



State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

Sept. 22-23, 2022

Item G: Rulemaking (Action)

Clean Fuels Program Expansion 2022 Rulemaking

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DEQ Recommendation to the EQC

After the commission's consideration of the factors described in ORS 468A.266(3) and (5), DEQ recommends that the commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

The proposed rules would become effective upon filing with the Secretary of State and will be done in two phases:

- Division 12 and Division 253-0680 will become effective on approximately Oct. 1, 2022
- The rest of Division 253 will become effective on approximately Jan. 1, 2023.

Language of Proposed EQC Motion:

“After consideration of the factors described in ORS 468A.266(3) and (5), and consistent with the staff report/recommendation, I move that the commission adopt the proposed rule amendments in Attachment A as part of Chapter 340 of the Oregon Administrative Rules with the rules in Division 12 and Division 253-0680 having an effective date of approximately Oct. 1, 2022, and the remaining rules in Division 253 having an effective date of approximately Jan. 1, 2023.”

Introduction

The policy objective of the Clean Fuels Program Expansion 2022 Rulemaking is to expand the program’s carbon intensity reduction requirements beyond the currently adopted 10 percent reduction in average carbon intensity by 2025. The new longer-term targets will create certainty for investment in and deployment of lower-, zero-, and negative-carbon transportation fuels that are necessary to decarbonize Oregon’s transportation sector.

In addition to proposing new carbon intensity reduction requirements, DEQ is also proposing changes to Division 12 and Division 253 to: 1) support the expansion of the program, 2) make the program’s rules clearer and more efficient, and 3) ensure that participants in the program are complying with all its requirements.

Summary of Proposed Changes

For this rulemaking, DEQ considered the entirety of Division 253 to be in-scope to support and complement the expansion of the carbon intensity reduction targets. DEQ started the process by hiring the consulting firm ICF International to examine post-2025 compliance scenarios of what combination of vehicles and fuels Oregon could feasibly see in the future and determine what reductions in greenhouse gases would result from those combinations.

DEQ then held a listening session to solicit input from stakeholders as to what they were interested in updating to the Clean Fuels Program. For some topics, DEQ deferred them for future consideration, primarily to better align with neighboring low-carbon fuel standard jurisdictions. Proposed changes in this rulemaking are described below in four main categories: 1) expansion of the targets; 2) updates to enforcement provisions for violations of the CFP rules; 3) updates to existing provisions; and 4) housekeeping updates.

1. Expansion of the targets

As stated above, the primary goal of this rulemaking is to establish carbon intensity reduction targets beyond 10 percent after 2025. The proposed targets were informed by the Long-term Illustrative Compliance Scenarios¹ and extensive discussions with stakeholders over a two-year process.

DEQ is proposing to extend and increase the Clean Fuels Standards to 20 percent below 2015 levels by 2030, and 37 percent below 2015 levels by 2035 (shown below).

Proposed targets	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
% Reduction	12.0	14.0	16.0	18.0	20.0	23.4	26.8	30.2	33.6	37.0
% Change year over year	2.0	2.0	2.0	2.0	2.0	3.4	3.4	3.4	3.4	3.4

¹ <https://www.oregon.gov/deq/ghgp/Documents/cfpIlluCompScenD.pdf>

These targets are:

- Consistent with Oregon’s long-term carbon reduction goals and strategy, including the targets established in the Climate Protection Program, and supportive of other policies and programs that aim to decarbonize the transportation sector in Oregon such as Zero Emission Vehicle regulations for light-, medium-, and heavy-duty vehicles;
- Aligned with other current low-carbon fuel standards on the West Coast in 2030; and
- Achievable with multiple paths to compliance from different combinations of low-carbon fuels; and
- Balanced with the need to incentivize continued improvements in all fuels while offering strong support to the deployment of mandated zero emission vehicles.

2. Updates to the enforcement rules for violations of the Clean Fuels Program requirements

To maintain the integrity of the program’s greenhouse gas reductions and the clean fuels market, DEQ is proposing updates to Division 12, “Enforcement Procedure and Civil Penalties” and Division 253. As a reminder, unclassified violations of the Division 253 rules can still be enforced as Class 2 violations.

a. Class 1 violations

- Newly classified violation - Misstating material information or providing false information when submitting an application for advance credits
- Newly classified violation - Failure by a fuel producer to inform DEQ if its operational carbon intensity exceeds its certified carbon intensity when those certified carbon intensities were used to generate illegitimate credits
- Reformatting existing classified violations - Making each deficit not complied with if the entity does not participate in the Credit Clearance Market or illegitimate credit generated a separate violation
- Moved from Class 2 to Class 1 – Failing to register as a regulated party under the Oregon Clean Fuels Program, failing to submit a complete and accurate quarterly report

b. Class 2 violations

- Newly classified violation - Failure to receive Green-e certification for RECs used to generate incremental credits
- Newly classified violations – Failure by a registered party or a fuel producer to ensure that they have the exclusive right to claim environmental attributes reported using a book and claim methodology
- Newly classified violation – Failure to notify DEQ of a change of ownership or control of a registered party
- Reformatted existing violation – Failure to keep records as required under OAR 340-253-0600 now applies to all records

c. Class 3 violations

- Newly classified violation - Making changes to a quarterly or annual report where the changes were not specifically authorized by DEQ

d. Selected magnitude categories

- New violations of major magnitude - Exceeding the clean fuel standards; failing to register with the Clean Fuels Program; failing to submit complete and accurate reports; generating an illegitimate credit; committing an action related to a credit transfer that is prohibited

e. Base penalties

- New violations in the \$12,000 matrix – Failing to demonstrate compliance with the annual clean fuel standard; prohibited credit transfers; generating illegitimate credits, submitting misstated or false material information for a carbon intensity score or advanced credit application. Any violation by an importer of blendstocks.
- New violations in the \$8,000 matrix – Any violation of the Clean Fuels Program not otherwise classified. Any violation by a participant in the Clean Fuels Program other than an importer of blendstocks.

3. Updates to existing provisions

This is a summary of proposed changes to various provisions within Division 253. Each of these were topics of discussion during the rulemaking advisory committee meetings and technical workshops. The rulemaking web page

(<https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx>) contains links to all meeting materials including agendas, memos, presentations, written comments received, and meeting summaries. To organize the many changes that are being proposed, DEQ has grouped individual updates based on potential economic and fiscal impact.

a. Minor impact

- Various simple updates related to registration and reporting
- Clarify who is eligible to generate credits from charging of electric vehicles and use of hydrogen vehicles
- Add clear requirements for changes of ownership, control, or bankruptcy by a registered party
- Update the documentation required for registering credit transfers with CFP
- Clarify the language for demonstrating that fuels are exempt from the regulation
- Establish a new administrative process to add transaction types in the Oregon Fuels Reporting System
- Correct an error in an existing simplified calculator and develop a new simplified calculator for biogas-to-electricity pathways
- Clarify that lower-carbon hydrogen can be used directly (but not book-and-claim) as an input into a fuel production facility.

b. Moderate impact

- Establish a new Energy Economy Ratio (EER) for airport electric ground service equipment that will allow for credit generation for those vehicles
- Establish a clear definition of ocean-going vessels that are eligible to generate credits under the existing EER. This category of vessels was previously not defined and this update clarifies that only large vessels qualify to generate credits under this EER as that was the dataset used to establish the EER. Small vessels will not be eligible to generate credits as of Jan. 1, 2023, unless a new EER is approved.
- Update the advance crediting provisions to apply to all zero emission vehicles and infrastructure. Currently, this provision only applies to selected battery electric vehicles, but this change would add hydrogen fuel cell vehicles as eligible for qualified applicants. In addition, applicants with projects that receive funding from the Bipartisan Infrastructure Law (such as the National Electric Vehicle Infrastructure program or the Electric School Bus program) would now be eligible. Several new requirements have been proposed because of the expansion of eligible projects but the cap on the number of advance credits that can be generated has not changed.
- Update the provisions to protect against multiple claims of the environmental attributes associated with renewable natural gas. This includes a new requirement for electronic tracking of the claims and clarifying the attestation language regarding book-and-claim transfers when electronic tracking does not take place.
- Allow for additional credits to be generated through post-third-party verification by a fuel producer registered for reporting in the program if a verified operational carbon intensity is one or more grams CO₂e/MJ lower than the approved carbon intensity the credits were initially generated against.

4. Housekeeping updates

Housekeeping updates fall primarily into three categories – 1) fixing spelling, grammar, and numbering errors; 2) clarifying confusing or unclear language in the existing rules; and 3) adding definitions for several terms. These types of updates appear in virtually every rule in Division 253 and are the result of feedback from working with over 200 registered parties over the past six years. DEQ is proposing these updates for clarity, workability, and to ensure that program participants know what is expected of them.

Consideration of Statutory Factors

DEQ is providing the background and analysis regarding the statutory factors for EQC to consider when adopting rules for the Clean Fuels Program. There are two places in statute that provide direction on this:

ORS 468A.266(5) requires the commission to:

(5) In adopting rules under this section, the commission shall evaluate:

- (a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness;*
- (b) Potential adverse impacts to public health and the environment, including but not limited to air quality, water quality and the generation and disposal of waste in this state;*
- (c) Flexible implementation approaches to minimize compliance costs; and*

(d) Technical and economic studies of comparable greenhouse gas emissions reduction measures implemented in other states and any other studies as determined by the commission.

ORS 468A.266(3) requires the commission to:

(3) Before adopting low carbon fuel standards under this section, the commission shall consider the low carbon fuel standards of other states for the purpose of determining schedules and goals for the reduction of the average amount of greenhouse gas emissions per unit of fuel energy and the default values for these reductions for applicable fuels.

Background

Assessing these considerations was critical to the initial adoption of the Clean Fuels Program in 2015. In that case, the January 2011 Oregon Low Carbon Fuel Standards Advisory Committee Process and Program Design Report was the critical supporting document that informed that rulemaking.

In the subsequent years, DEQ has been focused on implementing the Clean Fuels Program – working with stakeholders to report on their activities, reviewing credit and deficit generation, monitoring the credit market, approving new fuel pathways and energy economy ratios, registering new fuel supply equipment, and enforcing against violations. All of this experience has informed multiple rulemakings over several years to keep the program abreast of the ever-evolving transportation fuels market.

The CFP Expansion 2022 Rulemaking is the latest milestone for the program. Now in its 7th year, it is time to look to the future and establish carbon intensity reduction targets beyond the currently scoped program that culminates in a 2025 standard to provide the kind of regulatory certainty and leadership that is needed to meet Oregon's climate goals.

Analysis

As the EQC considers expanding the Clean Fuels Program, staff provides this analysis of the considerations that the statute requires the EQC to assess. The proposed rules do not fundamentally change the program; but, rather, seek more of the outcomes that have emerged thus far – more greenhouse gas reductions, more displacement of petroleum fuels, more public health benefits from the reduction of tailpipe air pollutants, and more incentives to advance the transition to zero emission vehicles and fuels. DEQ believes the same outcomes will result from the proposed expansion of the program, but to a greater extent given the deeper targets and our better understanding of the program after this first period of implementing it.

(a) Safety, feasibility, net reduction of greenhouse gas emissions and cost-effectiveness

In the 2011 Oregon Low Carbon Fuel Standards Advisory Committee Process and Program Design Report, the following sections contained the pertinent considerations:

- Section VI Low Carbon Fuel Standards Program Design. Item 11 Implementation Issues (page 113). Safety of Alternative Fuels
- Section VIII Compliance Scenarios and Economic Analysis. Item 3 Fuels Assessment (page 147)

- Section IX Potential Impacts to Public Health and the Environment. Item 7 (page 164). Net reduction in greenhouse gas emissions.
- Section VIII Compliance Scenarios and Economic Analysis. Item 6 Economic Analysis (page 155) Cost Effectiveness.

Most recently, DEQ assessed these considerations through the development of the Long-Term Illustrative Compliance Scenarios which demonstrates the safety and feasibility of these standards, along with providing an analysis of likely greenhouse gas reductions from the program.

In developing the illustrative compliance scenarios, it was important to DEQ to select assumptions that relied on existing fuels and already-adopted regulations, not on hypothetical future fuels or proposed regulations. The process of selecting scenarios and assumptions were subject to public comment during its development. Since the fuels considered in the scenarios are currently in use, they are well-understood and can be safely handled and used in the operation of vehicles. This will not change in the future.

While the scenarios call for significantly more low-carbon vehicles and fuels, the assumptions are in line with production and deployment forecasts of zero emission vehicles consistent with compliance with the ZEV regulations and biofuel production capacities anticipated in the region.

