

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 141

Oil Spill Contingency Planning and Fees

340-141-0010

Program Administration and Compliance Fees

(1) All offshore and onshore facilities required to develop oil spill prevention and emergency response plans under ORS 468B.345 ~~will be assessed an annual fee of \$4,500. The fee is due in July, and covers the 12 month period commencing July 1~~ **are required to pay the annual fee established in ORS 468B.405(1). Fees for offshore and onshore facilities are due July 1 each year and cover the following 12 month period.**

(2) Covered vessels and facilities are subject to the following fees:

~~(a) Self-propelled tank vessels of more than 300 gross tons: \$836 per trip;~~

~~(b) Self-propelled tank vessels of 300 gross tons or less: \$42 per trip;~~

~~(c) Tank vessels and barges that are not self-propelled: \$42 per trip; and~~

~~(d) Cargo vessels: \$48 per trip~~ **are required to pay the per trip or daily fee established in 468B.405(1). Fees for covered vessels must be remitted to the Department within 60 days of the conclusion of each trip.**

~~(3) Fees assessed under section (2) must be remitted to the Department within 30 days of the conclusion of each trip.~~

~~(4)~~**(3)** Moneys collected under this rule will be deposited in the State Treasury to the credit of the Oil Spill Prevention Fund established by ORS 468B.410.

Stat. Auth.: ORS 468.020 & 468B.345 - 468B.500

Stats. Implemented: ORS 468B.405

Hist.: DEQ 2-2003, f. & cert. ef. 1-31-03; DEQ 8-2005, f. & cert. ef. 7-14-05

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Relationship to Federal Requirements

**Align Oil Spill Prevention and Emergency Response Planning Fees
with Oregon Revised Statutes**

OAR 340-011-0029(1) requires this statement to identify how the proposed rulemaking relates to federal requirements and the justification for differing from, or adding to, federal requirements.

1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?

There are no specific federal requirements for fees to fund oil spill planning and prevention programs. The proposed rule making funds staff at DEQ and derives fees from a broad segment of industries that are at risk to spill petroleum products.

2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).

The federal government funds its oil spill prevention and planning activities through agency budgets approved by the U.S. Congress. The State of Oregon provides funding for oil spill prevention and response activities through fees on industries most likely to have oil spills.

3. If the proposal differs from, or is in addition to, applicable federal requirements, did DEQ consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.

No fee increase for oil spill prevention and planning is the primary alternative. Currently, the fees support less than 3.0 FTE for this program. Not increasing the fees to fund this program would result in a reduction of work force to the point where the program would no longer be effective.

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

Align Oil Spill Prevention and Emergency Response Planning Fees with Oregon Revised Statutes

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	Amend OAR 340-141-0010 Oil Spill Contingency Planning and Fees	
Statutory Authority or other Legal Authority	ORS 468.020	
Statutes Implemented	ORS 468B.345	
Need for the Rule(s)	The 2007 Legislature revised the Oil Spill Prevention Fund fees in ORS 468B.345. Fee payers have been paying the fees since August 2007. The proposed rule would incorporate the revision by reference.	
Documents Relied Upon for Rulemaking	The department relied on ORS 468B.345 and Senate Bill 105 (2007).	
Requests for Other Options	Businesses subject to the rule participated in the 2007 legislative process. The proposed rule's substantive goal is to align administrative rules to statute. The department did not consider other options for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.	
Fiscal and Economic Impact, Statement of Cost Compliance	All businesses subject to the fee increase had tracking and delivery mechanisms in place since 1991 when the original fee went into effect.	
Overview	The proposed rule incorporates statutory language by reference. Business subject to the rule began paying Oil Spill Prevention Fund fees in 1991 and the fee increase referenced in this rulemaking in 2007. There are no additional projected fiscal and economic impacts or costs of compliance.	
Impacts on the General Public	There are no projected fiscal and economic impacts on the general public.	
Impacts to Small Business (50 or fewer employees – ORS183.310(10))	During the 2007-2009 biennium, small businesses subject to the proposed rule have paid a total of \$2,200. The fee increase to small businesses is \$1,100 per year.	
Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))	a) Estimated number of small businesses subject to the proposed rule	One
	b) Types of businesses and industries with small businesses subject to the proposed rule	Marine oil transfer and storage facilities
	c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services	None. Small businesses subject to this rule change have had recordkeeping and other administrative procedures in place since the fee was established in 1991.

	d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule	None
	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	The department conducted industry-wide outreach during the 2007 legislative session that changed fees in statute.
Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))	During the 2007-2009 biennium, large businesses paid \$218,576 in fee increases by the following categories. • Nineteen facilities <i>per year fee</i> increased \$1,100 (\$53,800) • Cargo vessels <i>per trip fee</i> increased \$22 (\$73,348) • Petroleum tank vessels <i>per trip fee</i> increased \$364 (\$42,080) • Dredge <i>per day fee</i> increased \$12 (\$2,376) • Tank Barge fees changed from a flat rate fee to a multi level fee generating an additional \$42,080. The fee increase for tank barge capacity: ○ Less than 24,999 barrels of oil is \$12 per trip ○ Between 25,000 to 99,999 barrels of oil is \$22 ○ Over 99,000 barrels is \$52	
Impacts on Local Government	None	
Impacts on State Agencies other than DEQ	None	
Impacts on DEQ	The increased fee allows DEQ to maintain 2.8 FTE to operate the Oil Spill Prevention Program.	
Assumptions	DEQ used data from the 2007-2009 biennium and subtracted revenue using the fees in effect during the 2005-2007 biennium.	
Housing Costs	DEQ determined this proposed rule will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single-family dwelling.	
Administrative Rule Advisory Committee	Senate Bill 105(2007) required DEQ publish an annual report that provides details on fees collected under ORS 468B.405 and DEQ activities under ORS 468B.410. DEQ established an advisory committee to review the first report in 2008. DEQ has now published three annual reports.	

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9/15/10
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9/13/10

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None of the businesses directly subject to this proposed rule are considered small businesses. While several of the businesses subject to the fee increase employ less than 50 employees locally, they are an extension of national corporations. For the cargo vessels, most of the ships visit Oregon and Washington ports and are international companies.

Small businesses subject to this fee increase have been paying an increase in their annual fee of \$1,100 since the statute was changed in 2007.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Land Use Evaluation Statement

Rulemaking Proposal
for
Oil Spill and Emergency Response Planning Fees

**Align Oil Spill Prevention and Emergency Response Planning Fees with
Oregon Revised Statutes**

1. Explain the purpose of the proposed rules.

Senate Bill 105 (2007 Legislative Session) was approved and signed into law. This bill changed the fees paid by certain vessels and oil handling facilities for oil spill prevention and emergency response planning. This rule change will align the rule with the statute.

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

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

Yes. The proposed rule amendment affects the existing program for oil spill contingency planning and clean up, which is listed as a program affecting land use under OAR 340-018-0030(5)(l). The rule amendment, however, only affects fees and it is merely intended to make the rule language consistent with recent statutory changes.

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

Yes. The land use compatibility mechanism in existing state agency coordination program provides for notice to and the involvement of affected cities, counties and state agencies in the planning process. Fees are an essential element in providing for the planning process.

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

The proposed rule change only addresses the fees for oil spill and emergency response planning. None of the other provisions of the rule will be changed.

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