

Documenting Compliance with Financial Responsibility

Why is Financial Responsibility (FR) Important?

Accidents happen. Spills and releases of product from underground storage tanks (USTs) happen. Even with the newest underground storage tank systems and monitoring devices, soil and groundwater contamination will become contaminated. By demonstrating compliance with the financial responsibility requirements, permittees or tank owners are arranging the financial means necessary to respond quickly when spills, releases or accidents occur at an UST site. Complying with financial responsibility not only protects the environment, but also protects the financial integrity of your business in the case of significant soil or groundwater contamination.

When do I Need to Demonstrate Compliance with FR?

For all classes of permittees and tank owners, other than USTs owned by Indian tribes on Indian lands, compliance with FR has been a requirement since February 18, 1994. The deadline for this last class of USTs was December 31, 1998.

Over the last several years DEQ has sent several letters requesting documentation of compliance with FR. DEQ staff followed up with phone calls where the documentation was incomplete, incorrect or not submitted. DEQ inspectors are currently asking to see documentation during UST inspections. DEQ is taking enforcement action when compliance with FR cannot be documented.

Compliance with FR must also be demonstrated in each of the following events:

- Before a newly installed UST system receives a "Certificate to Operate".
- Any time DEQ receives a permit modification application requesting a change in permittee, tank owner or property owner.
- When a facility goes into temporary closure and applies for a "Temporary Closure Certificate".

What is Acceptable FR Documentation?

The most common form of FR is the purchase of an UST environmental liability insurance policy. Upon issuance of a policy, the insurance company is required to issue a "Certificate of

Insurance for Storage Tank Systems". DEQ does not need to see the policy itself, but we do need to see the "Certificate of Insurance" which confirms the policy has been issued. Before submitting the certificate, please be sure to write the UST facility identification number on each page so that DEQ can correctly document compliance in the UST database.

Exhibits 1 and 2 are an example of an insurance certificate that contains the essential elements to document compliance with FR. Key Information shown on Exhibit 1 includes:

- The policy term (from when to when).
- Name and Address of Insured.
- Name and Address of Insurer.
- Conditions 1 and 2 contain required language pursuant to 40 CFR 280.97 (b) (2) and identify policy limits, exclusive of legal defense costs.
- Signature of the authorized representative of the insurance company.

Exhibit 2 is often a separate sheet as shown and identifies:

- The facility covered by policy.
- The tanks covered by the policy.

What is Unacceptable Documentation?

Insurance companies have historically issued a one page document called an "ACORD" to confirm to the insured that the policy is bound, that is, the policy is effective pending receipt of a copy of the policy and any schedules or endorsements. Exhibit 3 is an example of an ACORD. A comparison with Exhibits 1 and 2 shows that key required information is not shown on an ACORD. Sending or providing an ACORD to DEQ does not demonstrate compliance with FR. Submitting an ACORD will delay DEQ's issuance of an operating permit that authorizes fuel deliveries or result in DEQ noting a compliance deficiency during an UST inspection.

Alternative formats

Alternative formats (Braille, large type) of this document can be made available. Contact DEQ's Office of Communications & Outreach, Portland, at (503) 229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.



State of Oregon
Department of
Environmental
Quality

**Land Quality
UST Program**
811 SW 6th Avenue
Portland, OR 97204
Phone: (503) 229-6704
(800) 742-7878
Fax: (503) 229-6954
Contact: Mitch Scheel
www.deq.state.or.us

Exhibit 1 - Key Information shown includes:

- The policy term (from when to when).
- Name and Address of Insured.
- Name and Address of Insurer.
- Conditions 1 and 2 contain required language pursuant to 40 CFR 280.97 (b) (2) and identify policy limits, exclusive of legal defense costs.
- Signature of the authorized representative of the insurance company.

Certificate of Insurance Storage Tank Systems			
Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Premium

Dept. of Environmental Quality
RECEIVED
NOV 06 2003
Land Quality Division

Named Insured and Mailing Address: **Name and Address of Insured Here**

Name of Insurer: **Name and Address of Insurer Here**

CERTIFICATE:

1. _____ the 'Insurer', as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

Per Attached Scheduled Locations and Scheduled Storage Tank(s) Systems

for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; arising from operating the underground storage tank(s) identified above.

The limits of liability are \$1,000,000 each occurrence and \$1,000,000 annual aggregate, exclusive of legal defense costs which are subject to a separate limit under the policy. This coverage is provided under Policy Number _____

The effective date of said policy is 10/23/2003

2. The Insurer further certifies the following with respect to the insurance described in Paragraph 1:

- Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy to which this certificate applies.
- The Insurer is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a third party, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95-280.102.
- Whenever requested by a Director of an implementing agency, the Insurer agrees to furnish to the Director a signed duplicate original of the Policy and all endorsements.
- Cancellation or any other termination of the insurance by the Insurer, except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the Insured. Cancellation for non-payment of premium or misrepresentation by the Insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured.
- The insurance covers claims of otherwise covered by the Policy that are reported to the Insurer within six (6) months of the effective date of cancellation or non-renewal of the Policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reported period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

I hereby certify that the wording of this instrument is identical to the wording in 40 CFR 280.97 (b) (2) and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess lines insurer, in one or more states.

Signature and Name of Insurance Company Here

Authorized Representative

DEQ-DC1

Exhibit 2 - Key Information shown includes:

- The facility covered by policy.
- The tanks covered by the insurance policy. It is important that all the tanks registered with DEQ are listed on the insurance declaration. Any discrepancies will need to be resolved before verification is complete or an operating certificate is issued.

Declarations
Schedule of Locations and Storage Tanks
October 31, 2003

Attached to and forming part of Policy

**Name and Address of
Insured Facility Here**

<u>Tank#</u>	<u>Cap. Gal.</u>	<u>Contents</u>	<u>Position</u>	<u>Install Date</u>	<u>Lined Date</u>
1	12,000	Split Tank	Under	1988	
2	12,000	Diesel	Under	1988	
3	15,000	Diesel	Under	1995	
4	20,000	Split Tank	Under	1988	

Total Number of Tanks: 4
Total Number of Facilities: 1

An ACORD is a means for the insurer to let the insured know that insurance has been purchased. The ACORD does not, however, contain the key information required to verify compliance with the financial responsibility requirements for USTs (compare ACORD to Exhibits 1 and 2 above). Submitting an ACORD will delay DEQ's issuance of an operating permit that authorizes fuel deliveries or result in DEQ noting a compliance deficiency during an UST inspection.