State of Oregon
DEQ Department of Environmental Quality

Notice of Proposed Rulemaking

Oct. 30, 2026

Certificates of Financial Responsibility Rulemaking

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Introduction

The Oregon Department of Environmental Quality invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules.

Request for other options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

Overview

Summary

In HB 4100 (2026), the Oregon Legislature acknowledged that "Ensuring financial responsibility for bulk oils or liquid fuel terminals handling oil, liquid fuel and hazardous materials is essential to protecting the state's natural resources, economy and public health" and that "Bulk oils or liquid fuel terminals must be financially capable of covering spill-related liabilities, including spill or release response, remediation and damages." HB 4100 tasks DEQ with developing the rules and requirements for bulk oils or liquid fuel terminals to obtain a Certificate of Financial Responsibility, also referred to as COFR, from DEQ which certifies financial assurances are in place to cover potential spill-related liabilities in the event of a spill.

To fulfill the requirements of HB 4100 (2026), DEQ convened a Rulemaking Advisory Committee of equal parts local government, industry and community representatives. DEQ also invited state agency and Tribal Nation representatives to participate in the Rulemaking Advisory Committee. A Technical Review Panel was also formed to provide feedback on proposed rule language and other key details.

Rulemaking Advisory Committee meetings were held on Aug. 28 and Oct. 9, 2026. An opportunity for public comment will be available from Oct. 30, 2026, until Nov. 30, 2026, with a public hearing scheduled for Nov. 18, 2026.

Background

HB 4100 amends ORS 468B.510 to ORS 468B.525 which established the Fuel Tank Seismic Stability Program in 2022 with the passage of Senate Bill 1567. The Fuel Tank Seismic Stability program requires regulated entities to evaluate and minimize risk to oil and fuel storage facilities from a seismic event. The program regulates facilities with a total capacity of 2 million gallons or more in Lane, Multnomah and Columbia counties. DEQ is responsible for reviewing and approving Seismic Vulnerability Assessments and Risk Mitigation Implementation Plans submitted by regulated facilities and provides technical assistance. As of 2026, the 16 regulated facilities are in various stages of the program, with some decommissioning tanks, others constructing new tanks and the largest facilities continuing detailed vulnerability assessments. More details on the progress of facilities can be found in the 2026 Annual Status Report. HB

4100 adds new requirements for the program's regulated facilities to acquire and hold sufficient financial assurances to cover potential spill-related liabilities.

Procedural summary

More information

Information about this rulemaking is on the DEQ COFR webpage.

Virtual public hearing

DEQ plans to hold one public hearing. Anyone can attend a hearing by Zoom webinar or call in.

Date: Nov. 18, 2026

Start time: 6 p.m.

Webinar registration link: https://ordeq.org/cofr-hearing

Or join by phone by calling 253-215-8782 and entering the following when prompted:

Webinar ID: 899 2481 7069
Passcode: 550402

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking by email, mail or at the public hearing.

- **Email:** Send comments by email to: deq.cofr@deq.oregon.gov
- **Postal mail:** Oregon DEQ, Attn: Killian Stoltenburg, 700 NE Multnomah St., Suite 600, Portland, OR 97232-4100
- **At public hearing:** 6 p.m., Nov. 18, 2026

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by **4 p.m., on Nov. 30, 2026**.

Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

Signing up through the Fuel Tank Seismic email list.

Signing up on the rulemaking website.

What will happen next?

DEQ will include a written response to comments in a staff report DEQ will submit to the Environmental Quality Commission. DEQ may modify the rule proposal based on the comments.

Proposed rules only become effective if the Environmental Quality Commission adopts them. DEQ's intended action is to present the proposed rule changes to the commission as soon as possible after the earliest date on which the rule changes could take effect. DEQ intends to submit the proposed rule changes to the commission on or after Jan. 12, 2027

Statement of need

What need would the proposed rule address?

State and federal laws assign strict liability to the owners of a petroleum product or other hazardous material, requiring them to pay for response and cleanup, environmental remediation and other damages associated with a spill or release. If an entity responsible for a spill declares bankruptcy or otherwise walks away from a spill without fulfilling their obligations, the public sector and other third parties risk bearing the costs of cleanup and recovery. While some federal funds may be available to assist with covering the costs of a spill with an absent responsible party (e.g., the Oil Pollution Act of 1990's Oil Spill Liability Trust Fund), other funds may incur a cost-share with the public sector or otherwise risk uncovered costs (e.g., FEMA funds through the Stafford Act for Emergency Support Function 10 activities).

The financial assurance mechanisms a facility uses to meet this regulatory requirement provide DEQ with binding financial agreements to ensure funds will be available to pay for claims for which the responsible party is liable under state and federal liability laws.

How would the proposed rule address the need?

The proposed Certificates of Financial Responsibility rules require the regulated bulk oils facilities to demonstrate financial assurances to the DEQ, up to a statutory maximum financial assurance requirement of $300 million. A variety of financial assurance mechanisms are available for facilities to use alone or in combination including insurance, parent company guarantees, surety bonds and others. Financial assurance mechanisms are activated by DEQ upon notification that the responsible party is failing to pay for claims for which they are liable.

