

# Underground Storage Tank Compliance

## Advisory Committee Charter

May 23, 2016

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# Background

The Environmental Protection Agency approved Oregon's Underground Storage Tank (UST) Program on September 16, 2011. EPA approval of a state program means that requirements in the state's laws and regulations are in effect rather than the federal requirements and adequate enforcement of compliance. Oregon tank owners and permittees benefit from state program approval by having a single set of requirements (Oregon's) enforced in the state, thus eliminating duplication and confusion that can result from having separate state and federal requirements. Oregon's UST Program now operates under an agreement with EPA that clearly delineates EPA's limited role and assures Oregon the lead role in administering and enforcing the program.

EPA's revised UST rules became effective on Oct. 13, 2015 and Oregon has 3 years from that date to comply and reapply for SPA. In this rulemaking, DEQ proposes to align its underground storage tank rules with the federal rules. These changes will enable Oregon to reapply for SPA and continue the lead role in administering and enforcing the program. This rulemaking also includes a proposal to raise the annual UST permit fee.

We are convening an Underground Storage Tank Compliance Rulemaking Advisory Committee to inform this rulemaking. Committee meetings will be held through spring of 2017 to review and provide input about the draft rules. DEQ will finalize the draft rules and present them for public comment once the advisory committee meetings are complete.

We will seek public comment on the list of rules considered for incorporation when it opens a formal public comment period. Also, we will consider all comments before preparing a final rule proposal package the Environmental Quality Commission will consider in late 2017.

## Objective and Scope

The objective of the advisory committee is to provide stakeholders with an opportunity to provide input on technical issues as well as on the fiscal and economic impact of the proposed rules.

## Scope of Work

### Technical and Policy

The committee will discuss and provide input on key program requirements needed to implement the program and may include:

- Tank fee amount and structure;
- Evaluation of other state program information DEQ gathered; and
- Consideration of other key changes needed to begin implementation.

Individual meeting agendas will identify specific topics of discussion.

## **Fiscal and Economic Impact**

As ORS 183.333 requires, DEQ will ask the committee to consider:

- Whether the proposed rule incorporations will have a fiscal impact, and if yes, what the extent of that impact will be; and
- Whether the proposed rule incorporations will have a significant adverse impact on small businesses. If so, provide recommendations on how DEQ can reduce the fiscal impact to comply with ORS 183.540 by:
  - Establishing differing compliance or reporting requirements or time tables for small business;
  - Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
  - Utilizing objective criteria for standards;
  - Exempting small businesses from any or all requirements of the rule; or
  - Otherwise establishing less intrusive or less costly alternatives applicable to small business.

## **Out of Scope**

The scope of this charter does not include considering changes to DEQ underground storage tank rules not included in the scope.

## **Roles**

DEQ expects the advisory committee members to evaluate information for accuracy and relevance to conditions in Oregon, as well as to contribute information and recommendations based on their related professional experience.

# **Advisory Committee Structure**

## **Committee Meetings**

Cheyenne Chapman, DEQ Legal Policy Analyst, will facilitate the committee's work. All committee meetings will be:

- Open to the public;
- Advertised on DEQ's webpage and GovDelivery email notifications;
- Scheduled 9:00 am to 2:00 pm unless otherwise stated in the meeting agenda; and
- Held in Portland at the DEQ headquarters office at 811 SW 6<sup>th</sup> Avenue in room EQC-A.

The committee will meet on May 31, 2016 with an option to meet again if needed. The committee will reconvene sometime during spring of 2017 to discuss the adoption of new rules.

## **Meeting Materials**

We will not prepare formal meeting minutes or a formal committee report. Meeting summaries will document the highlights of committee discussions and the different perspectives and recommendations of committee members.

DEQ staff will post meeting materials on the advisory committee webpage.

## **Responsibilities**

### **Facilitator**

- Facilitate the conversation so the committee stays focused on the agenda and on intended meeting outcomes;
- Ensure all perspectives are heard;
- Ensure all members adhere to the process and ground rules; and
- Facilitate comments and input from the public when relevant.

### **Committee Members**

- Each take responsibility for the success of the meeting;
- Attends every meeting to ensure continuity throughout the process. The primary member may assign an alternate if needed. It is each committee member's responsibility to brief the alternate fully on all relevant issues and prior committee discussions. Only one member, the primary or alternate, may participate in a meeting;
- Notify Mitch Scheel of known absence in advance;
- If not at a meeting, agree to relinquish the opportunity to comment, and understand that those present may reach a decision. If those present need more input, the committee may wait for additional input;
- Provide DEQ staff with copies of relevant research and documentation cited during the meeting;
- Stay focused on the specific topics for each meeting;
- Consult regularly with constituencies to inform them on the process and gather their input;
- Comment constructively and in good faith;
- Treat everyone and his or her opinions with respect;
- Allow one person to speak at a time;
- Be courteous by not engaging in sidebar discussions; and
- Avoid representing to the public or media the views of any other committee member or the committee as a whole.

### **Alternate Members**

Alternate members will not participate in the same meeting as their principle member.

### **Non-Committee member attendees**

Those who attend the committee meetings who are not members may observe, but may not actively participate.

### **Support**

The committee support will post:

- Agenda and meeting materials on the committee web page a week in advance; and
- Draft meeting summaries of decisions within two weeks of subject meeting.

## **Decision making**

DEQ will not seek consensus positions from the committee or ask the committee to vote on specific issues. DEQ will ask each individual committee member for input and recommendations.

DEQ will use the committee's discussions in forming draft recommendations. The draft recommendations will be part of the required formal notice process to include public hearings and an opportunity for public comment.

When the group exchanges information within the meeting, there will be a reasonable time for comments.

## **Membership**

In convening this committee, DEQ selected members representing a range of entities these rules affect, directly and indirectly. Representatives should consider the technical, policy, fiscal and economic impacts of the program for their business and or organization represented. DEQ endeavored to include members to represent:

- Statewide geographically;
- Regulated parties;
- Environmental interests;
- Trade associations,
- Local government; and
- General public.

We will post a roster of the committee members on the committee web page.

## **Recordkeeping**

All committee records, formal and informal, become part of the rulemaking record. All DEQ rulemaking records are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not public records if DEQ does not have copies.

DEQ captures and maintains committee agendas, materials, summaries, committee reports and recommendations. DEQ will destroy the committee record 10 years after Oregon repeals the related rules.

## **Expense**

DEQ is able to reimburse any in-state, out-of-town committee members for travel expenses, if we approve them in advance.

## **Changes to Charter**

This charter may change based on a recommendation of the DEQ Hazardous Waste and Underground Storage Tank Manager. Conditions that may warrant a charter update are inclusion of unforeseen issues. The rulemaking team will review and, if warranted, update this Charter.