if a responsible party fails to pay claims.

➤ **RAC discussion:**

Members requested clarification on self-insurance safeguards, parent company guarantees, and the ability to combine mechanisms to meet the \$300 million requirement. Concerns included insurance market capacity for geographically concentrated seismic risk and the feasibility of parametric or catastrophe bonds. RAC members representing regulated industry interests emphasized flexibility, while RAC members representing community interests stressed timely access to funds during emergencies.

Application process and reporting requirements

➤ **Summary of DEQ presentation:**

Facilities will submit the DEQ application form along with mechanism-specific forms and supporting documents (including insurance policies). COFRs are renewed every three years or when ownership changes. Facilities must also report significant updates that could impact compliance.

➤ **RAC discussion:**

Members requested clarity on DEQ's review timelines to avoid delays. Industry emphasized distinguishing administrative errors from actual lapses in financial coverage. Members also

asked how reporting requirements and updates will interact with ongoing Seismic Vulnerability Assessment and Risk Mitigation Implementation Plan work.

Process for reviewing and verifying COFR applications

➤ **Summary of DEQ presentation:**

DEQ described its review process, including verifying application completeness, confirming insurance acceptability, and assessing solvency or creditworthiness for guarantees and self-insurance. Quarterly financial reporting would be required for facilities using financial tests.

➤ **RAC discussion:**

Members emphasized the need for a transparent and predictable review process. They also asked how reviews will function during emergencies and how DEQ will ensure minor documentation issues do not trigger major compliance actions.

Enforcement of COFR requirements

➤ **Summary of DEQ presentation:**

In the proposed rule, if a COFR becomes invalid, DEQ will issue a notice of noncompliance, initiate civil penalties immediately, and may require suspension of terminal operations after 30 days. These enforcement actions reflect the authority granted under HB 4100.

➤ **RAC discussion:**

Members emphasized the importance of distinguishing substantive non-compliance, such as loss of financial coverage from clerical issues. Industry noted that suspension of operations is a severe action that should be reserved for clear failures to maintain financial assurances, not minor documentation errors.

Process for reviewing and adjusting financial assurance requirements every three years beginning Jan. 1, 2030

➤ **Summary of DEQ presentation:**

Beginning in 2030, DEQ will reassess minimum and maximum assurance levels using HB 4100 criteria, including inflation, industry conditions, emerging risks, and lessons learned. Any adjustments will take effect at the next COFR renewal cycle.

➤ **RAC discussion:**

Members supported improving data collection, such as fill levels, risk mitigation progress, and updated cleanup and restoration cost information to support future refinements. Several RAC members noted the formula should evolve as seismic mitigation is implemented and more detailed spill scenario information becomes available.

Next steps

- RAC Meeting 2 materials were due by Oct. 16, 2026. The public comment period for the draft COFR rules will run from Oct. 30 to Nov. 30, 2026
- DEQ will provide an informational briefing to the Environmental Quality Commission on Nov. 12, 2026, which will include a public comment opportunity
- A public hearing is scheduled for Nov. 18, 2026
- Proposed rules will be presented to the Environmental Quality Commission on Jan. 12, 2027.
- Facilities must submit applications by March 31, 2027, as required by statute.

DEQ thanked RAC members and the Technical Review Panel for their guidance, expertise and continued dedication to the rulemaking process. DEQ also acknowledged its Washington counterparts for their collaboration and transparency in sharing lessons learned, which have helped lay the foundation for a robust COFR program. Appreciation was extended to the Portland State University team for their research support and data analysis, and to all partners who have supported FTSS over the years.

DEQ reiterated its openness to ongoing feedback and ideas for improvement. The meeting concluded with a reminder that financial assurance requirements represent a contingency framework intended for worst-case scenarios. Continued progress on seismic mitigation remains the most effective approach to reducing spill risk and enhancing resilience, ultimately decreasing the likelihood that COFR mechanisms will ever need to be activated.

Meeting adjourned at 12 p.m.

Meeting materials are available on [the rulemaking page](#).

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