Financial assurance mechanisms follow two paths during activation:

1. **Insurance**: When insurance is used as a financial assurance mechanism, policy payouts are paid directly to the regulated facility. The facility remains responsible for paying for eligible claims according to state and federal liability frameworks. Insurance policies must pay out on a first dollar basis, meaning the insurance company does not wait for a deductible payment before issuing policy payouts; the insurance company can recoup invalid expenditures from the responsible party after the fact. In the event of an absentee responsible party, DEQ has direct access to these insurance policies and can direct

them to pay out to eligible claims. Insurance policies are important for small and medium businesses who are less likely to be able to demonstrate the financial strength required for parent-company guarantees.

2. **All other financial assurance mechanisms**: Aside from insurance, financial assurance mechanisms in the proposed rules are always accompanied by a "standby trust fund" established at a qualifying financial institution. Upon notification that the responsible party is failing to pay for claims for which they are liable, DEQ calls upon a financial assurance agreement to be fulfilled. At that time the agreement is liquidated, and funds are allocated into the standby trust fund. DEQ provides written instructions to the financial institution holding the trust to pay out for eligible claims.

Facilities must submit their application with binding financial assurance mechanism(s) by March 31, 2027. COFRs must be renewed every three years from the issue date, and renewal applications must be submitted between 30-60 days ahead of the COFR expiration date.

How will DEQ know the rule addressed the need?

COFR program milestones provide opportunities to assess the rule's success. Notable variables to monitor include: the ability to prohibit disqualifying exemptions from insurance policies, the relative confidence for different financial assurance mechanisms and assessing for over-leveraged insurance companies or other financial institutions used to meet the rule's requirements.

The first milestone is the first review of COFR applications in April and May 2027 which will develop a wealth of standard operating procedures and lessons learned. DEQ staff with contracted support from the Washington Department of Ecology's COFR team will review COFR applications for compliance, including:

- Completeness and accuracy of all application materials
- Acceptability of insurance policies (i.e., no disqualifying exemptions)
- Validity of financial tests for self-insurance and parent company guarantees

A second key milestone to assess the rule's success is a voluntary tabletop COFR scenario in which interested parties will be invited in the summer of 2027 to practice the procedures associated with oil spill claims and COFR activations. DEQ intends to collect information from participating organizations to identify gaps, shortfalls and other barriers to equitable claims processes associated with either existing liability frameworks or the new COFR program and will produce recommendations for improvement.

Third, ongoing program development activities provide an opportunity for continuous learning and program improvements. Data acquired from regulated entities and other sources will inform the triennial review of financial assurance requirements beginning in January 2030. Subsequent COFR renewal applications and reviews are critical junctures for DEQ to implement program improvements and derive lessons learned.

Finally, DEQ will know the rules addressed the need in the event of a major spill or release at a regulated facility. Success is indicated by the availability of COFR funds if a responsible party

walks away and regardless of the cause of the release. Alternatively, success may be indicated by the increased financial and physical resilience of a facility and its ability to participate in response and recovery by directly paying for claims following an incident and more quickly returning to service.

Federal relationship

Relationship to federal requirements

The proposed rules will impose requirements that will be different from or in addition to federal requirements.

There are multiple federal programs and laws relevant to the new financial responsibility requirement. DEQ is aligning with these federal programs and laws where possible and has identified no anticipated conflicts between this new state law and existing federal laws. Most relevant are federal laws related to liability for handling petroleum products and other hazardous materials and to provide funding after a major disaster through the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Briefly, the Stafford Act allows FEMA to immediately begin funding emergency support functions including for oil spills and hazardous materials releases following a disaster declaration from the President of the United States. These laws allow federal agencies to respond to disasters, provide emergency relief funding, establish liabilities for pollution and recover costs from liable parties.

The U.S. Oil Pollution Act of 1990, also known as OPA ’90, enhanced the ability of the U.S. Environmental Protection Agency to prevent and respond to oil spills by assigning strict liability to oil facilities, requiring them to pay for cleanup, environmental remediation and other damages and requiring them to submit response plans to the federal government. OPA ’90 also established the Oil Spill Liability Trust Fund from a per barrel tax on petroleum imports and exports nationwide. Under the responsibility of the U.S. Coast Guard, the Oil Spill Liability Trust Fund ensures payments for oil spill response, cleanup and damage claims. OPA ‘90 also established financial limits of liability for different classes of oil storage or transportation, as well as a procedure for updating the limits based on inflation and the Consumer Price Index. Current limits of liability for onshore fuel storage facilities are $725,710,800, updated in 2022. OPA ‘90 states that the federal limits of liability do not preclude or exclude a state from setting its own limit or requirement of liability.

The proposed COFR rules act in addition to these federal liability laws by posing new requirements on facilities that will ensure funding is available to meet their financial obligations under state and federal law.

What are the scientific, economic, technological, administrative and other reasons for exceeding applicable federal requirements?

This rulemaking was initiated by House Bill 4100 (2026), which directed DEQ to establish the standards and requirements detailed in the proposed rules.

What alternatives did DEQ consider and why are they not pursuing them?

DEQ considered the following alternatives:

- Different approaches to determine financial assurance requirements.
- Allowing multiple co-owned facilities to share financial assurances.
- Adjusting the rating requirements for financial assurance mechanisms.

