



State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

May 8-9, 2025

Rulemaking Action Item C Underground Storage Tanks 2025

Table of Contents

DEQ recommendation to the EQC	2
Introduction	3
Statement of need	4
Federal relationship	4
Rules affected, authorities, supporting documents	5
Fee analysis	8
Statement of fiscal and economic impact	8
Racial equity	13
Environmental justice considerations	13
Land use	15
EQC prior involvement	16
Advisory committee	17
Public engagement	18
Implementation	23
Five-year review	24
Non-discrimination statement	25
Draft Rules – Edits Included (no track changes)	26

Translation or other formats

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)
800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov

DEQ recommendation to the EQC

DEQ recommends that the Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

Language of Proposed EQC Motion:

“I move that the Environmental Quality Commission adopt the proposed rule amendments in Attachment A as part of chapter 340 of the Oregon Administrative Rules.”

Introduction

The U.S. Congress and the State of Oregon passed laws in the late 1980s requiring owners to upgrade and maintain their underground storage tanks (USTs) in response to petroleum leaks contaminating groundwater. Today, DEQ manages Oregon's program with a primary purpose to minimize leaks. DEQ's Underground Storage Tank program verifies that leak prevention equipment operates properly. This means ensuring businesses with USTs have proper corrosion protection equipment, spill and overfill protection, and leak detection systems. Historical data shows tank sites without functioning leak prevention equipment are more likely to release contaminating groundwater.

Oregon went beyond the federal requirements in adopting the federal rules and created a licensing program for the contractors, both companies and individuals, who perform services on regulated UST systems. Only service providers (companies) and supervisors (individuals) licensed by the state are allowed to work on regulated UST equipment. The rules that govern UST Service Providers and Supervisors were last updated in 2003.

In 2015, the U.S. Environmental Protection Agency revised the federal UST regulations. Since UST programs in the US are delegated to the states, Oregon incorporated these updates into state rules in 2018. These updated rules added testing requirements to ensure that the UST equipment required by existing laws functions to prevent leaks. These new testing requirements included:

- Walkthrough inspections
- Overfill prevention equipment inspections
- Spill prevention equipment tests
- Containment sump tests and
- Operability tests for release detection equipment.

The provisions of the main UST equipment rules apply to UST owners and operators, but the testing required by these regulations must be performed by licensed contractors. Any deficiencies in the testing performed by licensed service providers and supervisors puts UST equipment in danger of leaking creating risk to the environment and liability for the UST owner.

Statement of need

What need would the proposed rule address?

After the implementation of the rules updated in 2018, the compliance rate of the inspections that DEQ must perform at regulated UST facilities every three years dropped from 90% compliance to 40% compliance. The most common violations observed during these inspections involve testing that was either not performed or performed incorrectly.

How would the proposed rule address the need?

The proposed rules would increase DEQ oversight of licensed UST Service Providers and Supervisors to ensure that:

- Testing is performed on time
- UST equipment is in compliance
- Testers have the training necessary to perform the tests correctly
- Work done during UST construction and repair projects is evaluated before it is backfilled and covered by concrete

How will DEQ know the rule addresses the need?

The UST program will see an improvement in the compliance rate of the inspections performed every three years at regulated UST facilities.

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules corresponding with existing equivalent federal laws and rules unless there are reasons not to do so.

The federal UST rules do not regulate the contractors who perform UST services. Oregon chose to license UST contractors in 2003 with the understanding that because the federal regulations governing UST equipment and testing are so specialized, the contractors who perform this work should have specialized knowledge beyond a contractor's license. This rulemaking is an update of these rules.

Rules affected, authorities, supporting documents

Lead division

Land Quality

Program or activity

UST Licensing

Chapter 340 action

Adopt				
340-160-0021	340-160-0022			
Amend				
340-160-0005	340-160-0010	340-160-0020	340-160-0025	340-160-0030
340-12-0067				

Statutory Authority - ORS				
468.020	468.065	466.750		

Legislation

[1987 c.539 §§14,15; 1989 c.926 §42; 1999 c.979 §10; 2001 c.104 §202]

Rules summary

As OAR 166-500-0030(1)(e) requires, the following are included to provide a brief summary of the proposed new rules and existing rules affected by this rulemaking.