DEQ is proposing to establish carbon intensity reduction targets through 2035 following the 37 percent carbon intensity reduction scenario that resulted from the development of those illustrative compliance scenarios. The estimated greenhouse gas reductions over that timeframe are 6.3 million metric tons of tailpipe emissions and 43.7 million metric tons of lifecycle emissions.

Cost-effectiveness can be demonstrated through consideration of the cost of complying with the regulation as well as its benefits. The best and most complete discussion of this is in the Fiscal and Economic Analysis section of this staff report. Using conservative assumptions for costs and benefits, there is an almost even balance estimated in 2035, in support of our conclusion that the program will be cost-effective. In addition, DEQ believes that while the fiscal and economic analysis is still accurate, trends in markets, regulations, and new incentives at the federal level that have occurred since the fiscal analysis was conducted earlier this year likely mean that the costs were over-estimated and the benefits were under-estimated, meaning the program is likely to be more cost-effective than presented there.

(b) Potential adverse impacts to public health and the environment, including but not limited to air quality, water quality and the generation and disposal of waste in this state

In the Oregon Low Carbon Fuel Standards Advisory Committee Process and Program Design Report, the following sections contain the pertinent considerations:

- Section IX Potential Impacts to Public Health and the Environment (page 157). Impacts on criteria pollutants and several air toxics that are associated with mobile sources combusting more ethanol and biodiesel. Transitioning to electricity would be cleaner. Other environmental impacts include indirect land use changes and other indirect effects, water quality and quantity, food vs. fuel, and ecological effects.

We have reviewed this report and determined that its conclusions remain valid as they relate to the current proposed rulemaking.

In considering the expansion of the Clean Fuels Program, DEQ contracted with researchers at the University of California Davis to assess the impacts of an expanded program on tailpipe air pollutants and its impact on public health. A detailed discussion of this is contained in the Fiscal and Economic Analysis section of this staff report. Overall, the reduction of fine particulate matter emissions from an expanded Clean Fuels Program resulted in health benefits to Oregonians of \$84 - \$87 million dollars per year through 2035. Additional reductions in sulfur dioxide, carbon monoxide, nitrogen oxides, and volatile organic compounds are also expected, but not included in that figure.

DEQ believes that the initial assessment of the program's impact to water quality and the generation and disposal of waste in this state remains static and that there are not likely to be adverse impacts on either count.

(c) Flexible implementation approaches to minimize compliance costs

The foundation of a low carbon fuels policy is to be fuel-neutral and technology-agnostic and to let the transportation fuels market dictate what the least cost path to compliance is. The program has been designed with a number of flexible implementation approaches that are outlined in the 2011 report. In addition to these approaches, a number of cost containment mechanisms have been added such as the Credit Clearance Market and an annual fuel supply forecast. This rulemaking does not make fundamental changes to the way participants in the program can comply and continues to rely on those existing flexibilities and safeguards to minimize costs.

(d) Technical and economic studies of comparable greenhouse gas emissions reduction measures implemented in other states and any other studies as determined by the commission.

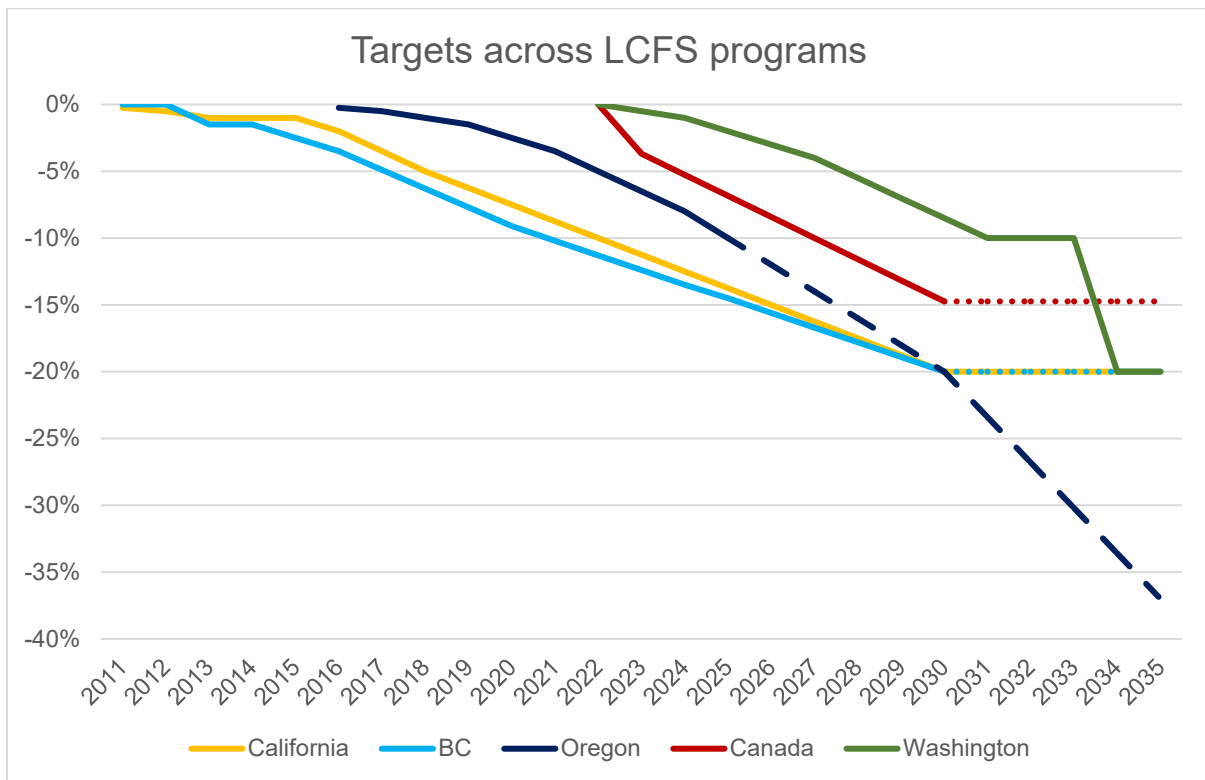
DEQ considered the following recent studies of comparable greenhouse gas emissions reduction measures as part of its process in recommending the current amendments to the Clean Fuels Program:

- UC Davis: Status reviews of the California, Oregon, and BC LCFS:
<https://lowcarbonfuelstandard.sf.ucdavis.edu/status-reviews>
- UC System: Driving California's Transportation Emissions to Zero (2021):
<https://escholarship.org/uc/item/3np3p2t0>
- Washington Clean Fuel Standard analysis (2022):
<https://ecology.wa.gov/DOE/files/22/22790fe6-fc3a-414d-b3ba-036af0975258.pdf> and:
<https://ecology.wa.gov/DOE/files/6d/6dacedee-c99e-40ab-beb1-72356976057a.pdf>

(3) [...T]he low carbon fuel standards of other states for the purpose of determining schedules and goals for the reduction of the average amount of greenhouse gas emissions per unit of fuel energy and the default values for these reductions for applicable fuels.

The graphic below shows the current status of several jurisdictions that have or are planning to implement a low carbon fuel standard.

- California (yellow): The targets for 2011 – 2030 are shown in the solid line and the 2030 target continues beyond that. The California Air Resources Board has begun to discuss increasing their targets but that rulemaking will not occur until after the adoption of the latest Scoping Plan in 2023.
- British Columbia (light blue): The targets for 2011 – 2030 are shown in the solid line and the 2030 target continues beyond that. The British Columbia Ministry of Energy, Mines and Low Carbon Innovation has begun to discuss increasing their targets and plans to conduct a rulemaking in 2023.
- Oregon (dark blue): The targets for 2016 – 2025 are shown in the solid line and the proposed targets for 2026-2035 are shown in the dashed line.
- Canada (red): The Canadian federal program is slated to begin in 2023 and their targets for 2023 – 2030 are shown in the solid line and the 2030 target continues beyond that.
- Washington (green): The Washington program is slated to begin in 2023 and their targets are still in rulemaking. The proposed targets for 2023 – 2034 are shown in the solid line.



This chart shows that Oregon’s proposal is in line with other jurisdictions through 2030. Other jurisdictions generally have not yet fully analyzed their programs beyond that point. As noted

above, both California and British Columbia will begin discussions about their future targets soon.

Along with the annual carbon intensity reduction targets, it is also important to understand the starting point or default values for the targets. The chart below provides that information for gasoline and diesel for each jurisdiction:

	Baseline Year	Gasoline	Diesel
Oregon	2015	98.62 gCO ₂ e/MJ	99.64 gCO ₂ e/MJ
California	2010	99.44 gCO ₂ e/MJ	100.45 gCO ₂ e/MJ
British Columbia	2010	94.76 gCO ₂ e/MJ	88.14 gCO ₂ e/MJ
Canada	2022	95.00 gCO ₂ e/MJ	93.00 gCO ₂ e/MJ
Washington	2022	98.52 gCO ₂ e/MJ	100.02 gCO ₂ e/MJ

Rules Summary

As OAR 166-500-0040(1)(g) requires, the following tables are included to provide a brief summary of the proposed new rules and existing rules affected by this rulemaking.

OAR Chapter 340, Division 12

Rule Number	Rule Title	Explanation
-0054	Air Quality Classification of Violations	This rulemaking adds additional classifications of CFP rule violations and clarifies existing classified rule violations.
-0135	Selected Magnitude Categories	This rulemaking revises magnitude categories for existing CFP classified violations and sets magnitude categories for newly classified CFP violations.
-0140	Determination of Base Penalty	This rulemaking revises base penalty amounts for Clean Fuels Program violations.

OAR Chapter 340, Division 253

Rule Number	Rule Title	Explanation
-0010	Overview	This rulemaking updates this section with the program's new targets and also updates the references to the program's statutory authorization to reflect where it is currently enrolled in the Oregon Revised Statutes.
-0040	Definitions	This rulemaking updates existing and adds new definitions.
-0060	Acronyms	This rulemaking updates existing and adds new acronyms.
-0100	Oregon Clean Fuels Program Applicability and Requirements	This rulemaking updates the regulated party applicability for the addition of new regulated fuels when their carbon intensity exceeds the standards. It also creates new notification requirements upon the change of ownership and control, and other housekeeping changes.
-0200	Regulated and Clean Fuels	This rulemaking adds a list of fuels that will transition to being a regulated fuel after initially being a clean fuel.
-0250	Exemptions	This rulemaking clarifies and updates the documents required to claim volumes of fuel that are going to an exempt fuel user.
-0310	Regulated Parties: Providers of Gasoline, Diesel,	This rulemaking updates the regulated parties to include providers of fuels that will become regulated fuels when their carbon

	Ethanol, Biodiesel, Renewable Diesel, and Blends Thereof, and Other Regulated Fuels	intensity is greater than that of the applicable clean fuel standard. This rulemaking also simplifies the requirements for regulated liquid fuel compliance obligations. These are not substantive changes but rather reformats the structure of the regulation.
-0320	Credit Generators: Providers of Compressed Natural Gas, Liquefied Natural Gas, Liquefied Compressed Natural Gas, and Liquefied Petroleum Gas	This rulemaking makes conforming changes to this section for the transition of fuels from clean fuels to regulated fuels.
-0330	Credit Generators: Providers of Electricity	This rulemaking adds electric ground support equipment's credit generator and makes some housekeeping updates. It also clarifies who can claim credits for certain electric vehicles to make administration of the program easier for DEQ and credit generators.
-0340	Credit Generators: Providers of Hydrogen Fuel or a Hydrogen Blend	This rulemaking clarifies who can generate credits for hydrogen forklifts.
-0400	Carbon Intensities	This rulemaking adds requirements to track of the use of renewable thermal certificates and makes a number of housekeeping changes.
-0450	Obtaining a carbon intensity	This rulemaking adds requirements for renewable natural gas fuel producers to make contractual arrangements with the purchaser of the physical gas to avoid double-counting and requirements for the use of renewable thermal certificates. It also makes a number of housekeeping changes.
-0460	Energy Economy Ratio-Adjusted carbon intensity applications	This rulemaking makes a number of housekeeping changes.
-0470	Determining the Carbon Intensity of Electricity	This rulemaking makes a number of housekeeping changes.
-0480	Separate Violations	This rule clarifies that each illegitimate credit and each deficit that a party does not

		comply with is a separate violation of the rules of this division.
-0500	Registration	This rulemaking adds details to the fuel supply equipment registration process and makes a number of housekeeping changes.
-0600	Recordkeeping	This rulemaking clarifies and creates new requirements for book and claim reporting for renewable electricity and renewable natural gas and makes a number of housekeeping changes.
-0620	Oregon Fuels Reporting System	This rulemaking makes a number of housekeeping changes.
-0630	Quarterly Reports	This rulemaking creates a new administrative process for DEQ to add new transactions for reporting. These are limited to transactions that do not expand what must be reported, but refine the detail for existing reporting requirements. It changes the reporting deadline for the Q3 report and also makes a number of housekeeping changes.
-0640	Specific Requirements for Reporting Under This Division	This rulemaking expands and clarifies reporting requirements for a number of situations. It creates the reporting requirements for using renewable thermal certificates for book and claim renewable natural gas claims. It creates an attestation requirement for electricity reporting. It also makes a number of housekeeping changes.
-0650	Annual Compliance Report	This rulemaking adds details to the report correction process including in cases where the corrections affect credit or deficit balances from prior reporting years. It also makes a number of housekeeping changes.
-0670	Authority to Suspend, Revoke, or Modify	This rulemaking makes a number of conforming changes for changes to the carbon intensities and other values contained in EER-adjusted pathways and others.
-1000	Credit and Deficit Basics	This rulemaking makes a number of housekeeping changes.
-1005	Transacting Credits	This rulemaking adds requirements on what must be reported to the agency when a credit transfer is being conducted and makes a number of housekeeping changes.
-1010	Fuels to Include in Credit and Deficit Calculation	This rulemaking makes a number of housekeeping changes.