DEQ did not consider the alternative of not proposing the Certificates of Financial Responsibility rules because it would not meet DEQ's obligations under the requirements of HB 4100 (2026).

DEQ considered four alternative formulas and values to determine financial assurance requirements and did not pursue them because they failed to address Oregon's specific needs or lacked the data required to support rigorous implementation.

First, the State of Alaska's financial assurance calculation of $56 per barrel times barrels of oil in total facility capacity up to $110 million was found to originate in internal political decisions in the late 1980s and lacks a transparent technical foundation.

Second, the formula used by Washington and California were considered and not pursued as it depends on the EPA Spill Planning, Control and Countermeasures, or SPCC, Facility Response Plan's Worst-Case Spill Definition. This SPCC worst-case spill volume is determined by the volume of a facility's single largest tank plus additional volume to account for adverse weather conditions. DEQ did not pursue this alternative because the SPCC worst-case spill volume does not account for natural hazard risks to the facilities, especially for large earthquakes which estimates suggest could result in a spill between 30% and 60% of tank contents given present-day vulnerabilities (ECONorthwest, 2022).

Third, DEQ considered using different values for unit cost in the financial assurance calculation or allowing for a per-facility determination of unit cost. DEQ did not pursue this alternative because our investigation found the available evidence to be too sporadic or as containing significant gaps in terms of evaluating costs per barrel spills for different types of products into different types of environments and across the full gamut of potential liabilities.

Fourth, DEQ considered allowing facilities to propose an option for facilities to calculate their own financial assurance requirement, ideally to incentivize mitigation and recognize real improvements in facility safety. DEQ did not pursue this alternative as there are no functioning precedents in other COFR programs. Without a rigorous, defensible method to determine this alternative calculation, DEQ risks opening the program to litigation. Research provided by Portland State University suggests that improvements to data over time may improve the feasibility of this approach. Given present data availability, it is suggested that an alternative calculation focuses on potential spill volumes while holding the unit cost constant.

DEQ considered allowing co-owned facilities to share financial assurances between facilities. Other state COFR programs allow multiple facilities to share financial assurances determined by the single highest risk facility. DEQ did not pursue this alternative because each facility poses a significant, independent risk, and during large earthquakes the co-owned facilities would be impacted simultaneously.

DEQ considered different rating requirements for eligible insurance companies and acceptable credit ratings for self-insurance and parent-company guarantees. Changes to requirements could reduce or increase the cost of compliance by changing the availability and cost associated

with certain financial assurance mechanisms. DEQ did not pursue variations from available precedent when establishing rating requirements. Changes to these requirements carry significant uncertainty and risk potential negative impacts to industry without certainty in improved outcomes. DEQ will monitor the insurers and other financial institutions used to meet Oregon's COFR requirements to identify risks of potentially over-leveraged institutions.

Rules affected, authorities, supporting documents

Lead division

Land Quality

Program or activity

Fuel Tank Seismic Stability Program

Chapter 340 action

Adopt

- 340-300-0008
- 340-300-0009
- 340-300-0010
- 340-300-0011
- 340-300-0012
- 340-300-0013

Amend

- 340-300-0000
- 340-300-0001
- 340-300-0002
- 340-012-0064

Statutory authority – ORS

ORS 468b.510 to ORS 468B.525

Statutes implemented - ORS

None

Legislation

House Bill 4100 (2026)

Other authority

None

Documents relied on for rulemaking

Document title	Document location
WAC 173-187: Financial Responsibility for Oil Spills	Washington Department of Ecology Guidance and Technical Assistance
WAC 173-187: Financial Responsibility	Washington Department of Ecology Ch. 173-187 Adopted Rule Language
Preliminary Regulatory Analyses: Chapter 173-187 WAC Financial Responsibility	Washington Department of Ecology Ch. 173-187 WAC Financial Responsibility Preliminary Analyses
WA Financial Responsibility Compliance Report – Facilities	Washington Dept. of Ecology Facility FR Compliance
WA Attestation Form	Washington Dept. of Ecology Form Summary, Attestation
WA Delegation of Authority Form	Washington Dept. of Ecology Form Summary, Delegation of Authority
WA Certificate of Insurance Form	Washington Dept. of Ecology Form Summary, Certificate of Insurance
WA ECY COFR Insurance Endorsement for Facilities	Washington Dept. of Ecology Form Summary, Insurance Endorsement for Facilities
WA Surety Bond form	Washington Dept. of Ecology Form Summary, Surety Bond
WA Guarantee Form	Washington Dept. of Ecology Form Summary, Guarantee
WA Letter of Credit Form	Washington Dept. of Ecology Form Summary, Letter of Credit
WA Chief Financial Officer Letter Agreement Form	Washington Dept. of Ecology Form Summary, CFO Letter Agreement
WA Certificate of Deposit Form	Washington Dept. of Ecology Form Summary, Certificate of Deposit
WA Standby Trust Form	Washington Dept. of Ecology Form Summary, Standby Trust
California Code of Regulations, Financial Responsibility	State of California – Dept. of Fish and Game Office of Spill Prevention and Response
Application for Certificate of Financial Responsibility for Inland Facilities	State of California – Dept. of Fish and Game COFR Application
Financial Responsibility Application & Checklist	Alaska Dept. of Environmental Conservation Division of Spill Prevention and Response
18 AAC 75.240 Certificate of proof of financial responsibility.	Alaska Administrative Code 34th Legislature (2025-2026)
How to get insurance and bonds for Storage Tanks	Crescenta Valley Insurance White Papers