OAR chapter 340, division 012

Rule Number	Rule Title	Explanation
-0067	Underground Storage Tank (UST) Classification of Violations	Adds “testing” to required notifications

OAR chapter 340, division 160

Rule Number	Rule Title	Explanation
-0005	Purpose	Adds “performance, documentation and approval of UST services”
-0010	Definitions	Adds definition of “excavation”
-0020	General Provisions	Removes the specific requirements for UST Service Providers and Supervisors that are addressed in the following two new proposed rules.
-0021	UST Service Provider Work Practices	Includes the requirements for UST Service Providers previously contained in 0020. Also adds the following requirements: <ul style="list-style-type: none">• To notify DEQ before performing any UST services• To provide proof of manufacturer’s certification for each UST component involved in the service• To obtain approval from DEQ before continuing work at certain critical junctures of repairs, installations, modifications and decommissionings• To submit testing results.

Rule Number	Rule Title	Explanation
-0022	UST Supervisor Work Practices	Includes the requirements for UST Supervisors previously contained in 0020.
-0025	Types of Licenses	Changes “Tank Tightness Testing” to “UST Testing”
-0030	Licensing of UST Service Providers	Requires inclusion of CCB license number on application, if applicable

Fee analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and economic impact

The proposed rule changes would add new notification and reporting requirements for UST contractors. The fiscal and economic impact would be increased time for UST Service Provider to perform those actions. These increased staff costs would be passed along, wholly or in part, to the UST owners and operators contracting for UST services.

Statement of cost of compliance

All UST owners and operators are required to contract for UST services unless they or their employees have met the same licensing requirements that apply to UST service providers and supervisors. The direct costs of complying with the proposed changes will fall on UST service providers, and all or part of these costs are likely to be passed on to UST owners and operators in the form of higher prices for services.

Table 1 lists the notifications required in the proposed rules and how frequently they occur. These are the assumptions these numbers are based on:

- Each notification takes 30 minutes of UST service provider time for \$45/hour.
- There are 1,660 UST facilities in Oregon with over 5,200 regulated tanks. Every year, the UST facilities in Oregon typically undergo:
 - 25 installations
 - 21 modifications
 - 90 repairs
 - 53 decommissionings

Table 1	
Proposed Notification Requirements	
Type	Frequency
Annual testing notification	Yearly
Annual testing results	Yearly
Installation: setting tank(s)	25/1660 per year
Installation: primary and secondary pipe testing	25/1660 per year
Installation: integrity testing of sumps and spill buckets	25/1660 per year
Installation: backfilling the piping and tank top(s)	25/1660 per year

Installation: start up testing	25/1660 per year
Modification: primary and secondary pipe testing	21/1660 per year
Modification: integrity testing pf sumps and spill buckets	21/1660 per year
Modification: backfilling the piping and tank top(s)	21/1660 per year
Modification: start up testing	21/1660 per year
Repairs: starting the repair	90/1660 per year
Repairs: testing the repair	90/1660 per year
Decommissioning: site assessment sampling	53/1660 per year
Decommissioning: removing the tank(s)	53/1660 per year

Table 2 lists the additional tasks that will require the presence of a licensed UST supervisor in the proposed rules. These are the assumptions these numbers are based on:

- The pay differential between a licensed UST supervisor and an unlicensed technician is \$7.50/hour.
- Every year, Oregon UST facilities will undergo 90 repairs
- Annual testing that currently does not require a licensed UST supervisor takes 2 hours/year
- A typical repair will take 8 hours

Table 2 Proposed Required Presence of Licensed Supervisor		
Type	Frequency	Additional Cost
Annual testing	Yearly	\$15
Repairs	90/1660	\$60

State agencies

State agencies, such as the Department of Transportation, own and operate UST facilities and would be impacted by any cost increase passed on by UST Service Providers. There are currently 20 such facilities with active tanks. In addition, ODOT decommissions approximately 2.6 discovered USTs per year.

Based on the information in Tables 1 & 2, projected notification and reporting requirements, and the required presence of a licensed supervisor for all repairs and testing will add to the payroll costs of UST Service Providers. The costs could include:

- \$60 per year per facility for annual testing
- \$112.50 per facility for each installation
- \$90 per facility for modifications
- \$105 per facility for repairs

- \$45 per facility for decommissionings

If these costs are passed along to UST owners and operators, they will affect UST facilities owned by state agencies instead.

Local governments

Local governments own and operate UST facilities and would be impacted by any increase in costs passed on by UST Service Providers. There are currently 107 such facilities with active tanks.