-1020	Calculating Credits and Deficits	This rulemaking adds the new concept of Additional Crediting and the procedures to implement them and makes a number of housekeeping changes.
-1030	Demonstrating Compliance	This rulemaking makes a number of housekeeping changes.
-1040	Credit Clearance Market	This rulemaking makes a number of housekeeping changes.
-1055	Public Disclosure	This rulemaking makes a number of housekeeping changes.
-1100	Advance Crediting	This rulemaking adds eligibility for hydrogen vehicles and equipment and charging equipment that is funded by the federal National Electric Vehicle Infrastructure formula program. It also makes a number of housekeeping changes.
-2100	Forecasted Fuel Supply Deferral	This rulemaking makes a number of housekeeping changes.
-8010	Tables	This rulemaking adds 10 years to the explicit targets in Tables 1 through 3 to reflect the program's new proposed targets of a 20% reduction by 2030 and 37% by 2035. It also adds a new EER in Table 7 for eGSE.

Statement of Need

The categories below follow the order of description above in the summary of proposed changes but with some additional detail.

Proposed Rule or Topic	Discussion
Expansion of the carbon intensity reduction targets	
What need would the proposed rule address?	The Clean Fuels Program has been successfully implemented for over six years now and is nearing the end of its original 10-year carbon intensity reduction targets. Expansion and extension of the targets will build on this progress and further reduce the carbon intensity of transportation fuels beyond 2025.
How would the proposed rule address the need?	This rulemaking proposes new targets for the next 10 years and beyond which will build on the program's success and further reduce greenhouse gas emissions.
How will DEQ know the rule addressed the need?	Regulated parties are required to meet the targets on an annual basis through the submission of quarterly and annual reports which DEQ reviews to determine compliance with the program's regulations.
Updates to the rules for violating the Clean Fuels Program requirements	
What need would the proposed rule address?	Over the past six years, DEQ has worked with registered parties to comply with the many requirements of the program. Many of the violations that have occurred have not been specified in Division 12 which creates uncertainty as to what the proper corrective action and/or civil penalty should be.
How would the proposed rule address the need?	This rulemaking proposes updates to Division 12 that are needed to accurately reflect the types of violations that are occurring.

Proposed Rule or Topic	Discussion
How will DEQ know the rule addressed the need?	CFP staff will work with the Office of Compliance and Enforcement to assess violations of the program and propose corrective actions and/or civil penalties.
Updates to existing provisions with minor impact	
Clarify who the eligible entity is to generate credits for several categories of alternative fuel vehicles	
What need would the proposed rule address?	In the current rules, credits can be generated by either the owner or operator of some categories of alternative fuel vehicles. While the intent was to maximize the opportunity to generate credits and not strand them, this has caused some confusion amongst the registered parties.
How would the proposed rule address the need?	This rulemaking proposes to establish a single credit generator for each category to eliminate the confusion.
How will DEQ know the rule addressed the need?	Only one entity will be allowed to generate the credits for each category upon the effective date of the proposed rules.
Adding clear requirements for changes of ownership, control, or bankruptcy	
What need would the proposed rule address?	There have been many changes in ownership or control amongst the registered parties, sometimes leaving DEQ and their business partners unaware and out of compliance.
How would the proposed rule address the need?	This rulemaking proposes to clarify the requirements that a registered party must satisfy if there is a change of ownership, control, or bankruptcy.
How will DEQ know the rule addressed the need?	Upon such change, the registered party will notify DEQ.
Other updates to existing provisions with minor impact	
What need would the proposed rule address?	The current rules contained errors or language that was unclear.

Proposed Rule or Topic	Discussion
How would the proposed rule address the need?	This rulemaking proposes several changes that would correct those errors and provide additional language to make the requirements clearer.
How will DEQ know the rule addressed the need?	DEQ will reach out to the registered parties and provide additional technical assistance on each of the updates.
Updates to existing provisions with moderate impact	
Establishing a new energy economy ratio for electric ground service equipment	
What need would the proposed rule address?	Without an energy economy ratio, credits cannot be generated from electric ground service equipment.
How would the proposed rule address the need?	This rulemaking proposes to establish an energy economy ratio such that electric ground service equipment can generate credits.
How will DEQ know the rule addressed the need?	Owners of the chargers that supply electricity to electric ground service equipment will report how much electricity is used each quarter to generate credits.
Establish a clear definition of ocean-going vessels that are eligible to generate credits under the existing EER	
What need would the proposed rule address?	The current rule does not define what size of ocean-going vessel needs to be in order to generate credits so both small and large vessels have been doing so, when the original intent was that only large vessels generate credits.
How would the proposed rule address the need?	This rulemaking proposes a definition which incorporates size and power specifications in order to be eligible to generate credits.
How will DEQ know the rule addressed the need?	Only vessels that meet the new definition will be allowed to generate the credits upon the effective date of the proposed rules.

Proposed Rule or Topic	Discussion
Expanding the advance crediting provision to all zero emission technologies	
What need would the proposed rule address?	Currently, the advance crediting provision are limited to certain electric vehicles.
How would the proposed rule address the need?	This rulemaking proposes to expand the advance crediting provision to electric vehicle charging projects that are funded by the Bipartisan Infrastructure Law and, separately, for hydrogen fueling infrastructure and hydrogen fuel cell vehicles.
How will DEQ know the rule addressed the need?	Project developers may submit an application for advance credits to be granted for the newly-eligible projects. Upon approval, DEQ may distribute advance credits to the expanded eligible projects.
Allow for additional credits to be generated post-third-party verification	
What need would the proposed rule address?	In 2018, DEQ established requirements that the largest fuel pathway holders must have their annual fuel pathway reports be verified by a third party. Even though the verified pathways were lower than their approved pathways, the pathway holders could not retroactively generate any additional credits.
How would the proposed rule address the need?	This rulemaking proposes to allow for additional credits to be generated after a third party has verified that operating data shows that the carbon intensity for the previous year was lower than was approved.
How will DEQ know the rule addressed the need?	Upon completion of third-party verification, DEQ may distribute additional credits to the account of the fuel pathway holder in the amount of the difference between the verified and the approved pathway given the number of gallons that had been transacted in the previous year.

Proposed Rule or Topic	Discussion
Require electronic tracking of the environmental attributes associated with renewable natural gas	
What need would the proposed rule address?	As the use of renewable natural gas has grown, there was a growing concern that multiple parties may be claiming the same environmental attributes (renewable thermal credits).
How would the proposed rule address the need?	This rulemaking proposes to require that renewable natural gas that generates credits must be retired through an electronic registry to ensure that the environmental attributes (renewable thermal credits) are counted only once.
How will DEQ know the rule addressed the need?	Suppliers of renewable natural gas will have to submit proof that the fuel was entered and retired through a registry for renewable thermal credits.
Housekeeping changes	
What need would the proposed rule address?	The current rules contain numbering, spelling, punctuation, or grammatical errors that need to be corrected.
How would the proposed rule address the need?	This rulemaking proposes several changes that would correct those errors.
How will DEQ know the rule addressed the need?	DEQ will reach out to the registered parties and provide additional technical assistance on each of the changes.

Rules Affected, Authorities, Supporting Documents

Lead division

Office of Greenhouse Gas Programs

Program or activity

Oregon Clean Fuels Program

Chapter 340 actions

Adopt				
340-253-0680				
Amend				
340-012-0054	340-012-0135	340-012-0140	340-012-0150	340-253-0000
340-253-0040	340-253-0060	340-253-0100	340-253-0200	340-253-0250
340-253-0310	340-253-0320	340-253-0330	340-253-0340	340-253-0400
340-253-0450	340-253-0460	340-253-0470	340-253-0500	340-253-0600
340-253-0620	340-253-0630	340-253-0640	340-253-0650	340-253-0670
340-253-1000	340-253-1005	340-253-1010	340-253-1020	340-253-1030
340-253-1040	340-253-1055	340-253-1100	340-253-8010	

Statutory Authority - ORS				
468.020	468.130	468A.266	468A.268	468A.277

Statutes Implemented - ORS				
468.020	468.130	468A.265 through 277		

Legislation

House Bill 2186 (2009), Senate Bill 324 (2015), House Bill 2017 (2017)

Documents relied on for rulemaking

Please also see the list of documents DEQ relied on in developing the fiscal impact and racial equity statements.

Document title	Document location
CFP Expansion 2022 Rulemaking materials, Dec. 2021 through May 2022	https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx
Long Term Illustrative Compliance Scenarios, Oct. 2020 through April 2021	https://www.oregon.gov/deq/ghgp/cfp/Pages/longtermICS.aspx
Modeling Expected Air Quality Impacts of Oregon’s Proposed Expanded Clean Fuels Program, April 2022	https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx
Oregon Low Carbon Fuel Standards: Advisory Committee Process and Program Design, January 2011	https://www.oregon.gov/deq/ghgp/cfp/Pages/Guidance-Documents.aspx

Fee Analysis

This rulemaking does not involve fees.

Statement of Fiscal and Economic Impact

The Oregon Clean Fuels Program is a technology-neutral, market-based regulatory approach to reduce carbon pollution from transportation fuels and promote the commercialization of innovative low-carbon alternative and conventional fuels. The program does not mandate the use of any particular type of fuel or technology. Instead, it creates a performance standard to reduce the average carbon intensity of fuels delivered to Oregon. The program allows for many strategies to be employed for meeting the clean fuel standards by giving each regulated party the flexibility to consider its particular circumstance, perspective and business needs when devising its own strategy to meet the standard.

Fiscal and economic impact of the proposed updates

This fiscal and economic impact statement is limited to the impact of the proposed rule changes contained in this rulemaking; it does not re-assess the existing CFP. The proposed rules involve the expansion of the carbon intensity reduction targets through 2035 and updates to numerous provisions of the CFP.

The categories below follow the order of description above in the summary of proposed changes.

1. Setting future targets – This proposed change would have significant fiscal and economic impact as the program works to transition the state’s fuels towards cleaner options. The increased standards will support the transition of the vehicle fleet away from internal combustion engines to zero emission vehicles and push the remaining gasoline and diesel engines towards renewable substitutes. The program’s long-term targets provide transportation fuel market participants a better understanding of the future regulatory environment, the economic incentives created by the program, and the opportunity to better plan for the transition that is ahead.
2. Updates to rules for enforcement of violations of the Clean Fuels Program – These proposed changes only have fiscal impact if a party violates the rules and are therefore outside the scope of this fiscal and economic impact analysis.
3. Updates to existing provisions
 - a. Updates with minor impact – These updates are mostly administrative in nature or provide clarity to existing language and therefore do not have significant fiscal and economic impacts.
 - b. Updates with moderate impact
 - i. New EER for electric ground service equipment - This proposal will have a positive fiscal and economic benefit to the owner of the charger that will be able to generate credits from the deployment of these vehicles, most likely an airport or airline. DEQ is unable to anticipate the number of EVs that will take advantage of this proposal.

