



Oregon Department of Environmental Quality

## Meeting Summary

### Fuel Tanks Seismic Stability 2023 - Rulemaking Advisory Committee Meeting 4

April 21, 2023

## Purpose of meeting

On April 21, 2023, DEQ convened the fourth and the final meeting of the Fuel Tank Seismic Stability Rulemaking Advisory Committee via Zoom. The purpose of the meeting was to:

- Discuss the revised OAR Chapter 340 Division 300 draft rule.
- Discuss the draft Fiscal Impact Statement.
- Discuss the draft Racial Equity Statement.
- Provide platform for public input.

## Meeting Attendees

The meeting attendees included members of the FTSS Rulemaking Advisory Committee:

- Paul Edison-Lahm - Environmental justice interests, NAACP
- Randy Groves - Eugene Springfield Fire Chief (retired) & City Councilor
- Nancy Hiser - Linnton Neighborhood Association
- Andrew Holbrook - Kinder Morgan NW Operations Manager
- Lindsey Hutchison - Attorney for Willamette Riverkeeper
- Tom Umenhofer - Western States Petroleum Association
- Amit Kumar - Structural engineer at City of Portland
- Doug Lenz - Columbia Pacific Bio-Refinery plant manager
- Warren Seely - Seely Mint Farm
- Sterling Stokes – Portland Harbor Community Coalition
- Chris Voss - Multnomah County Director of Emergency Management
- Jacque Wurster - Director of Eugene, Community Emergency Response Team

DEQ and technical support team members in attendance:

- Mike Korten Hof - DEQ Fuel Tank Compliance Program Manager
- Svetlana Lazarev - DEQ Seismic Stability Program Analyst
- Lauren Wirtis - DEQ Communications
- Abby Boudouris - DEQ Senior Legislative Analyst
- Esther Westbrook - DEQ Environmental Law Specialist
- Kasia Burns - DEQ Office Specialist
- Allison Pynch - Haley and Aldrich, Inc. Project Engineer
- Yumei Wang- PSU Senior Advisor on Infrastructure Resilience and Risk
- Luke Hanst - PSU Institute for Sustainable Solutions

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There were approximately 46 members of the public in attendance.

## **Welcome and meeting overview**

DEQ welcomed everyone to the meeting and provided an overview of the Zoom webinar, meeting agenda, and March meeting follow-up.

## **OAR Chapter 340 Division 300 Draft Rule**

DEQ reviewed the sections of the revised rule and asked the committee to consider if the revised draft rules would be satisfactory to prepare facility assessments and mitigation plans, approve or reject assessments or plans, and implement the plans:

The rule sections are as follows:

- 340-300-0000 Context
- 340-300-0001 Purpose and Applicability
- 340-300-0002 Definitions and Acronyms as used in this Division
- 340-300-0003 Seismic Vulnerability Assessment Requirements, Timeline and Approval Criteria
- 340-300-0004 Risk Mitigation Implementation Plan Requirements, Timeline and Approval Criteria
- 340-300-0005 Reporting Requirements, Test Methods, and Procedures
- 340-300-0006 Program Administration and Compliance Fees
- 340-300-0007 DEQ's Responsibility to Review and Approve Seismic Vulnerability Assessments and Risk Mitigation Implementation Plans

DEQ will consider comments received in developing the next draft of the rules.

## **Fiscal Impact Statement Discussion**

The fiscal impact analysis addresses the impacts the proposed rule may cause. This is separate from and in addition to impacts of the underlying statute itself. The statute's fiscal impact was considered when the law was promulgated. As such, the costs to the regulated facilities themselves are not addressed in this statement. The proposed rule clarifies the statute and is expected to have a negligible overall fiscal impact. DEQ used the available information to consider the potential impacts on:

- State agencies
- Local government
- Members of the public
- Large Businesses
- Small Businesses and
- Housing Cost.

DEQ asked the committee to consider if the proposed rule will have a fiscal impact on these entities and if so, what the extent of the impact will be and how can DEQ reduce such impact.

Some committee members agreed with DEQ's conclusion that the overall fiscal impact of the rule including impacts to small businesses will be insignificant, others thought that there might be some potential fiscal impact, but the currently available information is not sufficient to estimate the significance of such impact. Several committee members noted that DEQ's fiscal impact statement does not take into account the significant fiscal impact on all the considered groups if the proposed rules are not adopted and implemented. Some committee members had no comment.

## **Racial Equity Statement Discussion**

State Agencies are required to provide a statement identifying how adoption, amendment or repeal of the proposed rules will affect racial equity in Oregon. Racial equity is not defined in HB 2993 (2021). The ordinary meaning of racial equity is treating people of all races fairly, justly and without bias.

DEQ asked the committee members to discuss:

- How will the adoption of the proposed rule affect racial equity in Oregon?
- What unintended adverse consequences might the proposed rule have on racial equity?
- What did DEQ not consider?

Several committee members agreed with DEQ's conclusion that the proposed rule and program implementation will improve and address racial equity by:

- 1) Preventing spills and resulting damage after an earthquake, especially for the workers and residents in the immediate area.
- 2) Encouraging public participation in the Risk Mitigation Implementation Plans approval process. DEQ anticipates receiving and addressing comments during the risk mitigation plan approval process regarding the potential damage concerns and resources needed by communities due to uncertainty in the level of protectiveness.

Some committee members will provide a written statement in response to DEQ's Racial Equity statement. Several committee members had no comment.

## **General Public Input**

Five members of the public provided input relating to:

- Building included in the facility assessments;
- Columbia County information gaps in social vulnerability;
- Potential positive fiscal impacts on small businesses located near the facilities subject to the rule;
- ShakeAlert;
- Risk mitigation timeline and
- Existing tank and piping assessment options.

## Next Steps

DEQ reviewed the next steps consisting of:

- The informational presentation to the Environmental Quality Commission on May 18, 2023;
- The public hearing and public comment period in June 2023;
- Public comment response in July to August 2023 and
- Environmental Quality Commission consideration for adoption presentation in September 2023.

**The purpose of this meeting was achieved, DEQ thanked the committee members and the public and the meeting adjourned at 11:55 a.m.**

## Non-discrimination statement

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