

# **California Code of Regulations**

## **Title 19, Division 2, Chapter 4.1**

### **§ 2700. Purpose**

The purpose of the Regional Railroad Accident Preparedness and Immediate Response Regulations are to establish a schedule of fees to be paid for the top 25 Most Hazardous Material Commodities that are transported by rail car in California. The fees collected by the railroad will be utilized to build, develop, and enhance emergency response capabilities in the event of a hazardous material spill involving a railroad in California. These regulations further serve to establish the administration and enforcement of Government Code sections 8574.30 through 8574.48. Creating and enhancing a robust statewide hazardous material spill response capability will benefit the railroads in that the impacts of hazardous materials spills by rail will be reduced.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.30 – 8574.48 of Government Code.

### **§ 2701. Definitions**

Any term not defined in this section shall be deemed to have the same meaning as set forth in Government Code section 8574.30. For the purpose of this chapter:

- (a) “AAR” means the Association of American Railroads.
- (b) “Calendar Year” means the period of time from January 1 to December 31.
- (c) “Committee” means the Industry Advisory Committee created to advise the Director.
- (d) “Consignee” means the person named in a bill or in transportation documents to whom or to whose order the bill promises delivery.
- (e) “Consignor” means the person who delivers a consignment to a railroad for transporting it to a consignee named in the transportation documents.
- (f) “Director” means the Director of the California Governor’s Office of Emergency Services.

(g) “Fiscal year” means the period of time from July 1 through June 30 of the following year.

(h) “In-kind contribution” means the donation of equipment, materials, or services in lieu of the imposed fee.

(i) “Right to use” as used in Government Code section 8574.30(f) means the authority to ship or retrieve the commodity that is subject to the fee set forth herein.

(j) “Route” is the path on which the train or rail car operates.

(k) “Shipper” means the person who contracts with a carrier for the transportation of cargo.

(l) “Short line” means a railroad as defined in Government Code section 8574.30(h).

(m) “Train” means one or more rail cars moved as a unit by a locomotive or by integral motors.

(n) “25 Most Hazardous Material Commodities” means the top 25 ranked hazardous materials identified by the Association of American Railroads Bureau of Explosives, which may periodically change and any changes incorporated by reference herein. As of the date of the enactment of these regulations, the top 25 Most Hazardous Material Commodities are:

<b>RANK</b>	<b>COMMODITY (DOT Proper Shipping Name)</b>	<b>DOT Identification #</b>
1	Petroleum Distillates, N.O.S.	1268
2	Flammable Liquids, N.O.S.	1993
3	Hydrochloric Acid	1789
4	Ammonia, Anhydrous	1005
5	Environmentally Hazardous Substances, Liquid, N.O.S	3082
6	Hydrocarbons, Liquid, N.O.S.	3295
7	Petroleum Gases, Liquefied	1075

8	Methanol	1230
9	Combustible Liquid, N.O.S.	1993
10	Petroleum Crude Oil	1267
11	Sulfuric Acid	1830
12	Alcohols, N.O.S.	1987
13	Propylene	1075
14	Gasoline	1203
15	Styrene Monomer, Stabilized	2055
16	Sulfur, Molten	2448
17	Chlorine	1017
18	Diesel Fuel	1202
19	Phosphoric Acid Solution	1805
20	Sodium Hydroxide Solution	1824
21	Propane	1075
22	Carbon Dioxide, Refrigerated Liquid	1013
23	Elevated Temperature Liquid, N.O.S.	3256
24	Butane	1011
25	Vinyl Chloride, Stabilized	1086

(o) “Ultimate Control Over” as used in Government Code section 8574.30(f) means the person who has the authority to ship or retrieve the commodity that is subject to the fee set forth herein.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.30 – 8574.48 of Government Code.

### **§ 2703. Railroads Applicability**

This chapter and provisions herein apply to railroads, including short lines.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.30 – 8574.48 of Government Code.

### **§ 2704. Route**

“[T]ransported by rail in California” as used in Government Code section 8574.32 includes any rail car that transports the 25 Most Hazardous Material Commodities on a Route in California, regardless of where the Rail car enters California, where the rail car is loaded, or the rail car’s final destination.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.32 (a)(1), (b)(1)(A) – (b)(1)(B) of Government Code.

### **§ 2705. Fee**

(a) The person registered with the board must remit, on behalf of the owner, a fee of **\$X.XX** to the board per loaded rail car containing any quantity of the 25 Most Hazardous Material Commodities which travels on a route in California.

(b) The board will report to the director the amount of fees paid and refunded on a quarterly basis during each calendar year.