Based on the information in Tables 1 and 2, projected notification and reporting requirements, and the required presence of a licensed supervisor for all repairs and testing will add to the payroll costs of UST Service Providers. Those costs could include:

- \$60 per year per facility for annual testing
- \$112.50 per facility for each installation
- \$90 per facility for modifications
- \$105 per facility for repairs
- \$45 per facility for decommissionings

If these costs are passed to UST owners and operators, they will affect UST facilities owned by local governments instead.

Public

Members of the public could be impacted by these changes by any increase in fuel prices caused by the increase in costs that are likely to be passed down by the UST service providers and supervisors to the facility owners, who are likely to pass the costs to consumers. DEQ is unable to quantify that impact with the data available.

Large businesses - businesses with more than 50 employees

UST Service Providers: Fourteen licensed UST service providers are considered large businesses.

UST Facility Owners: Of the 1511 currently active, privately-owned UST facilities, 854 are owned by 89 large businesses.

Based on the information in Tables 1 and 2, projected notification and reporting requirements and the presence of a licensed Supervisor will add:

- \$60 per year per facility for annual testing
- \$112.50 per facility for each installation
- \$90 per facility for modifications
- \$105 per facility for repairs

- \$45 per facility for decommissionings

to the payroll costs of UST Service Providers. If these costs are passed along to UST owners and operators, they will affect UST facilities instead.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 Cost of Compliance Effect on Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

There are currently 58 licensed UST service providers considered small businesses. Of the 1,511 active, privately-owned UST facilities, 654 are small businesses. Thus, the proposed rule will affect 712 small businesses.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

Based on the information in Tables 1 and 2, projected notification and reporting requirements will add:

- \$45 per year per facility for annual testing
- \$112.50 per facility for each installation
- \$90 per facility for modifications
- \$45 per facility for repairs
- \$45 per facility for decommissionings

to the payroll costs of UST Service Providers. To the extent that these costs are passed along to UST owners and operators, they will affect UST facilities instead.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

Based on the information in Table 2, increased pay for UST supervisors will increase the cost of repairs and testing for UST service providers by:

- \$15 per facility for testing
- \$60 per facility for repairs

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ included representatives from both independent gas station owners and UST service providers with fewer than 50 employees on the advisory committee for this rulemaking. The Oregon Fuels Association was also represented on the advisory committee.

Documents relied on for fiscal and economic impact

Document title	Document location
Oregon DEQ UST database	700 NE Multnomah St Portland, OR 97232
Oregon DEQ Licensing database	700 NE Multnomah St Portland, OR 97232

Advisory committee fiscal review

DEQ appointed an advisory committee that met three times, Aug. 22, Oct. 3, and Dec. 3, 2024. During those meetings, a RAC member representing small station owners expressed concern that UST Service Providers would use the rule update as an excuse to send two testers instead of one to do the same amount of work. One RAC member expressed concern at any increase in compliance costs.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would affect the development cost of a 6,000-square-foot parcel and the construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined that the proposed rules would have no effect on the development costs because any increase in retail fuel costs due to this rulemaking would have a negligible effect.

Racial equity

[ORS 183.335\(2\)\(a\)\(F\)](#), as amended by [House Bill 2993 \(2021\)](#), requires state agencies, when providing notice of 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) Before 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 the adoption of the rule will affect racial equity in this state ORS183.335 (2)(a)(F).

DEQ is conducting 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, that are in place to protect public health and the environment. The proposed rules will increase DEQ oversight of the licensed UST contractors' work. Additional oversight should result in fewer violations of the UST regulations and thereby improve the protection of public health and the environment.

DEQ does not have data to suggest these amendments will impact racial equity in the state of Oregon.

Environmental justice considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues.

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 a 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.

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. By improving

environmental outcomes with increased oversight of the work performed by UST contractors, this proposed rulemaking should improve environmental justice in Oregon.

Land use

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and locally acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
 - Resources, objects, or areas identified in the statewide planning goals, or
 - Present or future land uses identified in acknowledged comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

EQC prior involvement

DEQ presented additional information specific to this proposed rule revision as an informational item at the EQC meeting on March 13, 2025.

Advisory committee

Background

DEQ convened the Underground Storage Tanks 2025 advisory committee. The committee included representatives from UST contractors, large and small UST operators, lobbyists for the Oregon Fuels Association, concerned citizens and representatives from organizations concerned with pollution prevention and environmental justice, and met three times. The committee's web page is located at: [Underground Storage Tanks 2025](#).

