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requirements indicate that its practices have not and will not create an undue risk to public health, safety, or the environment.

(6) ODOT shall issue a conditional permit, which requires pre trip notification to arrange for inspection, to any carrier who has a “conditional” safety fitness rating pursuant to the authority of Title 49 CFR 385.1 in effect as of the date of this rule.

(7) ODOT shall not issue an Oregon Radioactive Material Transport permit if the carrier has an “unsatisfactory” safety fitness rating pursuant to the authority of Title 49 CFR 385.1 in effect as of the date of this rule.

(8) For all shipments requiring an Oregon Radioactive Material Transport Permit, the carrier shall have a copy of the permit in the vehicle during shipment.

(9) Any person who has been denied a permit under this rule may submit to the Department of Energy a written request for a contested case proceeding. In the request, the person shall describe the issues to be contested, state the facts believed to be at issue, and include the person’s mailing address. The Council shall conduct the proceeding under the provisions of OAR 345-015-0012 to 345-015-0085. After the hearing in the contested case proceeding, the Council, in its final order, shall grant or deny the permit.

(10) Once issued, permits remain valid for one year from the date of issuance unless revoked or suspended under section (11).

(11) ODOT or the Department of Energy may revoke or suspend permits for failure to comply with the conditions named on the permit or violations of the motor carrier safety requirements or hazardous or radioactive materials requirements.

(12) For reinstatement of a permit revoked or suspended under section (11) of this rule, the carrier shall submit a new application and evidence that the carrier has taken remedial actions to prevent recurrence of the violation(s).

(13) Upon entering the State of Oregon with a shipment made under this permit, the driver must either stop at the nearest Oregon Port of Entry and provide specific shipment information in writing by filling out an “Oregon Radioactive Materials Shipment Report” form or provide the same information in electronic format as described below. The Shipment Report is available at all Oregon Ports-of-Entry at all times, open or closed. Information to be provided includes name of carrier; name of shipper; vehicle license plate number; driver’s name; RAM permit number; commodity description and UN identification number; whether the shipment is Highway Route Control; shipment origin; and shipment destination. Carriers who elect to submit the information electronically in lieu of stopping at an Oregon Port-of-Entry, must submit the form provided on the ODOT website within 48 hours of entering the state.

(14) Failure to fill out an “Oregon Radioactive Materials Shipment Report” or omitting required information may subject the carrier to civil penalties as described in Division 29 of this chapter.

(15) With prior approval of the Department, carriers that do not pass through an Oregon Port of Entry must self-report each individual shipment on a monthly basis, directly to the Department.

Stat. Auth.: ORS 469.470 & 469.607

Stats. Implemented: ORS 469.603, 469.605, 469.607 & 469.615

Hist.: EFSC 3-1982, f. & ef. 3-8-82; EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83; EFSC 3-1983, f. & ef. 11-4-83; EFSC 5-1986, f. & ef. 9-5-86; EFSC 1-1991, f. & cert. ef. 3-12-91, Prior sections (5)-(10) renumbered to 345-060-0006(1)-(5); EFSC 1-1995, f. & cert. ef. 5-15-95; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2013, f. & cert. ef. 1-28-13

345-060-0007

Inspections

The State of Oregon or its agents may inspect shipments under these rules for compliance with applicable rules and regulations. The State shall inspect all irradiated reactor fuel (defined in 10 CFR 73.37 in effect as of the date of this rule) and Highway Route Controlled Quantity shipments (defined in 49 CFR 173.403 in effect as of the date of this rule). The state may choose to waive inspection if the shipment is carrying a current Commercial Vehicle Safety Alliance inspection sticker. The state may inspect samplings of other shipments. The State may inspect highway shipments made under conditional permits described in OAR 345 060 0004(6). The State shall make arrangements for inspection when the carrier gives notice for inspection, as described in 345 060 0005.

Stat. Auth.: ORS 469.470, 469.605 & 469.607

Stats. Implemented: ORS 469.603 & 469.615

Hist.: NTEC 7, f. 2-20-74, ef. 3-11-74; EFSC 3-1982, f. & ef. 3-8-82; EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83; EFSC 5-1986, f. & ef. 9-5-86; EFSC 1-1991, f. & cert. ef. 3-12-91; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2013, f. & cert. ef. 1-28-13

345-060-0025

Packaging, Placarding, Labeling and Documentation

The shipper shall maintain all packaging, placarding, labeling, shipment documentation and all other aspects of transporting any radioactive material in accordance with 10 CFR 71 and 73, and 49 CFR 171 through 179 in effect as of the date of this rule.

