



State of Oregon Department of Environmental Quality

Draft Fiscal Impact Statement

High Hazard Rail Fee Rulemaking 2023

Fee Analysis

The proposed rules would establish a new fee. ORS 468B.437 establishes the Environmental Quality Commission's authority to approve the proposed fee. The owner of oil transported by railroad must pay the Department of Revenue (DOR) a fee not to exceed \$20 for each car. The owner of oil must pay the fee on a quarterly basis. The fees will be deposited into a suspense account at DOR. After DOR has garnished administration costs, the fee revenue will be transferred to both the High Hazard Train Route Oil Spill Preparedness Fund and the Oil and Hazardous Material Transportation by Rail Action Fund. ORS 468B.435 requires the Department of Environmental Quality (DEQ) and the Department of the State Fire Marshal (DSFM) both establish the fee amount by rule. DOR is authorized to conduct audits of fee payers and provide enforcement activity. Any moneys remaining in the funds on the date the legislature repeals the authorizing legislation must be refunded to the payers without interest. The statute is currently scheduled to sunset on January 2, 2027.

Brief description of proposed fees

Proposed fees established under ORS 468B.435 (13)(c) authorize a fee up to \$20 per tank car to be paid by the owner of the oil that is transporting the oil along the high hazard rail route within Oregon.

Reasons

The proposed fees address DEQ statutory requirements to establish a fee for loaded oil rail cars transiting through the State of Oregon as required by ORS 468B.435. The new fee was created by statute and is proposed to be \$19 per car to fund training exercise and fee collection costs. DSFM will use the revenue to hire a Public Safety Training Specialist 2. Anticipated costs for the 2023-2025 biennium are \$533,044 for DSFM (1 FTE) and DOR costs for administering the fund. Use of the funding is described in ORS 468B.435 (3)(a), (b), (c) and (d) as well as ORS 453.392 (1)(d).

Fee proposal alternatives considered

There are no alternatives proposed at this time.

Fee payer

The owner of the oil at the time the oil enters Oregon by rail will pay the fee.

Affected party involvement in fee-setting process

The rulemaking advisory committee members include a member of Clean Rivers Cooperative, which is a member-based organization that includes members of the petroleum industry. There is also a member of the Western States Petroleum Association, which represents potential shippers of oil, as well as multiple High Hazard Rail operators.

Summary of impacts

This rulemaking requests a new fee for a new DSFM program. The analysis provides cost estimates for what is currently a conceptual program. DSFM and DOR will use existing staff to implement the law. If revenues are not sufficient to support the associated workload, the agencies may ask the Emergency Board or an Interim Legislative Session for additional funding.

Without this fee, DSFM will not be able to adopt a schedule to include a triennial tabletop exercise, a triennial statewide exercise of a spill or release from rail transport and a multi-agency, multi-jurisdictional and multi-disciplinary oil or hazardous material spill or release exercise.

Fee payer agreement with fee proposal

The Rulemaking Advisory Committee included members who represent the interests of potential fee payers and will provide valuable input to our committee and rulemaking process.

Links to supporting documents for proposed fees

The proposed fee amount was established at \$19 per loaded tank car, with input from the Rulemaking Advisory Committee. Rail volume of oil by rail for the past three years is at the back of this document titled “Addendum” as well as the planned income with the new fee amount listed.

How long will the current fee sustain the program?

This is a new program and a new fee. There is no fee being modified, the current fee will go into effect if the Environmental Quality Commission adopts it. The fee is due to sunset on January 2, 2027.

Current Fees		
Program costs covered by fees	\$0	0%

Program costs covered by General Fund	\$0	0%
Fee Last Changed		

Proposed Fees		
Expected change in revenue (+/-)	\$0	0%
Main GF required by statute/rule to fund program	\$0	0%
Proposed fee allows General Fund replacement	\$0	0%
Expected effective date	Beginning of 2024 - after publication of rules	

Transactions and Revenue				
Biennium	Number of transactions	Number of fee payers	Impact on revenue (+/-)	Total revenue (+/-)
Current biennium	0	0	\$0	\$0
Next biennium	8	2	\$533,044	\$533,044

Fee schedule

To be established with input from Department of Revenue.