Dollars and Sense: Financial Responsibility for Underground Storage Tanks	U.S. Environmental Protection Agency Underground Storage Tanks
Oil Pollution Act of 1990	U.S. Department of Homeland Security United States Coast Guard
Oil Spill Risk Consequences Assessment and Emergency Response Towing Vessel Cost Evaluation	San Juan County, WA Transboundary Studies
Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability-Vessels, Deepwater Ports and Onshore Facilities	United States Federal Register U.S. Coast Guard
Impacts of Fuel Releases from the CEI Hub	ECONorthwest, on behalf of City of Portland and Multnomah County
Analysis of Oil Spill Costs and Financial Responsibility Requirements	State of California – Dept. of Fish and Game Office of Oil Spill Prevention and Response
California Oil Spill Response Cost Study, Nov. 2019	State of California Catalyst Environmental Solutions
Liquid Storage Tanks at the Critical Energy Infrastructure (CEI) Hub Seismic Assessment of Tank Inventory	Portland State University Dept. of Civil and Environmental Engineering
Certificates of Financial Responsibility Under HB 4100: Evidence and Options for Oregon's Requirements	Portland State University Center for Public Service, Rohan Khanvilkar (2026)

Rules summary

As OAR 166-500-0030(1)(e) requires, the following are included to provide a brief summary of the proposed new rules and existing rules affected by this rulemaking.

OAR Chapter 340, Division 300

Rule Number	Rule Title	Explanation
-0000	Context	Amended to include and summarize the COFR requirements.
-0001	Purpose and Applicability	Amended to outline the rules which constitute the new COFR requirements.
-0002	Definitions and Acronyms as used in this Division	Amended to include new definitions relevant to financial assurance requirements.
-0008	Certificates of Financial Responsibility Requirements	Introduced to require and detail financial assurance requirements.
-0009	Determination of Financial Assurance Requirement	Introduced to provide the formula used to determine a facility's financial assurance requirement.
-0010	Acceptable Financial Assurance Mechanisms	Introduced to posed standards for financial assurance mechanisms that may be used by facilities and the required accompanying forms.
-0011	COFR Application Process, Timeline, and Notification of Significant Change	Introduced to define the application and renewal processes and reporting requirements.
-0012	DEQ Review of COFR Applications	Introduced to guide DEQ's evaluation of COFR applications.
-0013	Triennial Update of Financial Assurance Requirements	Introduced to guide DEQ's evaluation and adjustments to financial assurance requirements every three years beginning in January 2030.

OAR Chapter 340, Division 012

Rule Number	Rule Title	Explanation

-0064	Fuel Tank Seismic Stability Enforcement Classification of Violations	Amended to categorize COFR violations into enforcement classes.

Statement of fiscal and economic impact

Fiscal and economic impact

House Bill 4100 (2026) creates new provisions within ORS 468B.513 and 468B.525 that establish financial responsibility requirements for facilities with 2 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 combined over 400 million gallons of reported capacity for fuels and oils and are a critical 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. House Bill 4100 (2026) requires these facilities to receive a Certificate of Financial Responsibility from DEQ that certifies financial assurances are in place to pay for potential spill-related liabilities.

This fiscal and economic impact statement has three parts. The first part is a summary of the potential costs for spills without Certificates of Financial Responsibility in place. Second, economic impacts stemming from the adoption of House Bill 4100 (2026) are defined and differentiated from the fiscal impacts of the proposed rules. Third, the fiscal impacts of the proposed rules are described.

Potential costs of spills without Certificates of Financial Responsibility
A 2022 report from ECONorthwest commissioned by the City of Portland and Multnomah County estimated a large-scale spill or release from the Critical Energy Infrastructure Hub in Portland, also known as the CEI Hub, could release up to 194 million gallons of product from facilities in Oregon's CEI Hub. The report estimates that 50% of the released product would enter the Willamette and Columbia Rivers. The report estimates that the total costs of such a catastrophic spill could exceed $2.6 billion. Costs associated with petrochemical fires, delayed response operations due to post-earthquake conditions and other economic impacts were not estimated and would increase the estimated costs of a spill.

Other economic impacts include, for example, 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 in the Columbia River sees an estimated annual $24 billion in marine traffic[1]. In 2025, commercial fisheries in the Columbia and on the Oregon Coast represented roughly 10,300 jobs and $517 million in household income and generated $1.1 billion in economic activity[2]. These sectors could see significant and long-term impacts in the event of a catastrophic spill at the CEI Hub.