- ii. Modify eligibility for credit generation such that only large ocean-going vessels can generate credits - This proposal will have minor fiscal and economic impact for smaller vessels who are currently generating credits but will not be eligible as of January 1, 2023, unless they can apply for a new EER. DEQ does not have the data to anticipate the number of small vessels that will be impacted by this proposal.
 - iii. Advance crediting for all zero emission technologies – This proposal will have slight positive fiscal and economic benefit to the fleets that participate in this provision. The impact is slight since the advancing of credits effectively is a loan rather than granting extra credits. Since the cap on the number of advance credits that can be generated has not been increased, DEQ does not anticipate that the number of fleets that apply will increase but they might be spread between electric and hydrogen fuel cell fleets.
 - iv. Require electronic tracking of renewable natural gas claims – This proposal will have a moderate fiscal and economic impact since parties reporting renewable natural gas will have to pay to be part of a registry, but that cost is minor compared to the revenue from generating the credits. Currently, there are 4 parties that report transaction of renewable natural gas and they might be impacted by this proposal if they continue to do so in the future.
 - v. Allow for additional credits to be generated post-verification – This proposal will have a positive fiscal and economic benefit for pathway holders whose verified carbon intensity is lower than their approved carbon intensity. DEQ is unable to anticipate the number of pathway holders that will be impacted by this proposal.
4. Housekeeping updates - These proposed changes do not have fiscal and economic impact.

Direct costs of complying with the proposed targets

The increasing targets will increase the number of deficits that are generated by a given volume of fossil fuel. It also decreases credit generation from the same volume of low-carbon fuel. For a producer or provider of high-carbon fuels, there will be an increase in deficit obligations under this program if they continue to operate their business as usual and do not make changes in response to the proposed changes in this program.

There is no quick or easy way to estimate the possible future cost of compliance with the proposed targets due to the many variables involved, but one way to approach it is to estimate the maximum number of deficits in 2035 assuming that fuel providers only make the changes modeled in the illustrative compliance scenario. We believe that the assumptions in the illustrative compliance scenario are still reasonably conservative and therefore believe that this maximum possible impact likely significantly overestimates the direct costs of compliance. Drawing from the Long-Term Illustrative Compliance Scenarios², approximately 5,443,520 deficits will be generated in 2035 in the 37% scenario.

² <https://www.oregon.gov/deq/ghgp/Documents/cfpIlluCompScenD.pdf>

The following table presents the possible cost of complying with the future targets using three different credit prices - \$100 and \$150 that represent a range around the current market price of \$125, and \$230.43 which is the maximum allowed in the 2022 Credit Clearance Market. The maximum price of 2035 CCM will be adjusted for inflation, but the following table is presented in current dollars without an adjustment for inflation between now and 2035.

The cost of compliance is simply the number of deficits multiplied by each of the credit price:

Number of Deficits in 2035	Maximum Estimated Cost of Compliance		
	\$100 per credit	\$150 per credit	\$230.43 per credit (2022 CCM price)
5,443,520	\$ 544,352,000	\$ 816,528,000	\$ 1,254,350,314

There isn't sufficient data or the ability to accurately predict future behavior to determine how much lower than this maximum estimated cost of compliance the actual cost will be. The potential cost can vary widely based on a number of factors, from the inherently volatile crude oil prices to various agricultural markets, and the rate of adoption of alternative vehicle technologies.

In order to comply, the regulated parties need to acquire and retire credits against those deficits. They can generate credits themselves by providing low-carbon fuels or they can purchase them from other registered parties. In this case, the value paid for credits ultimately goes to the parties that generate credits in the program which means that these dollars are not lost to the economy but are invested within the transportation fuel market.

The regulated parties in this program often are among its largest credit generators because of the biofuels they purchase, import, or produce. Increasingly so, they are investing more in other low-carbon fuels such as electric vehicle chargers and renewable natural gas projects as the market transitions away from fossil fuels. Several petroleum refineries have already begun co-processing or completely converting to renewable feedstocks in order to transition to producing renewable fuels.

Benefits from Reducing Tailpipe Air Pollutants

DEQ contracted with UC Davis researchers to model the expected impacts for the proposed expansion of the Clean Fuels Program, both in tailpipe emissions and health outcomes. The modeling indicates that the proposed expansion of the CFP is likely to produce a significant air quality benefit. This aligns with the prevalent consensus within transportation and air quality research literature: displacing petroleum-based transportation fuels for non-petroleum alternatives typically yields improved air quality.

The modeling also shows that the proposed targets are likely to yield significant reductions in health impacts, primarily through the reduction of vehicular PM when compared to a modeled business-as-usual. An estimate of \$84 - \$87 million dollars of annual net health

benefits are realized from avoiding premature deaths that includes the financial cost of air pollution health impacts and additional disease burden.

While not calculated in this study, there are additional reductions in other criteria pollutants such as nitrogen oxides, carbon monoxide, and volatile organic compounds that have associated cost savings and health benefits.

Indirect Costs to Fuel Consumers

Switching to non-petroleum fuels buffers consumers from crude oil price shocks due to market or weather or geopolitical factors, which can have a significant economic effect for both those consumers and the overall economy. In the absence of efforts to diversify the fuels that Oregon consumes, consumers and the state economy are at the mercy of oil price shocks. As more of the state moves away from fossil gasoline and diesel, the impacts from oil price shocks will become more muted, benefiting both consumers and the state.

That said, DEQ can estimate how the clean fuels standards are affecting the price of traditional gasoline and diesel fuels. ORS 468A.271 requires DEQ to annually calculate the average cost or cost-savings of the Clean Fuels Program per gallon of gasoline (E10 – a blend of 90% gasoline and 10% ethanol) and per gallon of diesel (B5 – a blend of 95% diesel and 5% biodiesel). It is difficult to quantify with any certainty what the future price of fuels will be in the future due to the uncertainty in the costs of fuels themselves and the highly volatile nature of variables involved in that calculation which are susceptible to many risks.

The approach specified in ORS 468A.271 uses three pieces of information: 1) the carbon intensity of the fuel, 2) the clean fuel standard for the year and 3) the average price of credits for the year.

Here is the equation for that calculation:

$$Cost \left(\frac{\$}{gal} \right) = \left[(fuel\ CI) - (Std) \frac{gCO_2e}{MJ} \right] * (ED) \frac{MJ}{gal} * \left(\frac{1\ ton}{1,000,000\ grams} \right) * \frac{\$(CP)}{ton}$$

Where CI: carbon intensity of the fuel in gCO₂e per MJ

Std: gasoline or diesel standard in a given year in gCO₂e per MJ

ED: energy density of the fuel in MJ per gallon

CP: credit price in dollars per ton

Following are the resulting calculations of the impact of the CFP on fuel prices in cents per gallon for E10 and B5 in the years 2017 through 2021, taking into consideration the costs of obtaining credits to offset deficits. This chart also provides the amount of reductions in greenhouse gas emissions achieved in those years:

Year	GHGs reduced	Avg E10 CFP cost	Avg B5 CFP cost
2017	926,000 tonnes	0.23 cent/gallon	0.31 cent/gallon
2018	976,000 tonnes	0.98 cent/gallon	1.13 cent/gallon
2019	1,275,000 tonnes	2.57 cents/gallon	2.94 cents/gallon

2020	1,318,000 tonnes	3.71 cents/gallon	4.24 cents/gallon
2021	1,472,000 tonnes	5.09 cents/gallon	5.80 cents/gallon

Both costs and cost savings need to be considered. As the proposed targets increase, credit prices are likely to increase and regulated parties will likely turn to higher blends of low-carbon fuels as a cost-effective compliance strategy or even switching entirely from a fossil version to a renewable version of a fuel. For example, switching from a higher-carbon fuel to a lower-carbon fuel can lower your fuel costs by a substantial amount assuming 2021 average credit price of \$125³. The following table is presented in current dollars.

This is what you would typically get	This is a lower carbon option	CFP credits bring the cost down by
B5 (5% soybean)	B20 (20% used cooking oil)	24 cents/gal
	R99 (99% soybean)	95 cents/gal
Compressed Natural Gas (fossil)	Renewable Natural Gas (landfill gas)	39 cents/therm
	Renewable Natural Gas (dairy manure biogas)	\$4.35/therm

The credits generated by electricity and renewable natural gas are often enough to cover a significant fraction of the cost of that fuel, or all of it, which, assuming those benefits are passed through to consumers (just as we assume above that increased costs are passed through) would significantly lower the cost of that fuel.

As the program progresses, and the clean fuel standards get more stringent, there is a need for additional credits to be retired against the increasing number of deficits that fossil gasoline and diesel generate. However, the consumption of deficit-generating fuels will also be decreasing due as a result of this program, as well as complementary policies such as the Zero Emission Vehicle regulations for light-, medium-, and heavy-duty vehicles. That will have a moderating effect by requiring fewer overall credits needed by the Clean Fuels market.

It is important to note that credit prices are another important variable that are not known for future years. Credit prices in any given year are set by the market and based on the relative demand for credits against the deficits that are generated; the greater the difference, the higher the likely CFP credit price will need to be depending on the relative cost of the low-carbon fuels.

In order to present what the impact might be to fuel costs, we can use the same calculation prescribed in ORS 468A.271 and use the credit prices that are required in the Credit Clearance Market (CCM), a cost containment mechanism included in the program. That

³ <https://www.oregon.gov/deq/ghgp/cfp/Pages/Monthly-Data.aspx>

maximum price is established as \$200 in 2017 dollars and increased annually for inflation. The current credit price of \$125 (2022 dollars) is also used to show a range of potential costs.

Credit Prices	Proposed Targets	Imported Finished Gasoline (E10)	Imported Finished Diesel (B5)
CCM price	2030	47 cents per gallon	53 cents per gallon
	2035	87 cents per gallon	99 cents per gallon
Current Market Price	2030	29 cents per gallon	33 cents per gallon
	2035	55 cents per gallon	62 cents per gallon

There are several ways that this calculation is an overestimation:

- Decreasing demand for gasoline and diesel is likely to lower their prices over time.
- The credits generated by biofuels will increase the blend rates and help lower the retail cost of those fuels. The blend rates of biofuel to petroleum fuel are already increasing and will likely continue to increase dramatically over the next several years.
- As Washington’s Clean Fuels Standards come into effect starting in 2023, the blended gasoline and diesel fuels that Oregon receives from Washington will likely begin to decrease in carbon intensity and generate fewer deficits.

CFP also has a series of cost containment provisions to ensure parties are not adversely impacted, including an emergency deferral mechanism for short-term fuel supply shortages, the annual fuel supply forecast and deferral in the event of a longer-term fuel supply concern, and the Credit Clearance Market which provides a de facto cap on the price of credits. Collectively, these provisions help ensure that the program will not have any sudden or significant changes in prices for regulated parties or consumers.

Cumulative economic and fiscal impact of the proposed rules

Oregon has seen worsening air quality from wildfires⁴ that are becoming more frequent, intense, and longer-lasting due to global warming⁵, in addition to its other effects on snowpack, heat waves, and local climates that harm the health of our residents and the state’s economy.

No single jurisdiction or action can arrest climate change on its own but working collaboratively can have a big impact. This rulemaking is occurring alongside similar efforts in our neighboring jurisdictions (California, Washington, and British Columbia) to decarbonize their economies. Similarly, Oregon’s state agencies are working collaboratively on a portfolio of actions to achieve the state’s climate goals.

At a high level, the proposals contained in this rulemaking will expand the market for low-carbon fuels which would be a significant benefit to the parties that provide them. It will

⁴ <https://www.oregon.gov/deq/wildfires/Documents/WildfireSmokeTrendsReport.pdf>

⁵ Oregon Fifth Climate Change Assessment Report, Oregon Climate Change Research Institute: <https://oregonstate.app.box.com/s/7mynjzhda9vunbzqib6mn1dcpd6q5jka>

also increase the obligation of deficit-generating high-carbon fuels and the costs associated with them. The scenario analysis performed by DEQ's consultant shows that the effect of the expanded 2035 target will reduce tailpipe greenhouse gas emissions by about half from roughly 20 million metric tons CO₂e per year to 10.55 million metric tons by 2035. Using the most recent federal estimate⁶ of the social cost of carbon in 2035, and using a 2.5% discount rate, the cost per ton is \$96 per metric ton so the value of this reduction in emissions is \$916 million dollars. When this is added to the avoided health costs, the benefits of an expanded Clean Fuels Program nearly offset even the highest estimate of compliance costs.

Relationship to other programs

The evaluation contained in this document considers the potential effects of the proposed expansion of the CFP without assuming that other greenhouse gas reduction programs and policies could moderate them. To any extent that other existing (or future) programs effectuate reductions in greenhouse gas emissions from transportation fuels, that could lower the estimated costs and benefits of the CFP discussed in this document.

For example, the recently adopted Climate Protection Program, which covers essentially all of the same fossil fuels covered by the CFP (as well as other fossil fuels such as natural gas used in buildings), requires a reduction in greenhouse gas emissions from those fuels of 50% by 2035. While CPP regulates tailpipe emissions, CFP regulates lifecycle emissions. DEQ modeling indicates that the proposed 37% reduction in lifecycle greenhouse gases in 2035 would equate to almost exactly a 50% reduction in tailpipe greenhouse gases.