The committee members were:

Rulemaking Name Advisory Committee	
Name	Representing
Brandon Philips	Concerned citizen
Shyanne Dunn	Large station owners
Chris Huiard	Large station owners
Matt Failor	UST Service Providers
William Logue	UST Service Providers
Brainard Brauer	Small station owners
Chris Wright	UST Service Providers
Mason Leavitt	Beyond Toxics: pollution prevention & EJ
Danelle Romain	Oregon Fuels Association

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
 - Rulemaking
 - DEQ Public Notices
 - Underground Storage Tanks
- Added advisory committee announcements to DEQ's calendar of public meetings at [DEQ Calendar](#).

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee discussed how station owners can be sure that the people who come to perform work are qualified, and whether DEQ could offer incentives to station owners who exceed the equipment requirements.

Public engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On Jan. 29, 2025, filed notice with the Oregon Secretary of State for publication in the February 2025 Oregon Bulletin
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Underground Storage Tanks 2025](#)
- Emailing approximately 23,400 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ Public Notices
 - Underground Storage Tanks
- Emailing the following key legislators required under [ORS 183.335](#):
 - Senator Rob Wagner, Senate President
 - Representative Julie Fahey, House Speaker
 - Senator Janeen Sollman, Co-Chair, Senate Energy and Environment Committee
 - Senator Lynn Findley, Co-Chair, Senate Energy and Environment Committee
 - Representative John Lively, Chair, House Climate Energy and Environment Committee
- Emailing advisory committee members
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Comment deadline

DEQ only considered comments on the proposed rules that DEQ received by **4 p.m., on Feb. 24, 2025**.

Public hearing

DEQ held one public hearing. DEQ received one comment at the hearing. Later sections of this document include a summary of the three comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Later sections of this document include a summary of the five comments received during the open public comment period, DEQ's responses, and a list of the commenters.

Original comments are on file with DEQ.

Presiding officers' record

Hearing 1

Date	Feb. 3, 2025
Place	Remotely via Zoom
Start Time	9:20 a.m.
End Time	9:50 a.m.
Presiding Officer	Malex Spencer

Presiding officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to identify themselves via the Zoom chat. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

Eighteen people attended the hearing. One person commented orally, and no one submitted written comments at the hearing.

Summary of public comments and DEQ responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from Feb. 3, 2025, until 4 p.m. on Feb. 24, 2025.

For public comments received by the close of the public comment period, the following table organizes comments into one category with cross references to the commenter number. DEQ's response follows the summary. Original comments are on file with DEQ.

DEQ did not change the proposed rules in response to comments.

List of Commenters		
Name	Comment Number	Hearing #
Ralph Waldron	1	NA
William Machado	2	NA
Susan Turrell	3	NA
Ted Simson	4	NA
Luke Pike	5	1

List of Comments	
Comment #	Comments and responses
1	<p>Comment: As Oregon is earthquake prone, we would like to see the tanks placed in the most earthquake free area, i.e. away from our subduction zones.</p> <p>Response: Thank you for the comment. DEQ does not have any restrictions on the siting of new UST systems. The rules under consideration are concerned with the licensing and work practices of the contractors who perform UST services.</p>
2	<p>Comment: I ABSOLUTELY support the proposed amendments, ANY increase in Oversight by DEQ is greatly appreciated. We have a businessman "proposing" to build a gas station here in Carlton on a property that abuts Hawn Creek, wetlands, an organic vineyard and is partially in a floodplain. I believe he also owns other gas stations and has received prior violations.</p>

