

Heating Oil Tank Program: Fee Increase

HOT Service Provider Focus Group Meeting Notes



State of Oregon
Department of
Environmental
Quality

10/12/2018

Location

Oregon Department of Environmental Quality
700 NE Multnomah St., Suite 600
Portland, OR 97232

Land Quality Heating Oil Tank Cleanup Program

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List of attendees

- Mike Kortenhof, DEQ
- Rebecca Wells-Albers, DEQ
- Ash Desmond, DEQ
- Lauren Dimock, DEQ
- Corin Salnave, DEQ
- Mindy Cobb, DEQ
- Ingrid Gaffney, DEQ
- Darren Blaine, Soil Solutions
- Tess Chadil, Soil Solutions
- John Harding, Xavier Environmental
- Bill Knudsen, K&S Environmental

*DEQ is a leader in
restoring, maintaining and
enhancing the quality of
Oregon's air, land and
water.*

Presentation

- Heating Oil Tank Program Service Provider Focus Group: Fee Increase Legislative Concept

| Time | Topic |
|------------|--------------|
| 9:00 a.m. | Presentation |
| 10:30 a.m. | Adjourn |

Alternative formats

For questions about accessibility or to request an accommodation, please call 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696. Requests should be made at least 48 hours prior to the event. Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email <mailto:deqinfo@deq.state.or.us>

1. Welcome, introductions, & agenda
 - a. Fee proposal not widely known outside of DEQ, feel free to share info from this meeting
 - i. DEQ will request feedback regarding how to reach out to all Service Providers (SPs)
2. HOT Program Data (1) – total # tank sites identified per year (Leaks reported and clean decommissions)
 - a. Graph shows rise in HOT work (2000's), correlation to real estate transactions, recession (2009), etc.
 - i. Current and future trends: are there less tanks to be found?
3. HOT Program Data (2) – # of clean decommission reports and # of cleanup reports closed by DEQ 2007-17.
 - a. Suggestion to provide better information on the HOT assessment/decommissioning process (flowchart?). This would assist Service Providers when they explain the process to realtors and property owners.
4. Heating Oil Tanks in Oregon – map shows **estimate** of tanks in each county, and DEQ data on tanks closed in each county
 - a. 35,962 active tanks (UST and AST) in Oregon (Census data 2016)
 - b. Service Providers (SPs): Don't handle many ASTs.
 - c. SPs: Rural areas do not have many in general.
 - d. SPs: Clean Decommissions are registered with DEQ for ~50% of sites
 - i. SPs: In 2010 there were many clean decommissions that were not registered, but that has changed. Realtors are registering more clean decommissions with DEQ.
 - e. SPs: We register all tanks that decommission with DEQ license.
 - i. *DEQ to look this up
 - f. SPs: Why is it voluntary to register Clean Decommissions? Mandatory registration could give DEQ more revenue.
 - i. DEQ: Agency cannot make this mandatory; SPs could go to legislature and make request to make amendment to bill.
 - ii. SPs: Unsure that fees should be raised for clean decommissions because homeowners already don't register their tanks due to the \$75 fee.
5. HOT Program Data: Current Full Time Employees (FTE)
 - a. 3.0 FTE – No license inspection/audit, guidance/policy, Technical Assistance (TA): outreach, Decom report processing
 - i. What's happening as a result: serious database problems, public records request, very limited TA, leak reports and setting up files (admin tasks), cleanup report review (Ash reviewing alone for 3+ years)
 1. What we are currently doing is functional, but minimal and undesirable; DEQ wants to do more by bringing on 4.0 FTE (additional project manager)
6. HOT Program Data (5) – Staff Survey Results
 - a. Monthly technical assistance (phone, emails, walk-ins) complexity: 64% simple (under 5 minutes), 36% more complex (over 5 minutes)
 - i. Estimated 80% on realtors, 20% on homeowners, SPs, etc.
 - ii. Suggestions to reduce technical assistance:
 1. DEQ could make an app for site searches, as the excel spreadsheet is antiquated.
 2. Re-doing the HOT webpage is a possibility.
 - b. Monthly HOT documentation requests (administrative and technical): 71% simple (under 5 minutes), 29% more complex (over 5 minutes)

- i. Public Records Requests: Between 2014 and 2017, DEQ spent \$8,000 just pulling files from Iron Mountain (not including time spent by DEQ)—this cost is not captured in the program budget.
 - 1. SPs: Why aren't files digitized? It would clearly be cheaper to pull the files.
 - a. DEQ: Not enough funding to do previous reports. In the future, it is possible to digitize reports as they are closed, but DEQ likely won't be able to do it for old files.
 - i. HOT could pilot program of electronic report submission.