Stat. Auth.: ORS 469.470 & 469.607

Stats. Implemented: ORS 469.607

Hist.: EFSC 3-1982, f. & ef. 3-8-82; EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83; EFSC 5-1986, f. & ef. 9-5-86; EFSC 1-1991, f. & cert. ef. 3-12-91; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2013, f. & cert. ef. 1-28-13

Department of Environmental Quality Chapter 340

Rule Caption: 401 Water Quality Certification fee increase

Adm. Order No.: DEQ 1-2013

Filed with Sec. of State: 1-16-2013

Certified to be Effective: 1-16-13

Notice Publication Date: 8-1-2012

Rules Amended: 340-048-0055

Subject: The EQC adopted a new fee schedule to certify activities requiring federal licenses and permits to comply with water quality standards. Most projects involve the removal of material from, or placement into, state waters such as sand and gravel operations, wetland fills for development and navigation dredging but do not apply to hydroelectric projects.

The fees, as directed by the 2009 Oregon Legislature through House Bill 2185, are based on projected program costs rather than on volume of material removed or filled. The fees apply to previously exempt activities such as sand and gravel operations, projects that fill two acres of wetlands or more, or remove more than 500 cubic yards of material.

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340-048-0055

Fee Schedule for Certifications

(1) Applicability. The fees established in this rule apply to any person, including a federal agency, submitting an application for certification to DEQ.

(2) Fee Determinations. To determine the appropriate fee to process and review an application for certification, DEQ will do the following:

(a) Perform an initial review of the application and other materials submitted;

(b) Determine the estimated program costs incurred by DEQ in reviewing the proposed project based on the types of tasks expected, the amount of staff time and other expenses, and assign a tier using the criteria in Section (3);

(c) Submit an invoice or, if necessary, multiple invoices, to the applicant based on the appropriate fee schedule provided in Section (4); and

(d) As necessary, revise an assigned tier based on documentation of the expected types of tasks or program costs incurred, if appropriate, and notify the applicant of such revisions.

(3) Project Tiers. The following tier schedule describes the types of tasks expected to appropriately process and review proposed projects for certification:

(a) Tier 1- This tier applies to those projects that incur minimal program costs and impacts to water quality. To qualify under this tier, the project must meet the following:

(A) Potential for minimal impacts to water quality;

(B) Low level of public participation;

(C) No more than standard coordination with federal state or local agencies required;

(D) Stormwater management plan review not required or will be addressed through the National Pollutant Discharge Elimination System permitting process;

(E) Limited technical assistance needed; or,

(F) Within the scope of a United States Army Corps of Engineers Nationwide 404 category requiring a DEQ 401 certification and involving only a stormwater management plan or sediment evaluation review component;

(G) Within the scope of the proposed application, the project has been modified or altered that the DEQ 401 review and certification requires re-issuance, including DEQ public notice.

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(b) Tier 2A - This tier applies to those projects that incur a higher than minimal amount of program costs and impacts to water quality. To qualify under this tier, the project must meet some of the following:

- (A) Potential for greater than minimal impacts to water quality;
- (B) Basic level of public participation required, including but not limited to response to comment;
- (C) No more than standard coordination with federal state or local agencies required;
- (D) Limited stormwater management plan review or technical assistance to a reviewing permitted entity or agent required;
- (E) Limited technical assistance needed; or
- (F) Sediment characterization, if required, finds sediment and new surface suitable for in-water exposure.

(c) Tier 2B - This tier applies to those projects that incur higher program costs due to greater potential impacts on water quality. To qualify for this tier, the project must meet a majority of the following:

- (A) Potential for greater water quality impacts if the waterway is identified on DEQ's 303(d) list or is covered by a total maximum daily load, or multiple waters of the state are affected;
- (B) High level of public participation required with potential for one or more public meetings or hearings;
- (C) More than standard coordination with multiple federal, state or local agencies required, including but not limited to one or more meetings or pre-application site visit;
- (D) Complex stormwater management plan review and coordination required;
- (E) Moderate and on-going level of technical assistance needed;
- (F) Large or complex compensatory mitigation review required;
- (G) Sediment characterization, if required, finds sediment or new surface unsuitable for in-water exposure, so that coordination with the DEQ Solid Waste or Environmental Cleanup programs is necessary; or
- (H) Preparation of a full evaluation and findings report needed.