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[1] 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/

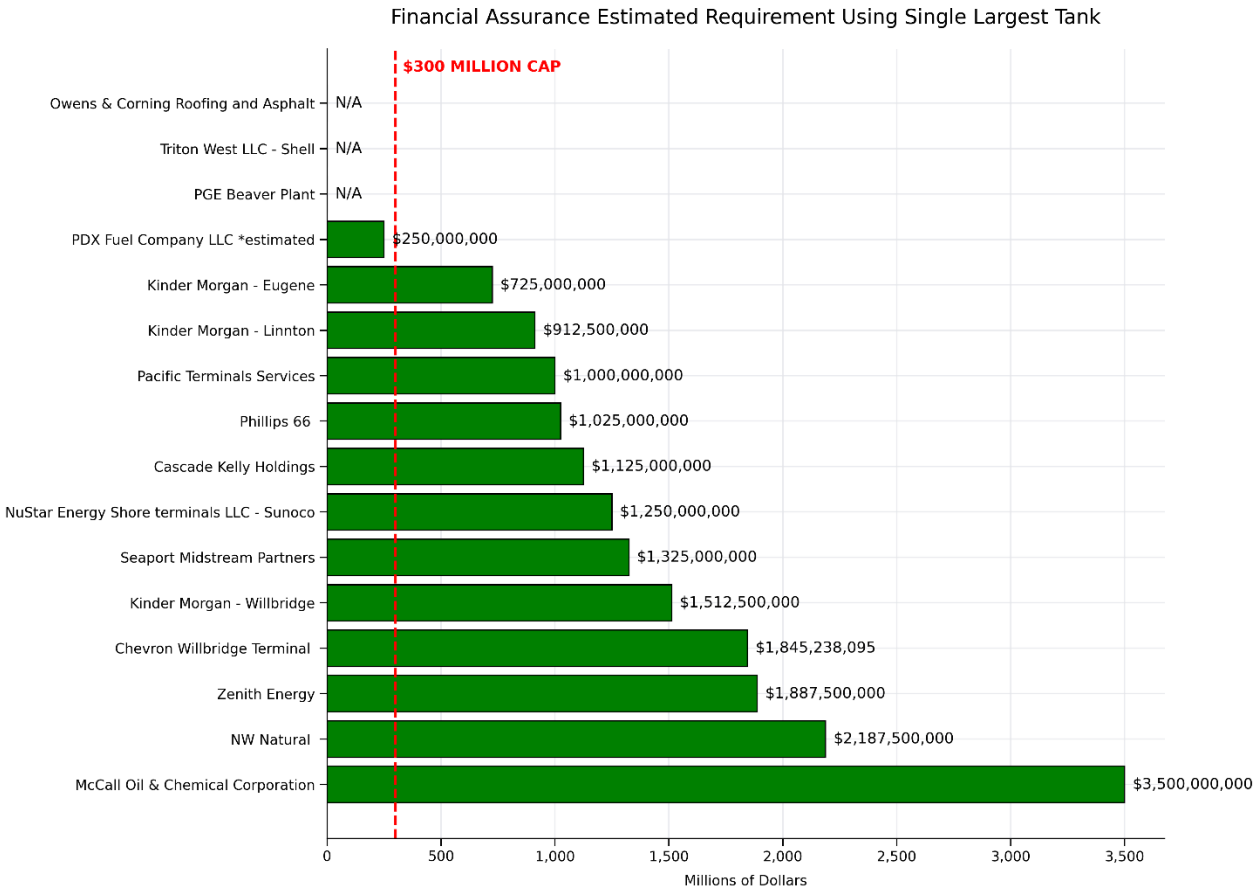
[2] Oregon Coast Visitor's Association. 2026. *Oregon Commercial Fishing Industry Trends 2020-2025*.
https://industry.visittheoregoncoast.com/wp-content/uploads/2026/03/OCVA-fishery-trends-rpt-summary-March-13-2026.pdf

Without Certificates of Financial Responsibility in place, there is a chance that absentee or bankrupt facilities could fail to pay for damages in which case the costs would fall to the public.

Fiscal impacts of House Bill 4100 (2026)
House Bill 4100 (2026) requires regulated facilities to maintain financial assurances to address potential spill-related liabilities. DEQ is tasked with determining reasonable financial assurance requirements constrained by a statutory maximum of $300 million per facility which DEQ can evaluate and adjust beginning in January 2030. The cost of compliance depends on two things, the requirement to maintain financial assurances and the actual amount of money those assurances must cover.

Following an evaluation of financial assurance requirements in other jurisdictions and potential formulas to implement the statutory criteria to be used in Oregon's calculation of financial assurance requirements, DEQ has determined that there is no reasonable minimum financial assurance requirements for the regulated facilities that falls below or near the $300 million financial assurance limit set by statute. Existing approaches in other states show that the statutory limit of $300 million caps financial assurances by hundreds of millions or billions of dollars below what a facility might owe if a major accident happens (see Figure 1). This means that DEQ did not have a realistic option for a financial assurance requirement calculation below the statutory maximum. Washington estimated that for a facility to provide $300 million in financial assurances through traditional insurance markets and commercial financial assurance mechanisms, it could cost between roughly $4 million and $10 million per year. This fiscal impact on regulated entities is driven by the law rather than the proposed rules.

Figure 1: Financial assurance estimated requirement using volume of single largest tank



Fiscal impacts of proposed rules

Rulemaking decisions that are expected to meaningfully change the cost of compliance center on the standards set for the mechanisms which may be used to meet the financial assurance requirement.

The proposed rule's financial assurance requirement calculation confirms all facilities will need to maintain the statutory maximum of $300 million in financial assurances. Alternative approaches that DEQ considered either would not reduce this financial assurance requirement or could reduce this assurance requirement but carry too much uncertainty for present-day implementation.

