



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Director's Office  
355 Capitol St. NE  
Salem, OR 97301

**DATE:** June 20, 2013

**TO:** Senate Committee on Business and Transportation

**FROM:** Gregg Dal Ponte, Administrator  
ODOT Motor Carrier Division

**SUBJECT:** Flat Fee Study

## INTRODUCTION

ORS 825.482 directs that the Department of Transportation and the Oregon Transportation Commission review flat fee rates established under ORS 825.480 in each even-numbered year. The law also directs ODOT and the OTC to recommend to the next following odd-numbered year regular session of the Legislative Assembly any adjustments to the flat fee rates that the department and the commission deem appropriate.

## DISCUSSION

Oregon law allows for the use of an annual flat fee in lieu of the weight-mile tax for commercial motor carriers carrying certain qualifying commodities—namely logs, sand and gravel and wood chips or similar material. The flat fee option provides a more convenient method of reporting for motor carriers who use non-public or lesser-traveled public roads. Commercial motor carriers generally pay a weight-mile tax (based on the miles driven and the weight of the load) to operate on public roads in Oregon.

ORS 825.482 directs ODOT and the OTC to determine whether or not flat fee filers are paying by virtue of their assigned flat fee rates the same amount of highway use tax that they collectively would have paid if they had reported and paid their weight mile tax on a weight and mileage basis. The basis for a recommendation to change the flat fees is the premise that the flat fee filers taken altogether (as opposed to consideration of individual taxpayers) should be paying what they would have paid had they reported and paid on a traditional mileage and weight basis.

The executive summary (attached) of the current report indicates that flat fee filers hauling logs or sand and gravel have underpaid their equivalent weight mile tax liability and the wood chip category overpaid its equivalent weight mile tax liability. The whole idea of a flat fee involves estimation so it is unlikely we will ever see absolute parity. Rather, it is necessary to consider revision of tax rates as the study results trend over time. To put the current study results in perspective, there is only one wood chip hauler paying flat fees so the result is probably not individually significant. However, the 2012 analysis of 2011 data reflects a worsening of the result obtained from the 2010 study of 2009 data and the amount of underpayment of weight mile tax liability is growing for log haulers and sand and gravel haulers warranting a change in those rates at the present time.

The recommended change to the flat fee rates is reflected on the following chart.

	Existing Rate (\$/100 lbs. DCW)	Revenue Neutral Rate [(B/C) x D]
Wood Chips	30.65	27.85
Sand & Gravel	7.53	9.68
Logs	7.59	7.66

The current Highway Cost Allocation Study concludes that trucks are paying their fair share overall for use of the highway system. However, that is not the issue that the biennial flat fee study requirement is intended to review. Management of the flat fee component of the Oregon weight mile tax has been subject to litigation in the past. The Oregon Department of Justice has continually cautioned that the state needs to be vigilant to effectively monitor and manage the flat fee rates as intended in order to defend against a renewed legal challenge.

## **SUMMARY**

Oregon law allows commercial motor carriers carrying logs, sand and gravel and wood chips to pay a flat fee in lieu of Oregon's weight mile tax. ODOT and the OTC are required to report biennially to the legislature and make recommendations for changes to those flat fees.

Flat Fee report: [http://www.oregon.gov/ODOT/MCT/docs/Final\\_2011\\_Flat\\_Fee\\_Study.pdf](http://www.oregon.gov/ODOT/MCT/docs/Final_2011_Flat_Fee_Study.pdf)

Attachment: Flat fee executive summary

***TESTING FOR REVENUE NEUTRALITY  
OF FLAT FEE FIRMS IN OREGON  
(2011)  
EXECUTIVE SUMMARY***

***Final Report***

Prepared by

Dr. Catherine T. Lawson  
The University at Albany

For the Oregon Department of Transportation  
September 2012

## INTRODUCTION

Oregon generally imposes a mileage-based tax on heavy vehicles operating on public roads in the state. Within specific limitations, carriers of wood chips, sand and gravel and logs, may instead, elect to pay a “flat fee.” Separate flat fee rates are provided for each of these commodity-types.

This analysis compares the amount of highway use tax paid by each group of flat fee taxpayers to the amount this group would have paid on a mileage basis to determine revenue neutrality across payment methods. The comparisons are made using current mileage rates applied to the 2011 reported data.

## EXECUTIVE SUMMARY

The comparisons yielded the following commodity-specific results:

### WOOD CHIPS

- The 2011 data, with the 2011 rates with axles across the declared weight groups of the vehicles, shows that firms using the flat fee method paid \$1,118.29 more than they would have paid on a mileage basis. This represents a 10.04 % overpayment.

### SAND & GRAVEL

- The 2011 data, with the 2011 rates with axle adjustments across the declared weight groups of the vehicles, shows that firms under the flat fee method paid \$183,123.44 less than if they had used the mileage tax method. This represents a 24.54% underpayment.
- Vehicles with a declared weight of over 104,000 lbs. underpaid by \$171,710.13.

### LOGS

- Using the 2011 rates, with axle adjustments and a combination of 2011 Oregon taxable miles based on a reporting practices analysis, and the assumption of 50% loaded/50% empty operating practices, results in an underpayment of \$375,142.32, approximately 4.86%.
- Using the 2011 rates with axle adjustments and a combination of 2011 Oregon taxable miles based on a reporting practices analysis, and the assumption of 45% loaded/55% empty operating practices, results in an underpayment of \$68,435.16, approximately 0.92%.