State of Oregon
DEQ Department of Environmental Quality

Fuel Tank Seismic Stability 2027

Draft Rules – Edits Highlighted

Key to identifying changed text:

- **New/inserted text**

Division 300
FUEL TANK SEISMIC STABILITY

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 protect the public from financial losses by requiring facilities to obtain Certificates of Financial Responsibility. The bill authorizes the Environmental Quality Commission to adopt requirements for these certificates including determination 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.

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 Certificate of Financial Responsibility from DEQ certifying financial assurance mechanisms are in place to cover potential spill-related liabilities.

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

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

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

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

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

(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.

(h) Notify DEQ of significant changes to COFR applicant materials as described in OAR 340-300-0011.

Statutory/Other Authority: ORS 468.020 & SB 1567 (2022), HB 4100 (2026)
Statutes/Other Implemented: SB 1567 (2022), HB 4100 (2026)
History:
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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.

(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.

(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.

(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 January 1, 2030, according to the procedures in OAR 340-300-0013.

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

(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.

(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.

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

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

340-300-0008
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.

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

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

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 assurances in the amount equal to Q times U times R times M times E up to the maximum financial assurance requirement. Where Q is equal to either the total facility volumetric (shell) capacity in barrels times 0.475 or where Q is equal to the average of the maximum quantity of product handled, in barrels, for each of the previous three years. Where U is equal to $12,500 per barrel. Where R is the seismic risk reduction factor, which is set at 1.0. Where M is the material type coefficient, which is set at 1.0. And where E is the environmental sensitivity coefficient, which is set at 1.0. Coefficients and factors may be updated by the Environmental Quality Commission during the three-year review of financial assurance requirements described in OAR 340-300-0013

(2) The minimum and maximum required amounts of financial responsibility apply to a facility's obligation to obtain a COFR and in no way restrict or set financial limitations on any other duty, obligation, or liability of the facility.

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.

(2) Evidence of Insurance:

(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 Chapter 836 Division 071. The insurer providing coverage must also have a current AM Best rating of at least B+.

(b) The applicant must submit DEQ COFR Certificate of Insurance form(s) signed by an authorized representative of the insurer(s).

(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 when submitting an Oregon DEQ COFR Application.

(d) The proof of insurance must include:

(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.

(H) The completed DEQ COFR Endorsement Form signed by an authorized representative of the insurer.

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

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

(K) 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.

(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.

(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.

(g) Evidence of insurance may consist of one or more primary, umbrella or excess insurance policies, including combinations of pollution liability coverage and qualifying sudden and accidental or time-element pollution coverage. Such policies may incorporate different coverage terms and triggers, including pollution liability coverage in underlying layers and sudden and accidental or time-element pollution coverage in excess layers so long as the applicant can demonstrate that the required policies provide the required financial assurance and fulfill the scope of financial responsibility.

(h) Applications using evidence of insurance must provide a matrix, schedule or other supporting documentation identifying each insurer, coverage layer, attachment point, aggregate limit and sublimit.

(i) Acceptable insurance must apply to any claim arising from a spill, release, or discharge that first occurs during the policy period, provided that the spill,

release, or discharge would otherwise be covered under the policy in effect at the time of occurrence. Such coverage must not be denied solely because the claim is asserted, discovered, or reported after policy expiration, cancellation, nonrenewal or modification.

(j) An insurance policy used to satisfy the financial assurance requirements of this rule must provide that the bankruptcy, insolvency, or other financial impairment of the insured does not affect the insurer's obligations under the policy. The policy must further provide DEQ with a direct right of action against the insurer for covered obligations, up to the limits of liability established by the policy.

(3) Self-Insurance:

(a) The owner or operator of a facility may demonstrate financial assurance through self-insurance provided it satisfies one of two tests:

(A)Test One, Solvency Ratio:

(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

(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

(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.

(B) Test two: Current Credit Rating:

(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

(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

(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.

(b) The applicant must submit DEQ COFR Chief Financial Officer Letter of Agreement form signed by an authorized representative of the facility owner.

(c) An application using self-insurance must include a guarantee in the amount equal to the financial assurance covered by self-insurance.

(d) The applicant must submit DEQ COFR Guarantee form signed by an authorized representative of the guarantor. The guarantor must not be the same entity as the owner or operator.

(e) 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:

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

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

(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.

(f) 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:

(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

(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:

(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

(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.

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

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

(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

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

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

(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

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

(4) Surety Bonds:

(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.

(b) The applicant must submit DEQ COFR Surety Bond form(s) signed by an authorized representative of the Principal and Surety.

(c) 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.

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

(e) 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 from 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.

(f) 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. The DEQ COFR Standby Trust Agreement form must be signed and enclosed with the application.

(g) 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.

(5) Letters of Credit:

(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.

(b) The applicant must submit DEQ COFR Letter of Credit form(s) signed by an authorized representative of the issuing institution.

(c) 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.

(d) 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.

(e) 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.

(f) 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 from oil, liquid fuel or hazardous materials pollution claims and/or the unlawful discharge of oil, liquid fuel or hazardous materials.

(g) 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. The DEQ COFR Standby Trust Agreement form must be signed and enclosed with the application.

(6) Guarantees:

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

(b) The applicant must submit DEQ COFR Guarantee form signed by an authorized representative of the guarantor. The guarantor must not be the same entity as the owner or operator.

(c) 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.

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

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

(f) 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.

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

(h) 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. The DEQ COFR Standby Trust Agreement form must be signed and enclosed in the application.

(i) 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.

(7) Certificates of deposit:

(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.

(b) The applicant must submit DEQ COFR Certificate of Deposit form signed by an authorized representative of the issuing institution.

(c) 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.

(d) 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.