The proposed rule requires independent and unique financial assurance for each facility. Each facility poses a significant, independent risk, and during large earthquakes the co-owned facilities would be impacted simultaneously. Companies which own multiple regulated facilities in Oregon or own facilities in both Washington and Oregon will have costs for each regulated facility rather than one company-wide cost.

The proposed rules for rating requirements for financial assurance mechanisms reflect the precedents set in Washington and California (e.g., insurer ratings, credit ratings), which DEQ is required by HB 4100 (2026) to consider in the development of the COFR rules. Maintaining alignment should increase the ease of compliance and reduce administrative burden on regulated entities. Changes to these rating requirements could increase or reduce the cost of compliance. Changes to these requirements carry significant uncertainty and risk potential negative impacts to industry without certainty in improved outcomes

Fee analysis

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

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 rulemaking phase of the program. 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 to these agencies due to the financial responsibility requirements, that provide increased surety of funds available to pay for spill-related costs incurred to 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 to reimburse the cost of cleanup, response or remediation costs, damages awarded and other costs incurred during a spill or release event.

Tribal Nations

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 to fuel and infrastructure costs due to increased costs of compliance for regulated facilities, which might be passed on to consumers as marginally higher fuels costs.

It is possible to estimate the total cost of compliance for House Bill 4100 (2026) with data available from the State of Washington's COFR rulemaking. Washington estimated that for a facility to provide $300 million in financial assurances through traditional insurance markets and commercial financial assurance mechanisms, it could cost between roughly $4 million and $10 million per year.

To estimate the potential cost that facilities may pass on to consumers through fuel prices, DEQ utilized this formula:

$$Potential\ Increase\ per\ Gallon = \frac{Total\ annual\ compliance\ cost}{Total\ gallons\ of\ fuel\ used\ statewide}$$

Total fuel consumption for the year 2024 in Oregon was 362 trillion British thermal units, or BTU. With one gallon of gas equal to 120,166 BTU, this leads to a conversion of roughly 3.012 billion gallons of gas[3] (U.S. Energy Information Administration, 2026).

If half of the facilities demonstrate $300 million in financial assurances using commercially available insurance (the other half are assumed to use parent company guarantees) and we assume $10 million in annual associated compliance costs, perhaps $80 million dollars in annual costs could be passed on to consumers. Assuming a uniform distribution for those fuel increases across the state indicates a potential increase to the cost of fuel around 2.6 cents per gallon.

Most of this increase in fuel costs can be categorized as an impact of the adoption of House Bill 4100 (2026). Costs associated with rule decisions may cause minor shifts in this cost of compliance and may therefore contribute fractions of a cent per gallon in increased costs.

Large businesses - businesses with more than 50 employees

House Bill 4100 (2026) has fiscal impacts on large businesses due to added annual expenses to demonstrate financial assurances. Facilities owned by large national or international parent companies are more likely to be able to provide parent-company guarantees to meet the financial assurance requirements, and while these guarantees carry some financial costs to businesses, there has been no indication that these costs approach the annual costs of

[3] U.S. Energy Information Administration, 2026. https://www.eia.gov/energyexplained/units-and-calculators/energy-conversion-calculators.php

commercial insurance. Facilities using commercially available financial assurance mechanisms may incur costs between $4 million and $10 million per year as described above.

The proposed rule OAR 340-300-0010 (9) states that financial assurances used to meet Oregon's COFR requirements cannot be shared with other facilities in areas subject to shared natural hazard risks. Companies which own multiple regulated facilities in Oregon or own facilities in both Washington and Oregon will have costs for each regulated facility rather than one company-wide cost.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 - Cost of Compliance for Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

The estimated number of small businesses which will be subject to this rule is one. McCall Oil and Chemical Corporation is a supplier of asphalt, renewable diesel, biodiesel and other oil-derived or chemical products. DEQ estimates that McCall will be required to maintain $300 million in financial assurances, which could cost between $4 million and $10 million or more per year depending on their preferred method(s) of financial assurance.

The proposed rule may indirectly impact small businesses not regulated by the Fuel Tank Seismic Stability program through the marginal increases in fuel and infrastructure costs noted in previous sections.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

Under the proposed rules, regulated small businesses will be required to submit COFR applications by March 31, 2027, and every three years thereafter to demonstrate financial assurances. These small businesses will be required to submit application forms and supporting documents including insurance policies, and they will be required to provide periodic updates and reports to DEQ to confirm continued compliance, such as the submission of renewed annual insurance policies. Facilities are also required to report significant changes to their COFR, such as the cancellation of an insurance policy, and must maintain records associated with the program.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The proposed rules do not require any additional equipment or supplies. There will be some costs associated with labor and administrative activities to acquire and maintain sufficient financial assurances, and to oversee ongoing reporting and renewal requirements.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ has included the Oregon Business & Industry Association as a member of the Rulemaking Advisory Committee, as well as a representative from Pac/West Resources who represent McCall Oil & Chemical's interests. Additionally, an operator with McCall Oil & Chemical Corporation was included on the Technical Advisory Panel.

Documents relied on for fiscal and economic impact

The requirement to list the documents relied on to determine fiscal impact is separate from and in addition to the similar list in the "Rules affected, authorities, supporting documents" section above.

