

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Land Use Evaluation Statement

Rulemaking Proposal
For

Underground Storage Tank Rule Revisions

Align Tank Rules with federal regulations and improve existing rules.

1. Explain the purpose of the proposed rules.

A) The federal Energy Policy Act of 2005 contains underground storage tank (UST) provisions that require the Department to adopt rules to:

- Revise the current UST operator training requirements to include three classes of operators that require training;
- Implement fuel delivery prohibition requirements for noncompliant tanks that are ineligible for delivery, deposit or acceptance of fuel;
- Require secondary containment and monitoring for new or replaced tanks or piping.

B) Amendments by the 2007 legislature (SB 104) to laws governing underground storage tanks require the Department to adopt rules to implement:

- An increased annual tank fee (from \$85/year to \$135/year); and
- A permanent expedited enforcement program (i.e., field citations) and increase penalty amounts (from a maximum of \$100 to \$500 per violation and an increased aggregate of \$1,500 from \$300).

This rulemaking proposal also improves existing UST regulations by:

- Changing the operating registration certificate to a certificate that is renewed annually;
- Altering formats and wording to increase clarity and resolve existing technical issues;
- Aligning the definition of an UST in Division 122 to that in Division 150;
- Revising the UST service provider license renewal period from 12 to 24 months in Division 160; and
- Revising the UST service provider license renewal period from 12 to 24 months in Division 162.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes ___ No X

a. If yes, identify existing program/rule/activity:

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes ___ No ___ (if no, explain):

c. If no, apply the following criteria to the proposed rules.

Staff should refer to Section III, subsection 2 of the SAC document in completing the evaluation form. Statewide Goal 6 - Air, Water and Land Resources is the primary goal that relates to DEQ authorities. However, other goals may apply such as Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources; Goal 11 - Public Facilities and Services; Goal 16 - Estuarine Resources; and Goal 19 - Ocean Resources. DEQ programs and rules that relate to statewide land use goals are considered land use programs if they are:

1. Specifically referenced in the statewide planning goals; or
2. Reasonably expected to have significant effects on
 - a. resources, objectives or areas identified in the statewide planning goals, or
 - b. present or future land uses identified in acknowledged comprehensive plans.

In applying criterion 2 above, two guidelines should be applied to assess land use significance:

- The land use responsibilities of a program/rule/action that involved more than one agency, are considered the responsibilities of the agency with primary authority.
- A determination of land use significance must consider the Department's mandate to protect public health and safety and the environment.

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

The permit requirements for installation, operation and decommissioning of underground storage tanks have not previously been identified as a program affecting land use. The proposed amendments to the underground storage tank rules are not actions that would cause the Department to change its determination regarding land use.

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

Not applicable