|  |
| --- |
| Fees |

The Oregon Environmental Quality Commission approval of this rule proposal would establish new fees. EQC has authority to act on the proposed fees through ORS 454.625, 468.020, 468.065.

Brief description of proposed fees

DEQ is proposing a major modification fee of $8,982 for municipal stormwater phase one permits and $5,106 for underground injection control permits.

Reasons

Currently, major modification fees do not exist for municipal stormwater phase one and underground injection control permits. DEQ is unable to recover costs associated with major modifications for these permit types. DEQ is proposing major modification fees for these permit types equivalent to 50.1 percent of new permit application fees. Using this methodology will align the proposed major modification fees with existing major modification fees of other individual domestic permits. Through the proposed fees, DEQ would be able to recover costs associated with major modifications for municipal stormwater phase one and underground injection control permits.

Fee proposal alternatives considered

Alternatives to the fee proposal would be to continue to have no fee for major modifications of municipal stormwater phase one and underground injection control permits.

Fee payer

Private businesses and government agencies

Affected party involvement in fee-setting process

DEQ met with the Blue Ribbon Committee on Wastewater Permitting (comprised of industry, environmental and local government representatives) on May 23, 2013. DEQ discussed the proposed fees with the committee, and considered the committee’s recommendations on the proposed fees. In compliance with [ORS 183.333](http://www.leg.state.or.us/ors/183.html), DEQ asked for the committee’s recommendations on:

* Whether the proposed fees would have a fiscal impact,
* The extent of the impact, and
* Whether the proposed fees would have a significant impact on small businesses and compliance with [ORS 183.540](http://www.leg.state.or.us/ors/183.html).

Summary of impacts

The proposed major modification fee for municipal stormwater phase one permits will not directly impact small businesses. Permits for municipal stormwater phase one are issued only to governments, but these governments and jurisdictions may raise fees to cover their additional costs. The proposed major modification fee for underground injection control permits would impact small businesses that pursue a major permit modification. DEQ estimates 10 of 62 expected UIC permit holders are small businesses and would be subject to the proposed major modification fee.

Large businesses will not be subject to the proposed major modification fee for municipal stormwater phase one permits. DEQ estimates 18 of 62 expected underground injection control permit holders are large businesses and will be subject to the proposed major modification fee of $5,106.

DEQ has issued seven municipal stormwater phase one permits to local governments. Several of the municipal stormwater phase one permits include more than one local government under the permit. A total of 21 local governments would be subject to the proposed major modification fee ($8,982) for municipal stormwater phase one permits. In the case where a permit includes more than one local government, the major modification fee would be charged only once. DEQ estimates 30 of 62 expected underground injection control permit holders are local governments and would be subject to the proposed major modification fee ($5,106).

DEQ has issued one municipal stormwater phase one permit to a state agency, which would be subject to the proposed major modification fee ($8,982). DEQ estimates 3 of 62 underground injection control permits will be issued to state government agencies. These state agencies will be subject to the proposed major modification fee ($5,106).

Fee payer agreement with fee proposal

Members of the Blue Ribbon Committee did not voice opposition to the proposed fees.

How long will the current fee sustain the program?

Currently, major modification fees do not exist for municipal stormwater phase one and underground injection control permits. DEQ is unable to recover costs associated with major modifications for these permit types. Several fees are associated with these permit types, where the major modification fee represents one of those fees.

How long will the proposed fee sustain the program?

The proposed fees will be incorporated with a fee increase rulemaking currently scheduled for adoption by the environmental quality commission in October 2013.  If adopted, fees would become effective Nov. 1, 2013. DEQ will utilize existing staff to complete the workload associated with major modification requests (no FTE added).

A major modification for either municipal stormwater phase one or underground injection control permits is initiated by the permittee or DEQ. Historically, when DEQ has initiated a permit modification, no fee has been charged. The proposed major modification fees would affect permittee-initiated modifications. Major modifications requested by the permittee do occur, but are infrequent. Requests for major modifications are dependent upon many factors including available resources to the permittees. Also, the number of municipal stormwater phase one and UIC permits is subject to change. For these reasons, uncertainty exists regarding the exact number of future major modification requests by permittees. DEQ estimates additional revenue of $17,964 would be generated from the proposed major modification fees in the near future (i.e. 2013-2015 biennium), but cannot estimate additional revenue for the distant future. Currently, eight municipal stormwater phase one permits have been issued, and 62 underground injection control permits are expected to be issued in the future. If each of these permits underwent one major modification requested by the permittee, additional revenue of $383,322 would be generated. DEQ’s water quality permit program is approximately 60 percent fee funded and 40 percent public funded. The new fees are not intended to replace General Fund. State statute or rule does not require General Fund to constitute a minimum proportion of overall program funding. The proposed fees are not related to policy discussions/concerns raised during the Legislative session.