Document title	Document location
Oregon Crude Oil and Petroleum Products data	U.S. Energy Information Association Oregon End-Use Energy Consumption, 2024
CEI Hub Seismic Risk Analysis: Impacts of Fuel Releases from the CEI Hub	Multnomah County Office of Sustainability CEI Hub Seismic Risk Analysis
Preliminary Regulatory Analyses: Chapter 173-187 WAC Financial Responsibility	Washington Department of Ecology Ch. 173-187 WAC Financial Responsibility Preliminary Analyses
Units and calculators explained	U.S. Energy Information Association Energy conversion calculators
Lower Columbia River Maintenance Plan	U.S. Army Corps of Engineers Projects and Plans
Oregon Commercial Fishing Industry Trends 2020-2025	Oregon Coast Visitors Association Industry News

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.333 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and

- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee was asked to review the proposed rules and draft fiscal impact statements and comment to DEQ if they felt that the proposed rule would result in adverse fiscal impacts. No committee member indicated that the proposed rule would have a significant adverse impact on small businesses.

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 could affect the development costs by fractional, incalculable amounts. The requirements to maintain financial assurances set by House Bill 4100 (2026) are expected to result in marginal increases in housing development by costs passed down to consumers by facilities storing asphalt or producing asphalt shingles. Rulemaking decisions are not expected to significantly change the associated costs of compliance.

Racial equity

This rulemaking aims to promote and improve racial and environmental equity in the state by preventing marginalized communities and the public sector who support them from bearing the cost of spills resulting from bulk fuel terminals. Industrial facilities like those in the Critical Energy Infrastructure Hub in Multnomah County are disproportionately located near lower-income neighborhoods and communities of color. Historically, if a party responsible for an oil spill files bankruptcy or otherwise lacks the funds to pay for their liabilities, the financial burden of response and recovery falls on local taxpayers. Diverting public state and county funds to spill cleanup also reduces the funding for social safety nets, infrastructure and equity-focused public programs that support minority communities.

Existing federal and state laws assign strict liability to the owners of petroleum products and other hazardous materials, which means they must clean up the spill and pay for the associated costs and damages. These federal and state liability frameworks also create the claims processes which impacted parties use to pursue reparations. Now, Oregon HB 4100 (2026) mandates that owners and operators of bulk oil and liquid fuel terminals obtain a Certificate of Financial Responsibility from DEQ, certifying financial assurances are in place to pay for potential spill-related liabilities including emergency response and cleanup, natural resource damage assessments and remediation, fire damage and other damages. By requiring operators to maintain financial assurances, House Bill 4100 (2026) protects local communities from bearing the costs associated with a major spill.

The proposed rule defines standards which financial assurances must meet for a facility to receive a Certificate of Financial Responsibility from DEQ. In defining these standards, DEQ has balanced the need for security in the financial assurances provided with the availability of acceptable financial assurance mechanisms in the commercial markets. Insufficiently secure

financial assurances risk uncovered costs following a spill. On the other hand, decreased market availability of financial assurances associated with more stringent requirements risks making compliance with the rule unattainable or prohibitively expensive for small and medium businesses, which risks subsequent effects on the marginalized communities who depend on their commodities.

Environmental justice considerations

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 Fuel Tank Seismic Stability program's 2022 rulemaking process to conduct an environmental justice review. This review used a social vulnerability assessment model and engaged community focus groups to understand 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 that there were varying patterns across different areas. The study considered the following demographic factors[4]:

- 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 Portland State University study but mentioned in the Eugene-Springfield Climate and Hazard Vulnerability Assessment[5] 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;
- Population without a vehicle;
- Disabled; and
- Institutionalized.

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

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

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 International Airport, are of particular concern and contain numerous socially vulnerable neighborhoods. Approximately 32% of all child daycare centers in Multnomah and Washington counties are situated 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 as compared with the rest of the county. In this county, more than 28% of senior homes, as well as about 31% of child daycare centers are situated 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 population and fishery, farmland and workers, the natural watershed, and migratory and native birds.

The facilities regulated under this program sit on liquifiable soils 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 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 also being impacted by climate change first and hardest[6], as evidenced by the 2019 heat wave. Climate change and air pollution represent additional cumulative impacts that exacerbate the disparities between different racial groups in Oregon. Lower-income Oregonians are disproportionately non-white[7] and are more likely to work in frontline occupations. Frontline workers, and especially those that 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.

[6] Oregon Health Authority Climate and Health in Oregon report:
Oregon Health Authority Climate and Health in Oregon report:
[7] U.S. Census Bureau's American Community Survey:
U.S. Census Bureau's American Community Survey:

Environmental justice analysis

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections.

The contributions of the COFR rulemaking advisory committee and Technical Review Panelists indicate significant inequities associated with existing state and federal claims processes following oil spills and other disasters. Community members are concerned that the COFR program's dependence on existing claims processes will integrate those same inequities into these financial assurances. DEQ has determined that House Bill 4100 (2026) does not provide DEQ with authority to remake state or federal claims procedures, rather it aims to ensure funds are available for those existing liability frameworks. To better understand and begin to address the inequities in the current claims processes, DEQ intends to host a voluntary tabletop exercise in which interested parties can practice claims processes to identify barriers or gaps and develop recommendations for improvements.