So, the already adopted CPP may require similar reductions as the proposed CFP expansion. This could suggest the adoption of this proposed expansion could come at no additional cost beyond costs that will already be incurred to comply with the CPP. However, DEQ believes it is important to look at this proposal itself, and identify the costs and benefits it could incur without discounting for the likelihood that required compliance with other programs could moderate the effects analyzed and disclosed in this document.

Statement of Cost of Compliance

Oregon Department of Environmental Quality

For DEQ, implementing these proposals will require new processes for: 1) auditing retirement records for renewable natural gas transactions; 2) extending advance crediting to hydrogen fuel cell vehicles and fueling infrastructure; and 3) calculating additional credits for post-verification adjustments. Implementing the remainder of these rule changes will require outreach, engagement, and ongoing implementation work with the parties in the program. DEQ does not have additional resources planned for implementing these rules.

⁶ Available from the White House: https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf. A more significant update is expected this year.

Other state agencies and local governments

Other state agencies and local governments are consumers of transportation fuels, and included in the fiscal and economic impact as described in the section above describing the Indirect Costs to Fuel Consumers. They may also be participants in the program as many of them own electric vehicle chargers and generate credits from the electricity they dispense.

Public

The public are consumers of transportation fuels, and the fiscal and economic impact to the public is described in the section above describing the Indirect Costs to Fuel Consumers. The public also benefits from the reduction of tailpipe emissions as described above.

Large businesses - businesses with more than 50 employees

Currently, approximately 220 entities are registered to participate in the Clean Fuels Program. Of those, approximately 60 are registered as regulated parties and the remaining are credit generators and aggregators. Approximately 95 percent are large businesses and are a mix of fuel producers and distributors, electric utilities, electric vehicle charging station owners, and local governments.

For those who provide deficit-generating fuels, the proposed expansion of the targets will have a significant fiscal and economic impact on them. The traditional blend of gasoline and diesel will generate more deficits and the regulated parties will need to acquire and retire more credits to comply with the proposed targets. For those who provide credit-generating fuels, the proposed expansion of the targets will have a significant fiscal and economic benefit as the demand their fuels and the credits they generate increases and credit prices may rise due to that. This is described in more detail in the section above.

Additionally, the proposed updates described in Categories 2 – 4 above would have a minor to moderate fiscal and economic impact depending on how many of those provisions affect an individual party and are described above.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 Cost of Compliance Effect on Small Businesses

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

Approximately five percent of participants in the Clean Fuels Program are small businesses. They fall into two categories of businesses: local fuel distribution companies and companies that are registered as an aggregator to assist larger companies in reporting data and managing credit transactions.

2. 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 offer mostly minor updates to existing requirements. For both categories of small fuel distributors, there are no additional requirements for reporting,

recordkeeping or other administrative activities including costs of professional services for small businesses.

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

The proposed rules offer mostly minor updates to existing requirements and have no additional requirements for equipment, supplies, labor or administration for small businesses.

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

The rulemaking advisory committee contained members of the small business community.

Documents relied on for review of fiscal and economic impact

Listed below are the documents relied on to determine fiscal impact, in addition to the similar list in the section above.

Document title	Document location
List of CFP registered parties	DEQ 700 NE Multnomah St. STE 600 Portland OR 97232
Clean Fuels Program 2022 Expansion Rulemaking web page	https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rcfpe2021.aspx

Advisory committee review of fiscal and economic impact

As ORS 183.333(3) 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 to reduce that impact.

The committee members were asked to review and provide comment on the draft fiscal and economic impact statement and their comments are also summarized in the RAC #4 meeting summary and submitted written comments. The comments, both written and orally delivered at the meeting, encompassed:

- Quantifying health benefits from replacing diesel and gasoline
- Quantifying the economic benefits of decreasing Oregon’s exposure to volatile gasoline and diesel prices
- Stating that the federal social cost of carbon calculation is an underestimate given recent climate impacts, including those within the state over the last two years

- The geographic availability of liquid renewable fuels and higher blends within the state given the existing distribution system
- The impact of lower liquid fuel sales over time affecting the economics of gas stations and regulated entities in the program
- The ability of the electrical system and utilities to meet the increased demand for electric vehicles
- The calculation of indirect costs to fuel consumers or businesses and how to account for inflation in those costs.

DEQ considered all the comments received as it drafted this notice and have provided some responses here:

- DEQ agrees with stakeholders that commented that the assessment of the health and social cost of carbon estimates are conservative in that the health impact study focused on a single year and that a year-by-year analysis would have higher anticipated health benefits.
- DEQ does not have the data, such as detailed fuel price forecasts for fossil fuels, renewable fuels, and electricity, that is needed to create a more specific estimate of the economic benefit to the state of lessening our dependence on gasoline and diesel.
- DEQ agrees with stakeholders that commented that the federal social cost of carbon calculation is underestimated given recent climate impacts, including those within the state over the last two years.
- DEQ believes that the lack of widespread geographic availability of liquid renewable fuels and higher blends is a transitory issue that will improve as the targets increase.
- DEQ does not have the data to forecast to what extent the decrease in liquid fuel consumption will affect the number of gas stations in the state.
- DEQ notes the concern around the ability and cost of the electrical system to charge increasing number of electric vehicles, but that the Public Utilities Commission and other energy regulatory and utility planning processes are accounting for increased demand from EVs.
- DEQ notes that the economic and fiscal impact for this rulemaking is largely presented in current dollars, as there are a range of different expectations of rates of inflation in the future.

Racial Equity Impact Statement

The scope of this racial equity impact statement is the proposed program expansion in this rulemaking; it does not re-assess the existing CFP. The proposed rules involve the expansion of the carbon intensity reduction targets through 2035 and changes to numerous provisions of the CFP. Each change or new provision may have an individual impact while also having an overall, cumulative impact.

Pollution from the transportation sector is the largest contributor of greenhouse gases and most criteria pollutants to the air in Oregon. While the CFP is primarily a lifecycle greenhouse gas reduction strategy, the lower-carbon fuels that replace the high-carbon ones also reduce tailpipe emissions and can be a highly effective strategy to address the localized impacts of air pollution. Communities that are adjacent to or near transportation facilities and corridors are disproportionately impacted by those emissions and are traditionally lower-income and have a higher percentage of Black, indigenous, and other residents who are people of color. These communities with environmental justice concerns have been historically overburdened by transportation emissions and expansion of the program's targets will benefit these most vulnerable Oregonians by decreasing the air pollution to which they are exposed.

These communities subjected to environmental injustice are being impacted by climate change first and hardest⁷, as evidenced by last year's heat wave. Climate change and air pollution represent additional cumulative impacts that exacerbate the disparities between different racial groups in Oregon. Lower-income Oregonians are disproportionately non-white⁸, and are less able to adapt to hotter summers, increasing pollution from wildfires, and are more likely to work in frontline occupations. Frontline workers, and especially those that work outdoors such as farmworkers, who are majority-Latin American in Oregon, bear disproportionate exposure to the negative impacts of climate change and worsening air quality.

The UC Davis study on the Air Quality Impacts of Oregon's Proposed Clean Fuels Program Changes clearly signal that the health of Oregonians will benefit from the expansion of the program. The study shows a clear air quality improvement in the vicinity of major roadways and that disadvantaged communities, including lower-income and BIPOC populations are more likely to live near major roadways and be exposed to vehicle pollution.

Given the results of the study, the CFP is clearly working to mitigate many of the issues listed above and could have a positive impact on racial equity. For example, many transit agencies are looking to electrify their buses and provisions in CFP will make that less costly and accelerate that fleet conversion. In the short-term, those diesel buses can also transition from petroleum diesel to renewable diesel and reduce tailpipe emissions. Both actions will

⁷Oregon Health Authority Climate and Health in Oregon report: <https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/CLIMATECHANGE/Documents/2020/Climate%20and%20Health%20in%20Oregon%202020%20-%20Full%20Report.pdf>

⁸ US Census Bureau's American Community Survey, <https://data.census.gov/cedsci/table?q=United%20States&t=Income%20and%20Earnings&g=0400000US41&tid=ACSST5Y2020.S1903>

benefit the communities who rely more heavily on public transit and live near their depots. Similarly, many school districts are looking to electrify their school buses, or switch from petroleum diesel to renewable diesel, or even from fossil propane to renewable propane. The reduction in pollution will greatly benefit the school-aged children who take those buses, the drivers, and the community where they serve.

DEQ is also keenly aware that switching from a gasoline or diesel-powered vehicle is costly and low-income Oregonians may be delayed in that transition. While an expanded CFP will add to the cost of gasoline and diesel, it also creates incentives for higher blends of biofuels that will bring down the cost of those fuels. Higher gasoline and diesel costs will disproportionately impact lower income Oregonians but increasing the availability of lower-cost alternatives can also benefit those same communities. E15 can be used in most cars and B20 in most trucks with no changes and both will be cheaper than the E10 and B5 that is currently mandated. Renewable diesel will also be able to replace petroleum diesel completely at a competitive cost. Other DEQ programs such as the Charge Ahead Rebate and Clean Vehicle Rebate Program are aimed at lowering the cost of electric vehicles to low- and moderate-income Oregonians while CFP works with electric utilities and charging service providers to bring down the cost to fuel them.

As described above, there are costs associated with having to comply with the proposed targets, but there are also significant benefits too. As such, DEQ finds that the proposed rules will impact racial equity in the state, both positively and negatively. Throughout the development of the proposed rules, DEQ has attempted to design the changes to maximize the benefits and mitigate the costs.

Advisory committee review of racial equity impact

DEQ asked for the committee's input on how adoption of this rule will affect racial equity in this state.

The committee members were asked to review and provide comment on the draft racial equity impact statement and their comments are also summarized in the RAC #4 meeting summary and submitted written comments. The comments, both written and orally delivered at the meeting, encompassed:

- The transition to cleaner fuels and vehicles may be costly, which may have a racial equity impact
- Communities of color are disproportionately impacted by climate change
- Communities of color are disproportionately located near transportation corridors and impacted by transportation-related air pollution, the displacement of fossil gasoline and diesel for cleaner fuels will have a benefit for those communities
- Increased heat will affect these communities, increased transportation electrification demands on the grid will cause more brownouts and blackouts

DEQ considered all the comments received as it drafted this notice. For the last bullet, DEQ notes that Oregon's utilities, the Public Utility Commission, and other energy regulators are responsible for maintaining the reliability of the electrical system.

Documents relied on for review of racial equity impact

Below are the documents relied on to determine racial equity impact, in addition to the similar lists in the two sections above.

Document title	Document location
Long Term Illustrative Compliance Scenarios, Oct. 2020 through April 2021	https://www.oregon.gov/deq/ghgp/cfp/Pages/longtermICS.aspx
Modeling Expected Air Quality Impacts of Oregon's Proposed Expanded Clean Fuels Program, April 2022	https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx

Federal Relationship

Relationship to federal requirements

ORS 183.332, 468A.327 and OAR 340-011-0029 establish that DEQ should attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are “in addition to federal requirements” since there are no federal regulations that require the reduction in the average lifecycle content of greenhouse gases in transportation fuels. The proposed rules protect the environment and residents of Oregon by reducing greenhouse gas emissions.

What alternatives did DEQ consider if any?

In designing the Clean Fuels Program, DEQ considered many alternatives contained in the proposed rule. Input from advisory committees in 2010, 2012, 2014, 2015, 2016, 2017, 2018, 2020, and 2021 and extensive outreach with affected stakeholders throughout the process informed the design of the Oregon Clean Fuels Program. Documentation is in the rulemaking record.

Land Use

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR chapter 340, division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
 - Resources, objectives or areas identified in the statewide planning goals, or
 - Present or future land uses identified in acknowledged comprehensive plans

To determine whether the proposed rules involve programs or actions that affect land use, DEQ reviewed its Statewide Agency Coordination plan, which describes the DEQ programs that have been determined to significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal - Title

5 - Open Spaces, Scenic and Historic Areas, and Natural Resources

6 - Air, Water and Land Resources Quality

9 - Ocean Resources

11 - Public Facilities and Services

16 - Estuarial Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules are not expected to significantly affect land use under OAR 660-030-0005 because the proposed amendments are not reasonably expected to have significant effects on either: (a) resources, objectives or areas identified in the statewide planning goals; or (b) present or future land uses identified in acknowledged comprehensive plans.