(e) 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, and the value of a certificate of deposit must not be reduced below the assured amount by early withdrawal fees or any other fees.

(g) 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. The DEQ COFR Standby Trust Agreement form must be signed and enclosed in the application.

(8) Other financial assurance mechanisms that serve as evidence of financial responsibility deemed acceptable by DEQ. Alternative forms of financial assurance may be proposed, subject to DEQ approval. An alternative form of financial assurance must prove that the level of security is equivalent to the mechanisms described in this rule.

(9) Financial assurance mechanisms used to meet the requirements of these rules must not be shared by any other facility or equipment located in areas subject to shared natural hazard risks including facilities located in areas at risk of impacts from a Cascadia Subduction Zone earthquake.

(a) This section does not apply to a pooled, mutual, group or trust arrangement under which each participating facility holds a dedicated limit not less than its minimum financial assurance requirement, that limit is not available to satisfy the liabilities of any other facility in Oregon or elsewhere and DEQ has approved the arrangement's governing documents as meeting the requirements of this rule.

(10) Financial assurance mechanisms used to meet the requirements of these rules must not carry exemptions for spills caused by earthquakes or other natural hazards and must cover spill or release response and cleanup expenses, fire damage and natural resource damage assessments and remediation.

(11) Within 10 business days after DEQ's written instruction under a surety bond, guarantee or certificate of deposit, the issuer must deposit the instructed amount into the standby trust fund. An insurer must pay undisputed amounts of a claim within 30 days after the claim is presented with documentation meeting the standard in Section 12 of this rule.

(12) For all financial assurance mechanisms:

(a) A claim for payment from a standby trust fund must be supported by documentation meeting the requirements of 33 CFR Part 136.

(b) Following a spill or release, DEQ will give notice of a claims period of 60 days, including notice to affected federally recognized tribes through government-to-government consultation and to affected communities in the languages they speak.

(c) Emergency response costs may be paid as incurred. Other claims will be paid after the claims period closes; if eligible claims exceed the funds in a standby trust, DEQ will direct payment pro rata within each class of claimant as provided in 33 CFR Part 25.

(13) Financial assurance mechanisms must make available the entire financial assurance requirement for each spill or release. Any annual aggregate limit must be not less than twice that amount and must reinstate upon a DEQ determination that a triggering event has concluded, or 90 days after the most recent qualifying event, whichever is later.

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 Certificate of Financial Responsibility Application and Checklist form as a cover sheet and include the forms required in OAR 340-300-0010 and other guidance posted on DEQ's website.

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

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

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

(3) The application must include the following:

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

(b) Evidence of dollar amounts;

(c) Effective date and term of coverage.

(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.

(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.

(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.

(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 a Oregon COFR at least 65 calendar days before beginning operations

(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.

(9) Significant changes to facility or COFR require notification to the DEQ:

(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:

(A) A change in ownership or operational control;

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

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

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

(c) The holder of an Oregon COFR under this division must notify DEQ of a spill or release consistent with OAR Chapter 340 Division 141 and Division 142.

(d) 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. DEQ may suspend 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 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. DEQ will promptly notify the facility in writing of the suspension. The notice will include the reasons for the suspension. The suspension will become effective 20 days from the date of service of the notice unless DEQ receives a written request for a hearing within that timeframe. The facility must make the request for a hearing in writing and state the grounds for the request. The hearing will be conducted according to the procedures in ORS Chapter 183 and OAR Chapter 340, Division 011.

(10) Each facility that maintains an Oregon COFR:

(a) must record the inventory of each tank at least daily and retain those records for five years at a safe and secure location, accessible to DEQ within 48 hours of a request; and

(b) agrees that, where a single event results in spills or releases from more than one facility, an interim allocation of response and cleanup costs among the affected facilities, made within 30 days by a technical panel convened by DEQ, governs disbursements from their standby trust funds until liability is determined by agreement, by the National Pollution Funds Center or by a court. The interim allocation does not determine any holder's ultimate liability.

(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.

(12) If a facility fails to obtain a valid COFR within 30 days of DEQ notifying it of noncompliance and continues to operate without an approved COFR, DEQ may issue an order requiring the facility to suspend its operations. DEQ will notify the facility in writing of the grounds for the order and the effective date of the order. The facility may request a hearing before the effective date of the order. The facility must make the request for a hearing in writing and state the grounds for the request. The hearing will be conducted according to the procedures in ORS Chapter 183 and OAR Chapter 340, Division 011.

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

340-300-0012
DEQ Review of COFR Applications

(1) DEQ will review applications for completeness and will request additional information with a response deadline or will issue an Oregon COFR upon verification that the application meets the requirements of these rules.

(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 have been met for the facility identified in the application. The Oregon COFR will then be emailed to the applicant.

(3) Oregon COFRs expire three years after the issuance date. COFRs remain effective during DEQ review of renewal applications that have been duly submitted.

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

(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.

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

340-300-0013
Triennial Update of Financial Assurance Requirements

(1) For the purposes of HB 4100 (2026) Section 4(4)(b) the first triennial evaluation of maximum financial assurance requirements will begin January 1, 2030.

(2) Every three years beginning January 1, 2030, the Environmental Quality Commission shall update the minimum financial assurance requirements according to HB 4100 (2026) Section 4(4)(b).

(3) Adjusted maximum and minimum financial assurance requirements will take effect at the time of the facility's next COFR renewal.

(4) For each triennial update period, DEQ shall provide the Environmental Quality Commission with a report that has been out for public comment. This report will provide an evaluation of the financial assurance requirement maximum and minimum including an evaluation of the factors and coefficients in OAR 340-300-0009 Section 1 and will include recommendations for proposed adjustments to financial assurance requirements.

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

Division 12
ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

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 or 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

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.

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