	<p>Response: Thank you for the comment. DEQ does not have any restrictions on the siting of new UST systems. The rules under consideration are concerned with the licensing and work practices of the contractors who perform UST services.</p>
3	<p>Comment: I am writing to advocate for stricter rules governing UST placement adjacent to waterways. It is crucial that DEQ create and regulate buffer zones between delineated wetland boundaries and underground storage tanks. Without such regulation, many rural towns that lack the foresight and expertise to include development codes that protect their waterways end up with underground storage tanks placed directly adjacent to wetlands. Because of their failure to anticipate commercial uses like fuel stations in areas near waterways, small towns like ours are being asked to allow fuel stations to be built adjacent to our creeks, rivers and wetlands. Thank you for considering this crucial regulation.</p> <p>Response: Thank you for the comment. DEQ does not have any restrictions on the siting of new UST systems. The rules under consideration are concerned with the licensing and work practices of the contractors who perform UST services.</p>
4	<p>Comment: In short, yes some of the testing /inspection companies may take short cuts, or at least don't have any QC procedures to ensure their techs aren't taking short cuts. Maybe it's a business model, company culture or just laziness. I don't know, but increasing the certification requirements for over worked techs that don't get paid as well as they should probably isn't the most effective answer. On site and company audits may help. (I've only had one state inspector visit me on location and that was in Washington). Auditing the operators to be sure they are addressing the write-ups would help for sure. Auditing the operators may help as I've found several sites whose manager didn't seem to know how their equipment or monitor system even worked. Pretty sure he wasn't up on all the requirements either. And last I checked it was the operator's responsibility to document CSLD results, not the compliance companies, but a station manager insisted we provide the last 12 months on the CSLD test results to him.</p> <p>Another issue is a lack of quality techs. We only have two full time and two part time techs for OR, WA & ID. What incentives might the state conjure up to help the companies hire, train, and retain more techs? You can create all the rules and regulations you want, but if there is no one out there doing the inspections/testing, what good are they?</p>

	<p>Response: Thank you for the comment. Current rules already require all UST work to be performed according to manufacturer's requirements or a nationally recognized code of practice. UST manufacturers already require certification for the people who install or repair their products. The proposal only requires UST Service Providers to submit proof of this certification. DEQ does not provide incentives for private companies to provide UST services. The rules under consideration are concerned with the licensing and work practices of the contractors who perform UST services.</p>
5	<p>Comment: If this is to increase compliance, to make sure everybody's playing by the rules, wouldn't it be easier to have a requirement that when a contractor arrives on site, they provide their license information to the owner to verify that they are licensed?</p> <p>I think that the requirement to notify all work ahead of time before a contractor arrives on site will be excessive, and I don't know if we'll be able to.</p> <p>I'm just concerned that there won't be the ability to keep up with the amount of requests for work. Is there a penalty for not notifying if work will be done, and then work is performed, and it's later discovered?</p> <p>If somebody calls with an emergency and says, "I need some work done," and I can be there in 3 hours, is that enough of a window to notify?</p> <p>Response: Thank you for the comment. The proposal contains allowance for emergency repairs, and the notification is due three days after the repair is completed.</p>

Implementation

Notification

The proposed rules would become effective upon filing on approximately July 1, 2025. DEQ will send GovDelivery emails when the EQC adopts the proposed rules.

Compliance and enforcement

Affected parties - DEQ will notify all known tank owners, permittees of UST facilities, property owners where USTs are known to be located, legislative officials, licensed UST Service Providers and other interested parties of the proposed rules if EQC adopts the proposed rules.

Systems

Website

Update web page by adding all guidance information on new rules and related information.

Database

Your DEQ Online already has a form for submitting test results. DEQ has requested a notification submittal, but if that is not implemented in time, there is already a generic document submittal that can be used for notification. DEQ will have available detailed user guides for the regulated community to follow for the new submittals.

Training

Affected parties

DEQ will provide “reader friendly” guidance documents for UST Service Providers and Supervisors to explain the new requirements.

DEQ staff

Training will be conducted for appropriate staff and managers by appropriate members of the rulemaking team.

Training to include UST inspector training session, including internal roles & responsibilities, review of UST rule changes, administrative changes (e.g. data entry), and technical issues.

Five-year review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts some of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

Rules exempt from five-year review				
340-160-0005	340-160-0010	340-160-0020	340-160-0025	340-160-0030
340-12-0067				

Five-year rule review required

No later than May 9, 2030, DEQ will review the newly adopted rules for which ORS 183.405 (1) requires review to determine whether:

- The rule has had the intended effect
- The anticipated fiscal impact of the rule was underestimated or overestimated
- Subsequent changes in the law require that the rule be repealed or amended
- There is continued need for the rule.

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3).

Rules subject to five-year review				
340-160-0021	340-160-0022			

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.

Visit DEQ's [Civil Rights and Environmental Justice page](#).