EQC Prior Involvement

DEQ shared information about this rulemaking with the EQC in:

- An informational item “Oregon Clean Fuels Program updates” on May 19, 2021
- An informational item “Clean Fuels Program updates” on Nov. 18, 2021
- An informational item “Climate and transportation programs overview” on July 21, 2022

Advisory Committee

Background

DEQ convened the CFP Expansion 2022 Rulemaking Advisory Committee. The committee included representatives from entities involved in and impacted by the Clean Fuels Program. The committee met four times. The committee's web page is located at: <https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx>.

The committee members were:

Name	Affiliation
Maya Kelyt	3 Degrees
Dan Bowerson	Alliance for Automotive Innovation
Mark Bunch	bp
Floyd Vergara	Clean Fuels Alliance America
John Thornton	Clean Future
Victoria Paykar	Climate Solutions
Michael Graham	Columbia Willamette Clean Cities Coalition
Mason Murphy	Confederated Tribes of Umatilla
Nick Staub	Ed Staub
Jason Heuser	EWEB
Lindsay Fitzgerald	Gevo
Jeff Rola	Go Bio
Alex Schay	NW Alliance for Clean Transportation
Nora Apter	Oregon Environmental Council
Mike Freese	Oregon Fuels Association
Jana Jarvis	Oregon Trucking Association
Matt Solak	Pacific Propane Gas Association
Greg Alderson	PGE
David Breen	Port of Portland
Curtis Powers	REG
Michelle Detwiler	Renewable Hydrogen Association
Sam Wade	RNG Coalition
Jessica Hoffman	RPMG
Jeremy Martin	Union of Concerned Scientists
Sergio Lopez	Verde
Jim Verburg	Western States Petroleum Association

Meeting notifications

To notify people about the advisory committee's activities, DEQ sent a GovDelivery bulletin, a free e-mail subscription service, to the Oregon Clean Fuels subscribers to describe how to participate in the advisory committee process.

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On June 28, 2022, filing notice with the Oregon Secretary of State for publication in the July Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: <https://www.deq.oregon.gov/rulemaking/Pages/cfp2022.aspx>;
- Emailing 20,873 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - Oregon Clean Fuels Program
- Emailing the following key legislators required under [ORS 183.335](#):
 - Speaker Rayfield
 - Representative Marsh
 - Senate President Courtney
 - Senator Lieber
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Public Hearing

DEQ held one public hearing. DEQ received nine comments at the hearing. Later sections of this document include a summary of the nine comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding Officer's Record

Date	July 19, 2022
Place	Zoom (online web conference)
Start Time	9:08 a.m.
End Time	9:40 a.m.
Presiding Officer	Rachel Fernandez, Office of Greenhouse Gas Programs

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to put their name in the chat.

96 people attended the hearing via webinar. Nine people commented orally.

List of Commenters who Provided Oral Comment	
Commenter	Organization
Kathy Moyd	League of Women Voters of Oregon
Vee Payker	Climate Solutions
Matt Miyasato	First Element
Jim Verburg	Western States Petroleum Association
Oscar Garcia	Neste
Tom Van Heeke	Rivian
Patrick Dawson	PineSpire
Nora Apter	Oregon Environmental Council
Todd Trauman	eMission Control

Summary of Public Comments and DEQ Responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from June 28, 2022, until 4 p.m. on July 21, 2022.

For public comments received by the close of the public comment period, the following table organizes comments into 36 categories with cross references to the commenter number, and DEQ's response. Original comments are posted on the rulemaking web page and are on file with DEQ.

DEQ made changes to some of the proposed rules in response to comments and they are described in the responses.

Unique Comments Received by Commenter		
Commenter #	Name of Commenter(s)	Organization
1	Veronice Torina	
2	Keith Wilson	Titan Freight Systems
3	Lindsey Maser	
4	Johnny Geldhof	
5	Joseph Stenger	
6	Paul Rozenberg	Suburban Propane
7	Alex Schay	NW Alliance for Clean Transportation
8	Mike Freese	Oregon Fuels Association
9	Julia Pommert	
10	Rebecca Gladstone	League of Women Voters of Oregon
11	Maria Nazzaro	
12	Richenda Fairhurst	Ecumenical Ministries of Oregon
13	Deborah Clark	
14	Dan Frye	Metro Climate Action Team
15	Steve Katz	
16	Scott Shurtleff	EcoFaith Recovery
17	Tracy Farwell	Better Energy
18	Evan Neyland	Chargepoint
19	Pat DeLaquil	DecisionWare Group
20	Margaret Bowman	
21	Harriet Cooke	
22	Jason Bushman	Rinchem Company
23	Karen Harrington	Climate Reality Portland
24	Janie Kilgore	POET

Unique Comments Received by Commenter		
Commenter #	Name of Commenter(s)	Organization
25	Kristin Henningson	Valero
26	Zepure Shahumyan	PacifiCorp
27	Greg Alderson	Portland General Electric
28	Dave Burns	Red Trail
29	Laura Tabor	The Nature Conservancy in Oregon
30	Ma'n Altaher	Smart Charging Technologies
31	Ryan Huggins	Pinespire
32	John Duff	National Sorghum Producers
33	Tom Van Heeke	Rivian
34	Tim Miller	Oregon Business for Climate
35	Matt Solak	Pacific Propane Gas Association
36	Oscar Garcia	Neste
37	Gary Kay	Cargill
38	Natalie Nax	EVCA
39	Shelby Neal	Darling Ingredients
40	Lucas Grimes	Center for Resource Solutions
41	Kellye Dundon	NW Natural
42	Maya Kelty	3Degrees
43	Ira Dassa	Airlines for America
44	Joseph Cannon	Anew Climate
45	Linda Ganzini	Lake Oswego Sustainability Network
46	Cathy Zheutlin	Peace Films Inc.
47	Kent Hartwig	Chevron REG
48	Floyd Vergara	Clean Fuels Alliance America
49	Nora Apter	Climate Solutions, NW Energy Coalition, Oregon Environmental Council, Union of Concerned Scientists
50	Vincent Morales	RNG Coalition
51	Elaine O'Byrne	e-Mission Control
52	Matt Miyasato	First Element Fuel
53	Chris Bliley	Growth Energy
54	Tim Bielenberg	Oak Lea Dairy
55	Rupesh Sansgiri	North West Handling Systems
56	Mary Peveto	Neighbors for Clean Air
57	Jane Stackhouse	
58	Linda Craig	
59	David Gardner-Dale	Novohydrogen
60	Annie Gilleo	Stripe, Charm Industrial, Vesta, CarbonBuilt, Noya, Ebb Carbon, Origen, CarbonCure, Running Tide, Lithos Carbon, 44.01, Remora

Unique Comments Received by Commenter		
Commenter #	Name of Commenter(s)	Organization
61	Jessica Hoffmann	RPMG
62	Jim Verburg	Western States Petroleum Association
63	Martin Desmond	
64	Evan Rosenberg	SRECTrade
65	Steve Vander Haak	FPE Renewables
66	Miki Barnes	
67	Julie Witcover	UC Davis

Submitters of Form Comments			
A Michael Dianich	Nora Polk	Joseph Stenger	Derek Severson
Aaron Dukes	Paige Matheson	Josh Manders	Diana Bailey
Adam Kane	Pascal Matheis	Joshua Munger	Diana Mitchell
Adama Hamilton	Patricia Fields-Modig	Juanita Rinas	Diana Pace
Adrienne Kringen	Patricia Hine	Judith Lienhard	Diana Saxon
Alan Hanson	Paul Agrimis	Jules & Renee Elias	Diane Black
Albert LePage	Pauline Jackson	Jules Moritz	Diane Chavez
Alex Bauman	Peg Reagan	Julie Masters	Diane Kekule
Alex Censor	Peggy Macko	Julie Richards	Diane Luck
Alice West	Perry Callas	Justin Overdevest	Dianna Pounder
Alison Duren-Sutherland	Perry Gx	Karen Austin	Dolores Matthys
Allison Everitt	Peter Geiser	Karen Deora	Donna Jean Sharp
Angela Gusa	Phi Quillian	Karen Harrington	Donna Kinney-Dobbins
Anita Melbo	Phil Houston Goldsmith	Karen Heinemann	Donna Tate
Ann Nowicki	Philip Ratcliff	Karen O'Neill	Dorethea Simone
Anna Cowen	Phillip Callaway	Karen Smith	Dorothy Tharsing
Anna Salvatierra	Phyllis Chavez	Karol Dietrich	Douglas Peterson
Annie Capestany	Randall Nerwick	Katherine Wolfe	Dresden Skees-Gregory
Arthur Farley	Randy Harrison	Kathleen Mitchell	Dwight Long
Arthur Mitchell	Rebecca Clark	Kathleen Taylor	Edgar Brandt
Audrey DeKam	Regina Pirruccello	Kathleen Worley	Edward Necker
Audrey Piacsek	Richard Bowden	Kathy Foster	Eileen Gillson
Audrey Romeo	Richard Dolgonos	Katsuyuki Shibata	Eileen Stark
Aurelia Phillips	Richard Pross	KB Mercer	Eileene Gillson
Austin Kopsa	Rick Espenscheid	Ken Barker	Elise Pellegrino
B Greene	Rob Fullmer	Ken Brinich	Elizabeth Eggers
Barb Burwell	Rob Kugler	Kerry Canfield	Elizabeth Kinevey-Gump
Barbara Fankell	Robert Bresky	Kevin Brown	Ellen Banks
Barbara Leicht	Robert Thornhill	Kevin Kasowski	Ellen Levine
Barbara Rizzo	Robin Stalcup	Kiaya Sabolovic	Elyce Benham

Basey Klopp	Robin Weage	Kieran Nolan	Emily Platt
BC Shelby	Roger Schmidt	Kim Hosford	Emily Start
Beara Edmonds	Ron Pernick	Kirsten Lee	Emily Swenson
Ben Basin	Rona Homer	Kris Nelson	Emlyn Stenger
Benjamin Ben-Baruch	Rosalie Kelly	Kriss Wright	Emma DeFontes
Beppie Shapiro	Ross Huffman-Kerr	Krista Reynolds	Eric Strid
Beth Levin	Rowan Everard	Kristin Smith	Evan Reynolds
Betty Shelley	Rufus Knapp	Kyle Elwood	Farrah Chaichi
Bill Harris	Ryan DePauw	L Nagel	Fern Keely
Bill Martin	S Cook	La Dory	Florence Harty
Bill O'Brien	Salme Armijo	Larry Morningstar	Frank Boyle
Brenda Allison	Sandra Joos	Laura Stevenson	Frank J Perruccio
Brent Rocks	Sandy Thompson	Laurel Winter	Gail Melhado
Bret Kimple	Sara Smith	Lawrence Dunlap	Garlynn Woodsong
Brian Bucknam	Sara Willes	Leonard Bottleman	Gary Camp
Brian Stewart	Sarah Ryan-Knox	Linda Cook	Gary Krause
Bryce Donovan	Savel Sabol	Linda McGavin	Gayle Highpine
Brynn Johnson	Scott Kennedy	Linore Blackstone	Georgia Roelof
C Simard	Sean Leslie	Lisa Caine	Gerald Turner
Cam Turner	Shannon Hunter	Liya Mar	Gleb Garshin
Candace Turtle	Shannon Mayorga	Lorraine Foster	Grace McGuire
Carol Mathews-Ayers	Sharon Burge	Lynn Cardiff	Greg Radich
Carver Akiteru Oblander	Sharyl Beattie	Lyric Apted	Gret Rowe
Cassie Wilson	Spencer Woolley	Marc Silverman	Gwen Stone
Cathie Kwasneski	Stacy Taeuber	Marcel Liberge	Hana Sant
Cathy Lewis-Dougherty	Stephanie Hampton	Margaret Robinson	Heidi Hart-Zorin
Cathy Tinker	Stephanie Leschber	Marianne Nelson	Helen Anderson
Catie Faryl	Stephen Bachhuber	Marilyn Bergen	Helen Jaskoski
Charles Hottle	Stephen Bernal	Marilyn Costamagna	Helen Jones
Charlie Graham	Stephen Bomber	Marilyn Dunham	Helen Moissant
Charlie Weiss	Stephen Johnston	Marin Palmer	Hilary Conway
Charlotta Ball	Stephen Lezak	Marissa Wolfheart	Hilary Tiefer
Cheri Laos	Steve Garrett	Mark Scantlebury	Hillary Tiefer
Cherine Bauer	Steve Hanrahan	Mark Wheeler	Ian Shelley
Chip Hall	Steve Wilson	Marney Reed	Ilene Moss
Chiquita Rollins	Steven Schafer	Martin Donohoe	Ineke Deruyter
Chris Bray	Stevyn Llewellyn	Mary Bosch	Inga Fisher Williams
Chris Clark	Sue Hartford	Mary Boyer	J Schlacter
Chris Tebben	Sue Leonetti	Mary Buckley	James Barton
Chris Washington	Sunny Tabino	Mary McGaughey	Jamie Shields
Christopher Pitt	Susan Delles	Mary Minahan Miller	Jan Bargaen
Christopher Stimson	Susan Haywood	Mary Pritchard	Jana Gray
Christopher Wilson	Susan Heath	Mary Ryan-Hotchkiss	Jane Bartosz
Chuck Gehling	Susan Rives-Denight	Mary Thiel	Jane Heisler
Cierra Buer	Susan Tanabe	Mary Wallace	Janell Brittain
Colleen Taylor	Susan Thompson	Marygail Sullivan	Janet Klein
Colonel Meyer	Susan Wechsler	Matt Riley	Jasmine Saavedra