(d) Tier 3 — This tier applies to those projects that incur very high program costs because a large area is affected, a high degree of complexity is involved or greater potential water quality impacts may result. To qualify for this tier, the project must meet a majority of the following:

- (A) Potential for greater water quality impacts if the waterway is identified on DEQ's 303(d) list or covered by a total maximum daily load, or multiple waters of the state are affected;
- (B) High level of public participation required with extensive public comments and the potential for one or more public meetings or hearings;
- (C) Substantially more than standard coordination with multiple federal, state or local agencies required, including but not limited to one or more meetings;
- (D) Complex stormwater management plan review and coordination required;
- (E) High level or iterative technical assistance required or substantive project revisions received;
- (F) Large or complex compensatory mitigation review required;
- (G) Site visit(s) needed to understand impacts and advise on potential alternatives;
- (H) Sediment characterization finds sediment or new surface unsuitable for in-water exposure or contaminated soil is likely to be present, so that coordination with the DEQ Solid Waste or Environmental Cleanup Programs is necessary; or
- (I) Preparation of a full evaluation and findings report needed.

(e) Tier 4 — This tier applies to those projects that incur the highest program costs because a very large area is affected, an extremely high degree of complexity is involved, or a very high level of public participation is expected. To qualify for this tier, the project must meet all of the following:

- (A) All of the applicable factors identified in Tier 3; and
 - (B) Coordination with the Governor's Office in conjunction with other state agencies, tribal nations and the federal government;
 - (C) Review of additional documents such as National Environmental Policy Act Resource Reports, Environmental Assessments and Environmental Impact Statements.
- (4) Fee Schedules. The following fees apply to tiers assigned under Sections (2) and (3):
- (a) As of July 31, 2013, the following fees apply:
 - (A) Tier 1 — \$985
 - (B) Tier 2A — \$4,390
 - (C) Tier 2B — \$12,105
 - (D) Tier 3 — \$17,780

(E) Tier 4 — \$14,020 per month or average monthly cost of a senior level technical staff position.

(b) In lieu of fees established by this section, DEQ may at its discretion enter into an intergovernmental agreement with another state or federal agency that provides for the payment of the estimated or actual costs of processing an application for certification.

(5) Review of Fee Determinations. An applicant may seek review of DEQ's determination of the appropriate fee as follows:

(a) An applicant may seek review of the fee determination by submitting a written request to the DEQ regional administrator within 30 days of receipt of an invoice. The request must state the specific reasons and provide documentation that the applicant believes supports a different fee amount. Upon receiving such a request, the DEQ regional administrator must respond within 60 days of receipt and render a decision.

(b) That decision may include:

- (A) Determination that a different fee tier will apply subject to making specifically identified modifications to the proposed project;
- (B) Denial of a request for a different fee amount; or;
- (C) The determination that the proposed project meets the criteria for a different tier.

(c) If an applicant is not satisfied by the decision of the DEQ regional administrator, the applicant is entitled to request review by the DEQ director in the same manner as described in subsections (a) and (b) above.

(d) An applicant who is dissatisfied with the review of the director retains the right to a contested case hearing as provided in ORS chapter 183, provided the applicant has sought relief through subsections (a) through (c).

(6) Certification of Hydroelectric Projects. Fees for certification of a hydroelectric project as proposed to be licensed by the Federal Energy Regulatory Commission must be paid in accordance with ORS 468.065(3). Fees for a certification related to a hydroelectric project but for a license or approval not issued by the Federal Energy Regulatory Commission are based on the actual expenses incurred by the department, including expenses of the Environmental Quality Commission, related to the certification review and decision. In consultation with the applicant, DEQ will establish a periodic basis for billing the applicant.

(7) DEQ may approve a payment schedule for fees, including the submission of multiple invoices, for multi-year projects or projects assigned as a Tier 4.

(8) DEQ must receive the payment of the full invoiced fee before issuing a certification, and a review made pursuant to subsection (5) does not suspend the requirement to pay the appropriate fee. An application for certification is considered withdrawn if the applicant fails to pay the appropriate fee within 90 days of the invoice date. An applicant may request that DEQ grant an extension of time to pay the appropriate fee to an applicant upon a showing of good cause, and DEQ will continue processing the application for certification. DEQ may refund the fee or some portion if it determines that no certification is required, that minimal program costs were not incurred, a revised tier assignment is provided or the wrong application has been filed.

Stat. Auth.: ORS 468.068 & 468B.047

Stats. Implemented: ORS 468.068

Hist.: DEQ 28-1998, f. & cert. ef. 12-22-98; Renumbered from 340-048-0200, DEQ 2-2004, f. & cert. ef. 4-15-04; DEQ 1-2013, f. & cert. ef. 1-16-13

Rule Caption: Amend Rules to Revise Fees and Requirements for Wastewater System Operator Certification

Adm. Order No.: DEQ 2-2013

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Subject: The Wastewater System Operator Certification rules:

Increase operator certification and program support fees.

Establish small wastewater system certification.

Revise requirement for system supervisor compliance.

Clarify "acceptable operating experience" language.

Revise exam scheduling language and re-exam time frame.

Revise standing advisory committee language.

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