Draft Rules – Edits Included (no track changes)

Division 12 ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0067

Underground Storage Tank (UST) Classification of Violations

(1) Class I:

- (a) Failing to investigate or confirm a suspected release;
- (b) Failing to establish or maintain the required financial responsibility mechanism;
- (c) Failing to obtain the appropriate general permit registration certificate before installing or operating an UST;
- (d) Failing to install spill and overfill protection equipment that will prevent a release, or failing to demonstrate to DEQ that the equipment is properly functioning;
- (e) Failing to install, operate or maintain a method or combination of methods for release detection such that the method can detect a release from any portion of the UST system;
- (f) Failing to protect from corrosion any part of an UST system that routinely contains a regulated substance;
- (g) Failing to permanently decommission an UST system;
- (h) Failing to obtain approval from DEQ before installing or operating vapor or groundwater monitoring wells as part of a release detection method;
- (i) Installing, repairing, replacing or modifying an UST system in violation of any rule adopted by DEQ;
- (j) Failing to conduct testing or monitoring, or to keep records where the failure constitutes a significant operational compliance violation;
- (k) Providing, offering or supervising tank services without the appropriate license; or
- (l) Failing to assess the excavation zone of a decommissioned or abandoned UST when directed to do so by DEQ.

(2) Class II:

- (a) Continuing to use a method or methods of release detection after period allowed by rule has expired;
 - (b) Failing to have a trained UST system operator for an UST facility after March 1, 2004;
 - (c) Failing to apply for a modified general permit registration certificate;
 - (d) Failing to have an operation certificate for each compartment of a multi-chambered or multi-compartment UST when at least one compartment or chamber has an operation certificate;
 - (e) Installing, repairing, replacing, testing or modifying an UST or UST equipment without providing the required notifications;
 - (f) Failing to decommission an UST in compliance with the statutes and rules adopted by DEQ, including, but not limited to, performance standards, procedures, notification, general permit registration and site assessment requirements;
 - (g) Providing tank services at an UST facility that does not have the appropriate general permit registration certificate;
 - (h) Failing to obtain the identification number and operation certificate number before depositing a regulated substance into an UST, by a distributor;
 - (i) Failing, by a distributor, to maintain a record of all USTs into which it deposited a regulated substance;
 - (j) Allowing tank services to be performed by a person not licensed by DEQ;
 - (k) Failing to submit checklists or reports for UST installation, modification or suspected release confirmation activities;
 - (l) Failing to complete an integrity assessment before adding corrosion protection;
 - (m) Failing by an owner or permittee to pass the appropriate national examination before performing tank services; or
 - (n) Failing to provide the identification number or operation certificate number to persons depositing a regulated substance into an UST.
- (3) Class III: Failing to notify the new owner or permittee of DEQ's general permit registration requirements, by a person who sells an UST.

Statutory/Other Authority: ORS 466.720, 466.746, 466.882, 466.994 & 468.020

Statutes/Other Implemented: ORS 466.706 - 466.835, 466.994 & 468.090 - 468.140

History:

DEQ 1-2014, f. & cert. ef. 1-6-14

DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 6-2003, f. & cert. ef. 2-14-03
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 15-1991, f. & cert. ef. 8-14-91
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89
DEQ 22-1988, f. & cert. ef. 9-14-88
DEQ 2-1988, f. 1-27-88, cert. ef. 2-1-88

Division 160
REGISTRATION AND LICENSING REQUIREMENTS FOR UNDERGROUND STORAGE
TANK SERVICE PROVIDERS

340-160-0005

Purpose

(1) The purpose of these rules is to provide for the regulation of persons performing services for underground storage tank (UST) systems to assure that UST systems are being serviced in a manner which will protect the public health and welfare and the land and waters within the State of Oregon. These rules establish standards for:

- (a) Licensing of persons performing UST services;
- (b) Examination, qualification and licensing of individuals who supervise the performance of UST services;
- (c) Performance, documentation and approval of UST services; and
- (d) Administration and enforcement of these rules by the department.

(2) Except as provided in section (3), this division applies to the installation, modification, repair, decommissioning and testing of USTs regulated under OAR 340, division 150.

(3) Except as provided by OAR 340-150-0156, this division does not apply to UST services performed by the property owner, owner or permittee.