Craig Heverly	Suzanne Butterfield	Matthew Smith	Jay Humphrey
Craig Loftin	Tamara Stephas	Maureen McCarthy	Jean Murphy
Craig Marburger	Tammy King	Maureen O'Neal	Jean Shirkoff
Cynthia Enlow	Tanya Schaefer	Maya Hurst-Mayr	Jean Svadlenka
Cynthia Irvine	Taran Nadler	MayaLisa Holzman	Jeanne St Pierre
Dale Engle	Teresa Schader	Meagan Golec	Jeffrey Koutroulis
Dana Bleckinger	Teter Kapan	Megan Cunningham	Jeffrey Lu
Dana Visse	Thomas Mugglestone	Mel Scott	Jeffrey Sage-Lauck
Dana Weintraub	Thomas Wicks	Melanie Kimple	Jennifer Fujii
Danell Norby	Thor Hinckley	Melissa Carr	Jeremy Fox
Daniel Jokelson	Timothy Grim	Melissa Hathaway	Jess DePew
Daniel Smith	Timothy Scerra	Melissa Rowe Soll	Jess Kimball
Dave Ruud	Todd Corbett	Meredith Connolly	Jessica Treon
David & Ingrid Cook	Tom Civiletti	Merry Ann Moore	Jim Greeg
David Bekermeier	Tonya Stiffler	Michael Herbert	Jim Hartman
David Collier	Tracy Richards	Michael Hill	Jim Steitz
David Cowlshaw	Val Snyder	Michael Renfrow	Jo Ferneau
David Medford	Val Valo	Michael Seager	Jo Hannan
David Muller	Valerie Snyder	Michelle Collins	Joan Kalvelage
David Nichols	Valory Mitchell	Michelle Jordan	Joan Walker
David Pagano	Vic Bostock	Mikeal Jones	Jody Kim-Eng
Dean Sigler	Victoria Conway	Monica Gilman	Joel Rosenblit
Debra Lohry	Victoria Eells	Myron Boswell	Joel Schoening
Debra Lutje	Victoria Stoppiello	Nadia Gardner	John Dodge
Debra Moore	Victoria Wingell	Nancy Carl	John Dwyer
Debra Rehn	Virginia Fortna	Nancy Dudley	John Livingston
Debra Smith	Walt Mintkeski	Nancy Engel	John Nettleton
Debra Wilson	Wayne Owen	Nancy Friel	John Paul
DeeDee Demes	Wendy Holzman	Nancy Hedrick	John Shaw
Delphine Busch	Wesley Stoker	Nancy Stamm	John Tangney
Dena Turner	William Bradbury	Natalie Van Leekwijck	John Valley
Denine Heinemann	William Musser	Nathan Derr	John Wadsworth
Denise Lytle	Windy Holm	Neilia Pierson	John Wood
Denise Smith	Winona Runyon	Niall Carroll	Jordan Hiller
Derek Gendvil	Zora Hess	Nikki Dennis	Jorge De Cecco

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
2 Quarter Requirement	As written, the regulatory language does not allow for fuel suppliers to meet this reporting requirement under current supply chain logistics and terminal operations (i.e., there is no apparent mechanism to notify DEQ if a tank has been fully turned over). In addition, DEQ would have no ability to verify reported information. WSPA urges DEQ to simplify the regulatory language in this section. Considering that CFP credits do not expire, it appears unnecessary to treat fuel that was created earlier in the year differently from fuel created more recently. Furthermore, tracking volumes by fuel pathway code at the individual storage tank level is unnecessary and adds complexity to an already complex program with no benefit. Managing these inventories for each reporting entity in aggregate achieves the same level of compliance assurance.	62	The rule language does not require reporting when a tank has been turned over under normal circumstances, it only requires a showing to DEQ in cases where fuel is being traded or exported two or more quarters after it was initially reported to the program. The proposed language is similar to what is required in the California LCFS.
Additional Crediting	Support the proposal for post-verification issuance of additional credits if the operational CI is at least 1 gram lower than the certified CI	50, 61	Thank you for your comment.

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
Advance Crediting	DC Fast Charging should be eligible for advanced crediting in all cases, not just when it is receiving federal funding	18, 33, 38	At this time, DEQ proposes to limit the eligibility of entities who can apply for advance crediting projects until it can assess interest in this provision and the agency's ability to manage these projects with its limited resources. After an initial implementation period, DEQ will re-assess whether to expand this provision.
Advance Crediting	Advance Crediting should be allowed for all propulsion technologies that reduce GHG emissions below the current CFP target	7	At this time, DEQ proposes to limit the eligibility of entities who can apply for advance crediting projects until it can assess interest in this provision and the agency's ability to manage these projects with its limited resources. After an initial implementation period, DEQ will re-assess whether to expand this provision.
Advance Crediting	Support adding eligibility for Hydrogen vehicles and fueling equipment, but private fleets should also be eligible for advance crediting.	52	At this time, DEQ proposes to limit the eligibility of entities who can apply for advance crediting projects until it can assess interest in this provision and the agency's ability to manage these projects with its limited resources. After an initial implementation period, DEQ will re-assess whether to expand this provision.
Advance Crediting	Requests clarification around the only allowing advance credits for hydrogen with a CI of 117gCO ₂ e/MJ or below. Is this CI static for the life of the program? Why is this the only pathway with a stated CI value for advance credit generation?	41	DEQ proposed that projects seeking advance credits using hydrogen must have a CI of 117 gCO ₂ e/MJ or lower to qualify. This value was established to align with the carbon intensity value for renewable natural gas used in steam methane reformation.
Advance Crediting	Support adding hydrogen to advance crediting, but would prefer to see the thresholds set or a	10	At this time, DEQ proposes to limit the eligibility of entities who can apply for advance crediting projects until it can assess interest in this provision and the agency's ability to

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
	specific requirement so only hydrolysis-based hydrogen is eligible.		manage these projects with its limited resources. After an initial implementation period, DEQ will re-assess whether to expand this provision.
Advance Crediting	Advance crediting should be allowed for all alternative fuel pathways	41	At this time, DEQ proposes to limit the eligibility of entities who can apply for advance crediting projects until it can assess interest in this provision and the agency's ability to manage these projects with its limited resources. After an initial implementation period, DEQ will re-assess whether to expand this provision.
Aggregators	Support the streamlining of the aggregator designation language in the credit generator rules	42	Thank you for your comment.
Aggregators	Recommend that DEQ revise its proposed process for aggregator transitions as outlined in 340-253-0100(3)(c) to only require notification from the designator, rather than from both the designator and the aggregator.	42	At this time, DEQ would like to receive notification from both parties. It will be reviewed at the future rulemaking.
Alternative Jet Fuel	DEQ should consider a multiplier for crediting for alternative jet fuel	36	Credits are statutorily defined as representing a single ton of emissions reduced against the standard. Therefore, credits cannot be issued when there is no documentation to support actual emissions were reduced.
Alternative Jet Fuel Standard	Encourages ODEQ to accelerate by two years (i.e., move up to 2023 from 2025) the point in time at which credit parity would exist under the CFP between AJF and renewable diesel.	43	The alternative jet standard is designed to follow the rate of decline of the diesel standard.

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
Aviation fuels	Please expand the clean fuels program to include aviation fuels, especially leaded aviation gasoline.	66	DEQ has determined that it is not yet appropriate to mandate regulation of aviation fuel under the program, but is proposing to allow lower carbon alternative jet fuel to earn credits under the program.
Book and Claim	Hydrogen, synthetic methane, and any other gas that can be injected into a common carrier pipeline to produce renewable thermal credits (RTCs) should be eligible for book and claim accounting.	41	As the CFP regulates transportation fuels, the carbon intensity calculations of the program are specific to the drivetrains that use the fuel in question. Allowing Renewable Thermal Credits to be used to swap different forms of energy would result in errors in the carbon intensity calculations of the program.
Carbon Capture and Sequestration	DEQ should allow for CCS in pathway applications	24, 53	Under the current regulation, DEQ allows for CCS through approval of a protocol in a Tier 2 pathway application but has yet to approve one. DEQ will work with the applicant on details of a protocol when their application is processed.
Carbon Capture and Sequestration	Liability for CCS projects should have a short time period, similar to the IRS's 45Q tax credit program. It should also allow for a recapture period.	24	Under the current regulation, DEQ allows for CCS through approval of a protocol in a Tier 2 pathway application but has yet to approve one. DEQ will work with the applicant on details of a protocol when their application is processed.
Carbon Capture and Sequestration	DEQ should allow for CCS projects where the captured CO2 goes to a beneficial reuse.	24, 53	Under the current regulation, DEQ allows for CCS through approval of a protocol in a Tier 2 pathway application but has yet to approve one. DEQ will work with the applicant on details of a protocol when their application is processed.
Carbon Capture and Sequestration	DEQ should specify a CCS measurement and quantification protocol for fuel production facilities	28	Under the current regulation, DEQ allows for CCS through approval of a protocol in a Tier 2 pathway application but has yet to approve one. DEQ will work with the applicant on details of a protocol when their application is processed.

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
Carbon Capture and Sequestration	DEQ should recognize the North Dakota class VI permit program for carbon capture and sequestration in a CCS protocol	28	Under the current regulation, DEQ allows for CCS through approval of a protocol in a Tier 2 pathway application but has yet to approve one. DEQ will work with the applicant on details of a protocol when their application is processed.
Carbon Capture and Sequestration	DEQ should allow retroactive credit generation for fuel produced by a facility with CCS	28	DEQ believes that the additional crediting concept could apply to a fuel production facility with CCS, if adopted in this rulemaking.
Carbon Intensity	If DEQ denies the use of a lookup table CI value for hydrogen because it believes the operational CI may be higher than the CI value, it should be required to provide applicable data or analysis to the applicant that show why DEQ believes that.	41	DEQ will work with parties to determine the most appropriate CI values for hydrogen-based projects.
Carbon Intensity	The CI of natural gas should reflect the decarbonization schedule in the Climate Protection Program, and the ability of a natural gas utility to procure lower-carbon natural gas from certified, responsibly sourced gas suppliers	41	The carbon intensity of fossil natural gas is calculated using OR-GREET and is updated periodically. As more lower-carbon natural gas enters Oregon, the approach will be to calculate the carbon intensity of those new sources, not adjust the fossil natural gas value. DEQ will monitor the impact of compliance with the Climate Protection Program and propose adjustments to CFP if it is warranted.
Carbon Intensity Reduction Targets	Support the proposed targets of 20% and 37%	1, 2, 3, 4, 9, 10, 11, 15, 18, 31, 33, 34, 36, 38, 39, 45, 47, 59, 61	In proposing the carbon intensity targets beyond 2025, DEQ analyzed what vehicles are likely to be present through 2035 and what fuels they will be using. The analysis was grounded in current law and regulations and followed trends for existing fuels in the market. These fuels meet current environmental and performance standards and are safe and available. Further, this

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
			rulemaking builds on previous rulemakings where the Environmental Quality Commission has already considered the impacts of the program on net reduction of greenhouse gas emissions and cost-effectiveness; potential adverse impacts to public health and the environment; safety, feasibility, etc. Expanding the targets through 2035 increases the benefits of the program such as reduction of greenhouse gas emissions and reduces the potential adverse impacts to public health.
Carbon Intensity Reduction Targets	Support higher targets than the proposed 20% and 37% targets	5, 13, 14, 16, 19, 20, 21, 23, 27, 46, 56, 57, 58	In proposing the carbon intensity targets beyond 2025, DEQ analyzed what vehicles are likely to be present through 2035 and what fuels they will be using. The analysis was grounded in current law and regulations and followed trends for existing fuels in the market. These fuels meet current environmental and performance standards and are safe and available. Further, this rulemaking builds on previous rulemakings where the Environmental Quality Commission has already considered the impacts of the program on net reduction of greenhouse gas emissions and cost-effectiveness; potential adverse impacts to public health and the environment; safety, feasibility, etc. Expanding the targets through 2035 increases the benefits of the program such as reduction of greenhouse gas emissions and reduces the potential adverse impacts to public health.