(c) Once the fund reaches the maximum limit set forth in Government Code section 8574.44(g), the fee will be reduced to \$0.00 for the remainder that calendar year beginning on the first day of the next calendar quarter. The fee will revert back to **\$X.XX** on January 1<sup>st</sup> of each calendar year.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.32, 8574.34 and 8574.44 of Government Code.

### **§ 2706. Administrative Cost Reimbursement**

The five (5) percent of the fee collected, if any, by the person operating the railroad to offset the administrative costs is in addition to the fee. No portion of the fee is to be retained by the person operating the railroad to offset administrative costs.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.32(b)(4)(B) of Government Code.

### **§ 2707. Exemptions**

(a) An owner may submit a written petition to the director for an exemption from the fee on the basis set forth in Government Code section 8574.32 (c). The director, in his or her sole discretion, may approve or deny the petition for exemption.

(b) The director may request information, documents, or specific evidence from the owner relating to the petition. Should the director make a request for information, the owner must provide requested information within thirty (30) calendar days of the request. Any failure to provide the requested documentation will be deemed a waiver of the owner's claim for exemption.

(c) The director may delegate the authority to grant or deny the petition to any individual within the office as he or she deems appropriate.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Section 8574.32(c) of Government Code.

### **§ 2708. In-Kind Contributions**

(a) An owner may provide an in-kind contribution in exchange for a refund of a portion of the fees paid. In order to request the refund, an owner must submit a written request to the director. This request must include documentation relating to the full payment of the fee for which the owner is seeking reimbursement and a detailed description and suggested monetary value of the in-kind contribution it intends to provide. The director,

in his or her sole discretion, may approve or deny the request for an in-kind contribution, or any portion thereof.

(b) Should an in-kind contribution be approved, the director will notify the board of the amount to be refunded.

(c) Should an in-kind contribution be approved, the monetary value will be included in the amount the director has the authority to collect.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.32(f), 8574.44(g)(1)-(3) of Government Code.

### **§ 2709. Failure to Pay Fee by Owner**

(a) Should the owner fail or refuse to pay the imposed fee pursuant to Government Code section 8574.32, it is the responsibility of the person registered with the board, for example a railroad or short line, to remit the fee on the owner's behalf and to subsequently collect that fee from the owner.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.32(b)(2)-(3) of Government Code.

### **§ 2710. Appeal of Determination**

(a) Any petition or claim for refund made pursuant to section 8574.40 of the Government Code based upon whether the rail car content is or is not a hazardous material should be made to the director and mailed to 3650 Schriever Avenue, Mather, CA 95655.

(b) The envelope mailed to the director containing the petition or claim must be labeled "Hazardous Material Petition" or "Hazardous Material Claim." The petition or claim must include without limitation: (1) contact information for person registered with the board; (2) hazardous material disputed; (3) route; (4) date fee was imposed or invoiced by the railroad; (5) identification of the owner of the material in dispute; (6) any

information, evidence, or documentation regarding the disputed hazardous material; and, (7) statement of reasons why the petition or claim should be granted.

(c) Any petition or claim must be made within thirty (30) calendar days of the date the fee was imposed or invoiced, whichever occurs first, pursuant to Government Code section 8574.32.

(d) The director may request information, documents, or specific evidence from the person who submitted the claim or petition. Should the director make a request for information, the person must provide requested information within thirty (30) calendar days of the request. If the person fails to comply with the request in or whole or in part, the person will have failed to exhaust their administrative remedies with regard to that owner's particular claim or petition.

(e) The director may delegate the determination of the claim or petition to any of his or her executive staff.

(f) The Office of Emergency Services will provide a written determination of the petition or claim as soon as practicable.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.40(a)-(b) of Government Code.

### **§ 2711. Training Cost Reimbursement**

Local government may seek reimbursement for training in connection with Regional Railroad Accident Preparedness and Immediate Response. Reimbursable expenses may include without limitation: tuition for training; lodging for the duration of the training; lodging in accordance with the written travel policy of the local government but not to exceed the State Government rate; reasonable and necessary costs to travel to and from the training site in accordance with the written travel policy of the local government, not to exceed the State Government rate; meals and incidental expenses up to the limits set in the written travel policy for the local government are allowed, not to exceed the maximum allowed by the State Government reimbursement policy; and overtime/backfill

labor costs incurred for hours in which another responder directly provided backfill to cover while a participating responder attended required training. Other training expenses may be reimbursable at the director's discretion. Local governments seeking reimbursement must provide all documentation related to and in support of the requested reimbursement.

Note: Authority: Government Code Section 8574.32 (a)(1). Reference: Sections 8574.44(e)(5)-(e)(7) of Government Code.

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