



State of Oregon Department of Environmental Quality

Draft Racial Equity Statement

2025 Underground Storage Tanks Contractor Rulemaking
Advisory Committee Meeting 2

This is a draft racial impact statement developed by DEQ for the 2025 UST Contractor 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.

Scope and issues addressed by the proposed rule

DEQ is conducting the rulemaking to update the rules governing UST service providers and supervisors, OAR Chapter 340, Division 160. Currently, almost 60% of UST system inspections result in violations of the UST regulations, which are in place to protect public health and the environment. The proposed rules will increase DEQ oversight of the work performed by licensed UST contractors, which should result in fewer violations of the UST regulations and thereby improve the protection of public health and the environment.

[ORS 183.335\(2\)\(a\)\(F\)](#), as amended by [House Bill 2993 \(2021\)](#), requires state agencies, when providing notice of a rulemaking, to provide a statement identifying how adoption, amendment or repeal of the proposed rules will affect racial equity in the state. Statute language: ORS 183.335(1)(a) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice of its intended action. The notice required by subsection (1) of this section must include a statement identifying how adoption of the rule will affect racial equity in this state ORS183.335 (2)(a)(F).

What does “racial equity” mean?

HB 2993 does not define “racial equity”, and there is no one meaning of the phrase as a term of art – many different meanings have been suggested. In legislative history, legislators acknowledged that there is no clear meaning of the phrase, and they did not attempt to provide one. Courts interpreting undefined phrases that have no fixed meaning as a term of art, give the words their ordinary meaning. The ordinary meaning of “racial equity” is treating people of all races fairly, justly and without bias. A statement of how a rule will affect “racial equity”, means how the rule will affect the fair, just and unbiased treatment of people of all races.

Reference definitions from [House Bill 4077 \(2022\)](#)

HB 4077 established the Environmental Justice Council within the office of the Governor. The bill requires that The Environmental Justice Council with staff support from the Department of Environmental Quality, in collaboration with the office of Enterprise Information Services, the

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Institute for Natural Resources, the Portland State University Population Research Center, other natural resources agencies and the Oregon Health Authority, develop an environmental justice mapping tool. An inclusive community engagement process to receive input from communities across this state is required by this new law.

“Equity analysis” means an analysis used to determine or evaluate environmental justice considerations.

“Fair treatment” means that no one group of people, including racial, ethnic or socioeconomic groups, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal and commercial operations or the execution of federal, state, local and tribal environmental programs and policies.

“Environmental justice” means the equal protection from environmental and health risks, fair treatment and meaningful involvement.

Equity beyond racial considerations

The definition of equity should be ever-changing and responsive depending on who is impacted by a cause and how the effects of this cause are experienced. At large, it is a concept meant to provide resources depending on need, understanding that not one person, community or environment will need the same resources. Societal and structural barriers can stand in the way of one’s access to resources and contribute to an inequitable structure that oppresses various groups in disparate ways. Equity must expand beyond fiscal and racial considerations.

Vulnerability assessments can guide direction, but they must be accompanied by accountability measures to adequately protect environments and communities.

According to Federal Emergency Management Agency’s report to the National Advisory Council ¹, the core definition of equity is providing the greatest support to those with greatest need to achieve a certain minimum outcome. An equitable policy means providing more support to people with more need. By perpetually assisting larger communities that already have considerable resources, the smaller, less resource-rich, less-affluent communities cannot access funding to appropriately prepare for a disaster, leading to inadequate response and recovery, and little opportunity for mitigation. Through the entire disaster cycle, communities that have been underserved stay underserved, and thereby suffer needlessly and unjustly. The marginalized communities tend to be both the most exposed to damage and least able to recover financially.

¹ [FEMA National Advisory Council Report](#)

Demographics of UST locations in Oregon

US EPA has created a tool, EJ Screen, that maps seven demographic categories indicative of vulnerable populations. One of them, “People of color,” can stand as proxy for the racial makeup of the areas located near active UST facilities. Of our 1660 active facilities, 118 of them are located in census tracts that have a percentage of residents above the national average who are people of color. EJ Screen tracks many other indicators, and by that broader definition, 40% of our active UST facilities are located in areas with vulnerable populations.

This rulemaking is intended to improve environmental outcomes by increasing DEQ oversight of the work performed by UST contractors. To the extent that UST facilities are located in neighborhoods with a large proportion of people of color, this proposed rulemaking should improve racial equity by preventing releases of petroleum that could contaminate soil and groundwater.

Environmental justice considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues. As mentioned above, 40% of Oregon's UST facilities are located in census blocks that US EPA identifies as having at least two demographic or environmental indices at or above the 80th percentile nationally, indicating vulnerable populations. Just as with the narrower question of how this rulemaking will affect racial equity in Oregon by improving environmental outcomes with increased oversight of the work performed by UST contractors, this proposed rulemaking should improve environmental justice in Oregon.

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities.

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