Statutory/Other Authority: ORS 466.746 & 466.750

Statutes/Other Implemented: ORS 466.750

History:

DEQ 6-2003, f. & cert. ef. 2-14-03
DEQ 15-1991, f. & cert. ef. 8-14-91
DEQ 3-1989, f. & cert. ef. 3-10-89

340-160-0010

Definitions

The definitions and terms used in OAR 340-150-0010 and this rule apply to this division:

- (1) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, joint venture, consortium, association, state, municipality, commission, political subdivision of a state or any interstate body, any commercial entity or the federal government or any agency of the federal government.
- (2) "Excavation" means the entire process of creating or opening the pit and trenches that contain the components of a UST system, including concrete or asphalt demolition.
- (3) "Service provider" means a person licensed by the department to offer to perform or perform UST services on USTs regulated under OAR 340, division 150.
- (4) "Supervisor" means an individual licensed by the department to direct and oversee specific UST services.
- (5) "UST services" includes without limitation, installation, decommissioning, modification, repair, testing (e.g., cathodic protection and tank tightness), and inspection of UST systems.

Statutory/Other Authority: ORS 466.746 & 466.750

Statutes/Other Implemented: ORS 466.706 & 466.750

History:

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 11-1990, f. & cert. ef. 3-13-90

DEQ 21-1989(Temp), f. & cert. ef. 9-18-89

DEQ 3-1989, f. & cert. ef. 3-10-89

340-160-0020

General Provisions

- (1) A person may not perform or offer to perform UST services without first obtaining a license from DEQ.
- (2) A service provider is prohibited from offering or performing UST services on an UST system defined by OAR 340-150-0010(84) (except as exempted or deferred by OAR 340-150-0008), unless the owner and permittee of the UST system have been issued a general permit registration certificate by DEQ.

Statutory/Other Authority: ORS 465.200 - 465.320 & 466.706 - 455.995

Statutes/Other Implemented: ORS 466.706 & 466.750

History:

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 15-1991, f. & cert. ef. 8-14-91
DEQ 3-1989, f. & cert. ef. 3-10-89

340-160-0021

UST Service Provider Work Practices

(1) For all scheduled UST services, a UST service provider must:

(a) Notify DEQ on a form specified by DEQ 3 business days before start of the work;

(b) Provide with the notification:

(A) The name of the licensed UST Supervisor who will perform the work;

(B) The manufacturer's name and a description of each piece of UST equipment involved in the work; and

(C) A copy of the proof of manufacturer's certification for the UST Supervisor specified in section (A) above for each piece of equipment specified in section (B) above.

(2) In addition to the requirements in section (1) above, for the following UST Services, a UST Service Provider must receive approval in writing from DEQ before proceeding:

(a) For UST installations:

(A) Setting the tank;

(B) Primary and secondary pipe testing;

(C) Integrity testing of the sumps and spill buckets;

(D) Backfilling the piping and tank top; and

(E) Start up testing.

(b) For UST modifications:

(A) Primary and secondary pipe testing;

(B) Integrity testing of the sumps and spill buckets;

(C) Backfilling the piping and tank top; and

(D) Start up testing.

(c) For UST repairs:

(A) Starting the repair; and

(B) Testing the repair.

(d) For UST decommissionings:

(A) Removing the tank; and

(B) Site assessment sampling.

(3) If DEQ does not provide approval to proceed to the notifications described in section (2) above within 3 business days, approval to proceed will be deemed to have been granted.

(4) Following the completion of UST Services, a UST Service provider must:

(a) Submit testing results, including all failed tests, to DEQ on a form provided by DEQ within 30 days;

(b) Submit a checklist on a form provided by DEQ for each installation, modification, repair or decommissioning within 30 days:

(A) All checklists must be signed by an executive officer of the service provider and the supervisor of the project; and

(B) An as-built drawing of the completed UST installation or modification must be included with the associated checklist.

(5) In the case of an emergency repair, where delay could result in danger to human health or a release of petroleum into the environment, a UST Service Provider must satisfy the requirements of section (1) above within 72 hours of completing the repair.

(6) A service provider must report to the department the existence of any condition relating to an UST system that has or may result in a release to the environment within 72 hours of discovery of the condition.

(7) The requirements of this section are in addition to and not in lieu of any other licensing requirement imposed by law.

Statutory/Other Authority: ORS 465.200 - 465.320 & 466.706 - 455.995

Statutes/Other Implemented: ORS 466.706 & 466.750

340-160-0022

UST Supervisor Work Practices

(1) A supervisor must be present during UST installation and modification when the following tasks are being performed:

- (a) Preparation of the excavation immediately before receiving backfill and placement of the tank into the excavation;
- (b) Any movement of the tank, including but not limited to, transferring the tank from the vehicle used to transport it to the project site;
- (c) Setting of the tank and its associated piping into the excavation, including placement of any anchoring devices, backfill to the level of the tank and strapping, if any;
- (d) Placement and connection of the piping system to the tank;
- (e) Installation of cathodic protection;
- (f) All pressure testing of the UST system, including associated piping, performed during the installation or modification;
- (g) Completion of the backfill and filling of the excavated area around the installed UST;
- (h) Preparation for and installation of any tank lining systems; and
- (i) UST excavation.

