



State of Oregon Department of Environmental Quality
**Draft Division 12 Enforcement
Language Fuel Tank Seismic
Stability Rulemaking**

This is draft Division 12 enforcement language developed by DEQ for the Fuel Tanks Seismic Stability Rulemaking. This document is being presented to the Rules Advisory Committee for discussion. The RAC's input will be reflected in the final version included in the public notice.

Chapter 340

Division 12

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-00xx

Fuel Tank Seismic Stability Classification of Violations

(1) Class I:

- (a) Failing to submit a facility Seismic Vulnerability Assessment;
- (b) Failing to submit a facility Risk Mitigation Implementation Plan;
- (c) Operating a bulk oils or liquid fuels terminal without an approved or conditionally approved facility Seismic Vulnerability Assessment or Risk Mitigation Implementation Plan;
- (d) Failing to substantially implement a DEQ approved Risk Mitigation Implementation Plan;
- (e) Failing to maintain equipment, personnel and training at levels described in an approved or conditionally approved Risk Mitigation Implementation Plan;

(2) Class II:

- (a) Failing to allow access for facility inspection when requested;
- (b) Failing, by a facility owner or operator, to submit and implement required changes to a required facility Seismic Vulnerability Assessment following approval or conditional approval;
- (c) Failing, by a facility owner or operator, to submit and implement required changes to a required Risk Mitigation Implementation Plan following approval or conditional approval;

(d) Failing to timely submit an implementation progress work report as specified in the DEQ Risk Mitigation Implementation Plan approval;

(3) Class III:

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

(c) Failing to have at least one copy of the required earthquake spill response plans in a central location accessible at any time by the incident commander or spill response manager;

(e) Failing to notify DEQ within 7 calendar days of any significant changes that could affect implementation of a required risk mitigation.

Statutory/Other Authority: ORS

Statutes/Other Implemented: ORS

History:

DEQ x-2023, f. & cert. ef. x-x-xx

[340-012-0140](#)

Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) \$12,000 Penalty Matrix:

(a) The \$12,000 penalty matrix applies to the following:

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(Y) Any violation of the Fuel Tank Seismic Stability Program rules under OAR chapter 340, division 300.

(b) The base penalty values for the \$12,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$12,000;

(ii) Moderate — \$6,000;

(iii) Minor — \$3,000.

(B) Class II:

(i) Major — \$6,000;

(ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

(C) Class III: \$1,000.