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

EQC prior involvement

DEQ did not present additional information specific to this proposed rule revision.

DEQ plans to share information about this rulemaking with the EQC through an informational item at the Nov. 12, 2026, EQC meeting.

Advisory committee

Background

DEQ convened the Certificates of Financial Responsibility rulemaking advisory committee. The committee included representatives from community, industry, local government, state agencies, Tribal Nations and a legislative sponsor of the bill. The rulemaking advisory committee met two times. The committee's web page is located at: DEQ COFR web page.

The committee members were:

Name	Representing
Representative Thuy Tran	Oregon House of Representatives
Sarah Hardisty	Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
Keri Handaly	Confederated Tribes of Grand Ronde
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
John Wasiutynski	Multnomah County, Office of Sustainability
Kevin White	Oregon Seismic Safety Policy Advisory Committee
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
Sharla Moffett	Oregon Business and Industry
Tom Armstrong	City of Portland, Bureau of Planning and Sustainability

Technical review panel

DEQ convened a technical review panel to assist in developing this rulemaking and advise on the technical aspects of financial assurance mechanisms and risks. The panel members had expertise in financial assurance mechanisms, emergency response analysis, environmental science and economics. The technical review panel was not a decision-making body, instead it provided review and input on DEQ's analyses and provided technical expertise and recommendations to the advisory committee.

Technical review panelists were volunteers except for Portland State University's Center for Public Service and Washington's Department of Ecology who are contracted by DEQ to support the rulemaking process and subsequent program implementation.

The technical review panel members were:

Name	Representing
Center for Public Service	Portland State University
Washington Department of Ecology	State of Washington
Jay Wilson	Clackamas County, Emergency Response
Paul Edison-Lahm	DOGAMI Board
John Talberth	Center for Sustainable Economy
Jeff Wyatt	Hanford Cleanup Board
Richard Franklin	EPA
Ehsan Kianirad	Liberty Mutual
Dustin Wilson	McCall Oil and Chemical Corporation

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Rulemaking
  - Fuel Tank Seismic Stability
  - DEQ Public Notices
- Added advisory committee announcements to DEQ's calendar of public meetings.

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee reviewed materials and gave feedback on discussion drafts of the proposed rule. All meeting materials, recordings and summaries can be found on the COFR rulemaking page.

Public engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On Oct. 29, 2026, filing notice with the Oregon Secretary of State for publication in the November 2026 Oregon Bulletin
- Posting the notice, invitation to comment and draft rules on the rulemaking web page
- Emailing approximately 17,800 interested parties on the following DEQ lists through GovDelivery:
    - Rulemaking
    - Fuel Tank Seismic Stability
    - DEQ Public Notices
- Emailing the following key legislators required under ORS 183.335:
    - Representative Shannon Isadore, Chief Sponsor
    - Representative Thuy Tran, Chair, House Emergency Management and Veterans Committee
    - Representative Rob Nosse, Co-Chair, Ways & Means Capitol Construction Subcommittee
    - Senator Fred Girod, Co-Chair, Ways & Means Capitol Construction Subcommittee
    - Representative Tawna Sanchez, Co-Chair, Ways & Means Committee
    - Senator Kate Lieber, Co-Chair, Ways & Means Committee
- Emailing advisory committee members, technical review panel members and interested parties representing local, state, federal and tribal governments and community organizations
- Posting on the DEQ event calendar

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, mail or at the public hearing.

- **Email:** Send comments by email to: deq.cofr@deq.oregon.gov
- **Postal mail:** Oregon DEQ, Attn: Killian Stoltenburg, 700 NE Multnomah St., Suite 600, Portland, OR 97232-4100

- **At public hearing:** 6 p.m., Nov. 18, 2026 (see below)

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 4 p.m., on Nov. 30, 2026.

Note for public university students

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

Virtual public hearing

DEQ plans to hold one public hearing.

The public hearing is online and by teleconference only.

Anyone can attend a hearing by Zoom Webinar or teleconference.

Date: Nov. 18, 2026
Start time: 6 p.m.
Webinar registration link: https://ordeq.org/cofr-hearing

Or join by phone by calling 253-215-8782 and entering the following when prompted:

Webinar ID: 899 2481 7069
Passcode: 550402

DEQ will consider all comments and testimony received before the closing date. DEQ will summarize all comments and respond to comments in the Environmental Quality Commission staff report.

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities.

For translation or other formats, visit DEQ's Civil Rights and Environmental Justice page.

Supporting documents

Multiple documents are posted to accompany this Notice of Proposed Rulemaking:

- **Portland State University Report**
- **COFR RAC Meeting Summaries**
  - Meeting 1
  - Meeting 2
- **Draft Forms**
  - Application and Checklist Form
  - Delegation of Authority Form
  - Certificate of Insurance Form
  - Endorsement Form
  - Surety Bond Form
  - Guarantee Form
  - Letter of Credit Form
  - Chief Financial Officer Agreement Form
  - Certificate of Deposit Form
  - Standby Trust Agreement Form

The documents are available on the COFR rulemaking website.

Proposed Rule Amendments to Division 300 and Division 012

Draft Rules: Edits Highlighted

Draft Rules: Edits Incorporated