7. Property Owner Survey

- a. DEQ only receives property owner phone #s in 13% of reports
 - i. SPs: We often don't have phone numbers for the homeowner. The realtor or buyer is often organizing the work, many times we only see signatures from homeowners.
- b. DEQ called over 100 homeowners. 25% of calls to homeowners with a cleanup made in each of the four groups: Multnomah County, Washington County, Clackamas County, and Other Counties. Also called 25 homeowners with a clean decommission.
 - i. 23 responses to date
 - ii. Currently including a mailer in DEQ closure letters
- c. Findings:
 - i. Majority of people doing tank work due to property transaction
 - 1. SPs: The survey doesn't seem representative of the actual percentage of cleanups/decommissions done because of a property transaction—the actual percentage is likely higher.
 - ii. Majority of people not interacting with DEQ
 - iii. Level of service from DEQ: Poor, Good & Excellent
 - iv. Level of service from SPs: Neutral, Good & Excellent
 - v. Possibility of site visit from DEQ: Majority selected no; homeowner comments show variety of ideas and opinions
 - 1. SPs: What is DEQ hoping to get out of site visits?
 - a. DEQ:
 - i. Prevent fraud (i.e. Neil Shaw), increase amount of DEQ interactions with homeowner/SPs.
 - ii. We receive calls from homeowners asking “how do you know the contractors are collecting samples correctly?” Perspective of homeowners is that DEQ should be doing due diligence to ensure rules are being followed.
 - iii. DEQ envisions “spot checking” sites while work is being done. This process would not be “permit-like”—DEQ does not intend to slow or alter the field work schedule of SPs. However it is still unknown what site visits could look like. DEQ hopes to improve consistency among service providers.
 - 2. SPs: At this point, fraud has been weeded out. We do not want our field work schedules to be slowed down. Doesn't the certification take care of any need for DEQ to visit a site?
 - a. DEQ: Reviewing reports alone is not enough, because i.e. Neil Shaw created good looking reports that were false.
 - General feedback that the process was intimidating to property owners.

8. Budget Proposal – currently at 3.0 FTE, 2019-20 with no fee increase would be 3.2 FTE, 2019-20 with the fee increase would be 4.0 FTE
 - a. SPs: Does having 4 staff members mean that you would review all reports?
 - i. DEQ: Unlikely that all reports would be reviewed.
9. Workload Projection – # HOTs identified through 2027, predict 2% decline
 - a. Outreach and communication could change these projections; people could find and decommission tanks at a quicker rate
 - i. SPs: There must be 1,000s of sites with open files. DEQ could use that as driver to increase number of report closure fees.
 1. DEQ has ~5,000 open HOT files. We have to inch towards closing these files due to responses DEQ has gotten in the past when they have reached out to properties with open files.
 - a. Pre-2002 there are many open files that have actual reports in them that could potentially be closed. Recent years have a small number of open files.
 - b. *DEQ pull data on number of open files per year
10. HOT Program Revenue Needs/Fee Impacts – Need \$425,000 additional funds
 - a. 55% fee increase across the board **example**, not necessarily what DEQ will propose in January
 - i. DEQ estimate: 15 sites of cost recovery per year will equal ~\$15,000/year.
 1. SPs: We would like the opportunity to sign a cost recovery agreement with complex sites to get more DEQ assistance.
 - b. Estimated 10% of funding coming from license fees, 90% from project fees
 - i. SPs: It's not right if the business license fee is increased, as some contractors only do 20 projects—it is difficult to pass on the extra cost to only 20 clients.
 1. Of 50 SPs, approximately 6 SPs doing ~90% of the work.
 - ii. SPs: Our business has been unable to raise prices from 10 years ago because clients “feel like they're being taken for a ride”, but equipment/labor costs are rising, so we are ultimately making less money than we used to.
 1. *DEQ conduct cost analysis
 - iii. SPs: Is it possible to charge a different fee for Soil Matrix, Generic Remedy, and Risk Based reports? More time is spent reviewing and scrutinizing Risk Based reports, therefore it makes sense that the filing fee would be higher for these reports.
 1. Possibly in DEQ's scope to make this amendment now.
11. Next Steps
 - a. Realtor Webinar (interactive)—November 14
 - i. This could also be a good format to communicate with all SPs.
 - b. Fee Proposal—January, 2019
 - c. Legislative Session—February, 2019
12. Other Questions
 - a. SPs: Are DEQ forms really necessary? They are repetitive.
 - i. DEQ: Yes, they are necessary for report check-in. DEQ Admin staff doesn't have time to go through the whole report to find information to check it in.
 1. Maybe we could consolidate checklists into one form.
 - a. *DEQ look into this
 - b. DEQ: How does the certification process work for you?

- i. SP Comment: Instead of time consuming site visits, maybe it would be better to provide more (and regular) technical guidance to increase consistency between personnel/companies.
 - 1. For example, some contractors take soil gas samples outside of house because homeowners didn't want holes drilled into the floor/foundation. Tim Brown was adamant that soil gas samples had to be taken inside house, but some have not been doing that and reports are approved by DEQ. This is a lack of consistency from DEQ. Curious how this extends to issues with approaching low-level groundwater hits.
 - 2. Site visits should last all day to see anything worthwhile, but then that staff person isn't available by phone to answer our questions during that time.
 - 3. Who does DEQ want us to approach with questions? HOTInfo email, Ash, Corin, etc.? What is the timeline we can expect for a response?
 - 4. DEQ: DEQ could do more contractor bulletins.
- ii. SP Comment: The DEQ supervisor test is very antiquated, not updated, we have issues training people because the test doesn't reflect today's standard.
 - 1. DEQ: DEQ reviews the questions every 5 or 10 years. DEQ just did one 3 years ago.
 - a. Please ask questions/send incorrect info to Ash or Lauren so we know what to look for the next time the test is updated.
- c. DEQ: How do we communicate this information to all Service Providers?
 - i. Contractor Day?
 - 1. DEQ: May do one in the spring/summer after dust settles on the fee proposal.
 - 2. SP suggestion: Video conference.
 - ii. Service Provider Bulletin?
 - 1. Do whatever is more cost effective—SP Bulletin.