Filing due dates for quarterly reports		
Quarter	Quarter ending date	Due date
1st – Jan-Feb-Mar	March 31	April 30
2nd – Apr-May-Jun	June 30	July 31
3rd – Jul-Aug-Sep	September 30	October 31
4th – Oct-Nov-Dec	December 31	January 31

If the due date is a weekend or holiday, the return is due the next business day

Statement of fiscal and economic impact

DEQ is unable to quantify the total cumulative effect. However, based on the fee of \$19 per tank car, and numbers provided during 2022, the total amount for that year would have been \$258,880. The funds generated from these fees will go directly to DSFM for their involvement in the exercise planning and exercise execution processes, and to DOR for the administrative cost of collecting the fee.

Fiscal and Economic Impact

DSFM and DOR will use existing staff to develop the fee collection process and ensure compliance with the regulations. If revenues are not sufficient to support the associated workload, DSFM and DOR may ask the Emergency Board or an Interim Legislative Session for additional funding.

Statement of Cost of Compliance

State agencies

DEQ does not anticipate this rulemaking to create any new costs for DEQ. The proposed rules establish a mechanism to fund the position of a Public Safety Training Specialist 2 with the Department of the State Fire Marshal. The funding of this position will require the fee to be collected by Department of Revenue.

Local governments

No fiscal impacts are anticipated for local governments as participation in the training exercises is not mandated. Participation is at the discretion of the local budgetary authority and subject to existing funding levels.

Public

DEQ does not anticipate the proposed rules having a significant impact on the public.

Large businesses - businesses with more than 50 employees

DEQ does not anticipate the proposed rules having significant adverse impact on large businesses. This fee would be applicable only to the owner of oil at the time the oil is transported by loaded railroad car through Oregon. The specific impact to large businesses is unable to be determined at this time.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 Cost of Compliance Effect on Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

DEQ does not anticipate the proposed rules having significant adverse impact on small businesses.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The proposed rules do not require any additional activities for small businesses.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The proposed rules will not require any additional resources.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ did not involve small businesses in this process.

Documents relied on for fiscal and economic impact

Document title	Document location
Yearly rail data with proposed fee amounts and annual revenue	Addendum at end of this notice

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ asked for the committee’s recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee determined the proposed rules would/would not have a significant adverse impact on small businesses in Oregon.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have no effect on the development costs because this establishes a fee to be paid by the owner of oil at the time it enters the state.

Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

DEQ does not believe that adoption of this rule will have any affect on racial equity in Oregon.

Environmental Justice Considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues. DEQ considered these effects by requesting input from our RAC.

The RAC determined there would be no detrimental impact on environmental justice concerns for potential payers and regulated entities. The new position could help ensure disadvantaged communities are better protected and compensated in the event of a spill through drill and exercise evaluation.

Alternative formats

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)

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Visit DEQ's [Civil Rights and Environmental Justice page](#).

Addendum

Yearly rail data with proposed fee amounts and annual revenue:

2020		
Number of cars per year	Fee amount per car	Annual \$
21,210	\$19.00	\$402,990.00

2021		
Number of cars per year	Fee amount per car	Annual \$
18,221	\$19.00	\$346,199.00

2022		
Number of cars per year	Fee amount per car	Annual \$
12,944	\$19.00	\$245,936.00

2023		
Number of cars per year	Fee amount per car	Annual \$
11,500*	\$19.00	\$218,500.00

* Numbers for 2023 are an estimate based on the number of cars reported to ODOT from **Jan. to June of 2023 and then multiplied by 2.**

Contents of cars listed are UN1267 and UN3494.