(2) A supervisor must be present during an UST decommissioning when the following tasks are being performed:

- (a) UST excavation;
- (b) Removal and capping of vent and product lines;
- (c) Cleaning the UST and removal of contents;
- (d) Tank purging or inerting;
- (e) Any movement of the tank, including but not limited to transferring the tank to the vehicle used to transport it from the project site; and
- (f) Collection of soil and water samples.

(3) A supervisor must be present during the testing of an UST cathodic protection system.

(4) A supervisor must be present during the tank tightness testing of any component of an UST system performed under OAR 340-150-0445.

(5) A service provider must report to the department the existence of any condition relating to an UST system that has or may result in a release to the environment within 72 hours of discovery of the condition.

(6) The requirements of this section are in addition to and not in lieu of any other licensing requirement imposed by law.

Statutory/Other Authority: ORS 465.200 - 465.320 & 466.706 - 455.995

Statutes/Other Implemented: ORS 466.706 & 466.750

340-160-0025

Types of Licenses

(1) The department may issue the following types of licenses:

(a) Service provider;

(b) Installation supervisor;

(c) Decommissioning supervisor;

(d) UST testing supervisor; and

(e) Cathodic protection system test supervisor.

(2) Licenses will be issued in accordance with the requirements of OAR 340-160-0030 for service providers and 340-160-0035 for supervisors.

Statutory/Other Authority: ORS 466.746 & 466.750

Statutes/Other Implemented: ORS 466.750

History:

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 3-1989, f. & cert. ef. 3-10-89

340-160-0030

Licensing of UST Service Providers

(1) To apply for a service provider license, a person must submit an application to the department on a form provided by the department that includes:

(a) The name, address and telephone number of the applicant;

(b) The category(ies) of UST services to be performed;

(c) A summary of the UST services provided by the applicant within the two year period immediately preceding the application, including the number of UST service projects

completed in each category of UST services and identification of any other industry or government licenses held by the applicant related to specific UST services;

(d) A list of employees with supervisor licenses, the specific UST services for which they are licensed, the date the employee received a license from the department and each employee's license number;

(e) A signed statement that certifies that: "I [insert name], am the chief executive officer of [insert company name] and do hereby certify that I have obtained a copy of the applicable laws and rules pertaining to the regulation of underground storage tanks in the State of Oregon and that I have read them and will direct the employees and principals of this company to perform the UST services rendered by this company in accordance with those laws and rules";

(f) The required license fee; and

(g) The Oregon Construction Contractor's Board license number of the service provider.

(2) The department will review the application for completeness. If the application is incomplete, the applicant will be notified in writing of the deficiencies.

(3) The department may deny, in writing, a license to an applicant who has not satisfied the license application requirements.

(4) If the application is approved, a service provider license will be issued to the applicant. The license is valid for a period of 24 months.

(5) License renewals must be applied for in the same manner as required for an initial license, except the service provider must submit the complete renewal application to the department at least 30 days before the expiration date of the current license.

(6) The department may suspend, revoke or refuse to issue a license if the service provider:

(a) Fraudulently obtains or attempts to obtain a license;

(b) Fails at any time to satisfy the requirements for a license or to comply with the rules of this division or OAR chapter 340, division 150;

(c) Fails to meet any applicable state or federal standard relating to the UST services performed under the license; or

(d) Fails to employ and designate a licensed supervisor for each UST service project.

(7) A service provider who has a license suspended or revoked may reapply for a license after demonstrating to the department that the cause of the suspension or revocation has been resolved.

(8) If a service provider no longer employs a licensed supervisor, the service provider must immediately cease providing UST services. The service provider cannot provide UST services until a licensed supervisor is again employed by the service provider and written notice of the hiring of a licensed supervisor is received by the department.

Statutory/Other Authority: ORS 466.746 & 466.750

Statutes/Other Implemented: ORS 466.750

History:

DEQ 3-2008, f. 2-29-08, cert. ef. 3-10-08

DEQ 6-2003, f. & cert. ef. 2-14-03

DEQ 3-1989, f. & cert. ef. 3-10-89