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
Carbon Intensity Reduction Targets	Support the targets in EO 20-04 of 20% and 25%. CI reductions of 37% below 2015 goes well beyond what other states have adopted. No other state has set such aggressive reduction targets. As a result, DEQ has failed to provide the technical and economic studies of comparable economic reduction measures implemented in other states that demonstrate that the new aggressive targets are either economically viable or technologically feasible.	8, 62	In proposing the carbon intensity targets beyond 2025, DEQ analyzed what vehicles are likely to be present through 2035 and what fuels they will be using. The analysis was grounded in current law and regulations and followed trends for existing fuels in the market. These fuels meet current environmental and performance standards and are safe and available. Further, this rulemaking builds on previous rulemakings where the Environmental Quality Commission has already considered the impacts of the program on net reduction of greenhouse gas emissions and cost-effectiveness; potential adverse impacts to public health and the environment; safety, feasibility, etc. Expanding the targets through 2035 increases the benefits of the program such as reduction of greenhouse gas emissions and reduces the potential adverse impacts to public health.
Carbon Intensity Reduction Targets	Support the targets of 20% by 2030 and 45% by 2035.	49	In proposing the carbon intensity targets beyond 2025, DEQ analyzed what vehicles are likely to be present through 2035 and what fuels they will be using. The analysis was grounded in current law and regulations and followed trends for existing fuels in the market. These fuels meet current environmental and performance standards and are safe and available. Further, this rulemaking builds on previous rulemakings where the Environmental Quality Commission has already considered the impacts of the program on net reduction of greenhouse gas emissions and cost-effectiveness; potential adverse impacts to public health and the environment; safety, feasibility, etc. Expanding the targets through 2035 increases the benefits of the program such as reduction of greenhouse gas

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
			emissions and reduces the potential adverse impacts to public health.
Carbon Intensity Reduction Targets	A CI of 37% below 2015 levels may be unsafe and needs to be reviewed. DEQ's proposed reduction target fails to analyze, consider or even acknowledge whether public safety and non-urban populations will continue to have access to available and affordable technologies and fuel.	8	In proposing the carbon intensity targets beyond 2025, DEQ analyzed what vehicles are likely to be present through 2035 and what fuels they will be using. The analysis was grounded in current law and regulations and followed trends for existing fuels in the market. These fuels meet current environmental and performance standards and are safe and available. Further, this rulemaking builds on previous rulemakings where the Environmental Quality Commission has already considered the impacts of the program on net reduction of greenhouse gas emissions and cost-effectiveness; potential adverse impacts to public health and the environment; safety, feasibility, etc. Expanding the targets through 2035 increases the benefits of the program such as reduction of greenhouse gas emissions and reduces the potential adverse impacts to public health.
Carbon Intensity Reduction Targets: Alignment	Support alignment with other jurisdictions (British Columbia and California) that are working at increasing their 2030 targets.	50	DEQ is continuously monitoring programs that might impact CFP and will propose changes when it is appropriate.
Carbon Intensity Reduction Targets: Alignment	Support the targets of 30% by 2030 and 37% by 2035 as is being contemplated in California.	48, 52	DEQ is continuously monitoring programs that might impact CFP and will propose changes when it is appropriate.

Comments Received by Category with Responses			
Category	Comment	Commentor(s)	DEQ Response
Carbon Intensity Reduction Targets: Alignment	DEQ should conduct another rulemaking once California completes its current rulemaking to match California's updated CI targets	36	DEQ is continuously monitoring programs that might impact CFP and can propose changes when it is appropriate.
Carbon Intensity Reduction Targets: Don't	Extending the clean fuels standards is wrong because biogenic CO2 is still emitted, and crops are diverted to biofuels.	17	The Clean Fuels Program has proven to be an effective policy to reduce greenhouse gas emissions from transportation fuels.
Carbon Intensity Reduction Targets: Electrification	DEQ should work to ensure that as much of the CI targets as possible are met through electrification	5, 13, 19, 49, 56	In proposing the expanded targets, DEQ assumed compliance with several electric vehicle regulations including SB 1044 and the Advanced Clean Trucks rule.
Civil Penalties	Support the provision that each deficit not complied with or each illegitimate credit is a separate violation under the program rules	10	Thank you for your comment.
Credit Generation	DEQ should allow for carbon removal technologies, both those connected to and not connected to a fuel pathway, to be eligible for crediting in the program	60	DEQ may consider this topic in a future rulemaking.
Credit Generation	DEQ should consider allowing renewable diesel going to railroads and stationary generators to generate credits	36	DEQ may consider this topic in a future rulemaking.
Credit Trading	DEQ should facilitate exchange trading of CFP credits	64	DEQ may consider this topic in a future rulemaking.
Definitions	The proposed rules define forklifts as a vehicle that "...Is used to move and lift cargo and goods by means of	64	DEQ has modified the definition to include all Class I - III forklifts as defined by the US OSHA.

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	pronged device Inserted under the load." This definition might unnecessarily exclude lifts that do not employ pronged devices such as Class II Code 6: Low Lift Platforms, Class III Code 1: Low Lift Platforms, Class III Code 3: Tractors, and Class III Code 6: High Lift Platforms.		
Definitions	DEQ should add the following forms of electricity generation to the definition of renewable hydrogen: geothermal, tidal, wave, and hydropower	36	DEQ has removed the definition of renewable hydrogen initially proposed in this rulemaking.
Definitions	The definition of Renewable Hydrogen should be expanded to allow for renewable fuel gases.	62	DEQ has removed the definition of renewable hydrogen initially proposed in this rulemaking.
Displacement Credit	Consider when the displacement credit for EVs may need to be phased out for vehicle segments that have become plurality or majority EVs, for example with forklifts	67	DEQ will continue to assess the make-up of all vehicle populations as electrification advances to determine when/if the baseline vehicle has transitioned from an internal combustion engine to an electric drive train and the displacement credit is no longer appropriate.
Economic and Fiscal Impact Statement	The current fiscal impact statement has an extremely conservative view of the health and jobs benefits of the program, and the costs are an overestimate	5, 14, 23, 46	DEQ agrees with the assertion that overall, the benefits may be underestimated and the costs may be overestimated in the fiscal and economic impact analysis. DEQ provided a range of anticipated benefits in the fiscal and economic impact analysis. DEQ did not attempt to quantify job creation due to the Clean Fuels Program and as such, the benefits may be underestimated. DEQ also provided a range of anticipated costs in the fiscal and economic impact analysis, including

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			a high end cost of clean fuels credits represented by the price required in the Credit Clearance Market. DEQ did not attempt to forecast actual credit prices and as such, the costs are likely overestimated. When assessing the fiscal and economic impact of a 37% carbon intensity reduction target in 2035, the potentially overestimated costs are likely nearly covered by the potentially underestimated benefits; and it is more likely that the benefits will outweigh the costs associated with an expanded CFP.
Economic and Fiscal Impact Statement	The fiscal impact statement is overly conservative in its calculation of benefits and should be revised. DEQ should calculate the cumulative health benefits from the program, especially because of the dirtier diesel engines that emit more in the earlier years of the program. The fiscal should also account for reduced co-pollutants at other points in the fuel lifecycle, not just at the tailpipe. The social cost of carbon value used is an extremely conservative estimate of the social cost of carbon, especially in light of recent climate-fueled disasters such as last years heatwaves and the state's recent wildfire seasons. DEQ should update the FIS to reflect the substantial job and economic benefits of	49	DEQ agrees with the assertion that overall, the benefits were underestimated and the costs were overestimated in the fiscal and economic impact analysis. DEQ provided a range of anticipated benefits in the fiscal and economic impact analysis. DEQ did not attempt to quantify job creation due to the Clean Fuels Program and as such, the benefits are underestimated. DEQ also provided a range of anticipated costs in the fiscal and economic impact analysis, including a high end cost of clean fuels credits represented by the price required in the Credit Clearance Market. DEQ did not attempt to forecast actual credit prices and as such, the costs are overestimated. When assessing the fiscal and economic impact of a 37% carbon intensity reduction target in 2035, the overestimated costs are nearly covered by the underestimated benefits; and it is more likely that the benefits will outweigh the costs associated with an expanded CFP.

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	reducing emissions, including job loss prevention, avoided future business closures, reduced health care costs, and sustaining Oregon's natural resource economy.		
Economic and Fiscal Impact Statement	The fiscal impact statement should have estimated and excluded emissions reductions that may come from other adopted policies, the failure to do so makes the analysis inaccurate.	8	DEQ disagrees with the comment. As required by rulemaking procedures, the fiscal impact statement used the best available information to analyze the positive and negative fiscal impacts of this rulemaking proposal on state agencies, local governments and members of the public that may be economically affected by the proposed rules and rule amendments.
Economic and Fiscal Impact Statement	The 37% target is not cost effective.	8	DEQ disagrees with the comment. As described in the fiscal impact statement, and further described in response to other comments, above, DEQ believes the proposed standards are appropriate, achievable and cost - effective.
Economic and Fiscal Impact Statement	DEQ should calculate the anticipated cost of credits to meet the standard, and then estimate where the money generated from regulated parties will go.	8	As required by rulemaking procedures, the fiscal impact statement used the best available information to analyze the positive and negative fiscal impacts of this rulemaking proposal on state agencies, local governments and members of the public that may be economically affected by the proposed rules and rule amendments.

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Economic and Fiscal Impact Statement	We have significant concerns regarding the viability of the 37% CI target for 2035. This aspirational CI target (based solely on illustrative compliance scenario modeling) has not been subject to thorough study of impacts to not only the electricity grid, power generation capability (and resource mix), and types of vehicles, (in particular heavy-duty vehicles), but the impacts on Oregon residents have also not been factored in (as acknowledged by DEQ staff during the DEQ RAC Meeting #4). Specifically, not considered were the possible increased costs to Oregon residents for transportation and energy - from the purchase of EVs to the cost of fuels and/or electricity (for home and vehicle). WSPA requests that these impacts on Oregon residents be included in the FIS.	62	DEQ respectfully disagrees with this comment. As required by rulemaking procedures, the fiscal impact statement used the best available information to analyze the positive and negative fiscal impacts of this rulemaking proposal on state agencies, local governments and members of the public that may be economically affected by the proposed rules and rule amendments. In addition, as described in the fiscal impact statement, and further described in response to other comments, above, DEQ believes the proposed standards are appropriate, achievable and cost -effective
Economic and Fiscal Impact Statement: Inflation	Assuming a low inflation rate of 2% per year, the maximum CFP credit price in 2035 would be \$298, so the costs of the program could be as high as \$1.6 billion in 2035. If more than 5.4 million deficits are	62	DEQ elected to present the estimated costs of complying with the program in current dollars which frees the agency from forecasting for future inflation rates.

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	generated in 2035, the maximum cost would be even higher, particularly if EV adoption does not meet the projections of the illustrative compliance scenario. WSPA requests that the Fiscal Impact Statement (FIS) provide an assessment of potential program costs for circumstances beyond the low inflation rate (best case) scenario.		
Electricity: Credit Generator	Reconsider the role of automakers in the program.	33	Thank you for your comment.
Electricity: Credit Generator	Continue examining the issue of take-home fleets	33	DEQ may consider this topic in a future rulemaking.
Electricity: Credit Generator	The forklift owner is the appropriate credit generator as they have acquired the fleet of electric forklifts.	31, 44, 55	Based on the comments received, DEQ proposes to have the forklift owner be the entity to generate the electricity credits for electric forklifts as long as that entity can provide the appropriate data to document how much electricity is being consumed. If not, then the forklift operator can generate those credits.
Electricity: Credit Generator	Supports the DEQ proposal that forklift owner is the credit generator, however the added language requiring detailed usage and charging data is ambiguous as to the amount of detail needed. Suggest that wording be adjusted to "...the owner may generate the credits from each piece if they have sufficient usage information consistent with credit reporting	42, 44	Based on the comments received, DEQ proposes to have the forklift owner be the entity to generate the electricity credits for electric forklifts as long as that entity can provide the appropriate data to document how much electricity is being consumed. If not, then the forklift operator can generate those credits.

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	requirements, otherwise...”.		
Electricity: Credit Generator	The Facility Operator should be the first credit generator for electric forklifts as they operate the equipment and pay for utilities and maintenance.	22, 51	Based on the comments received, DEQ proposes to have the forklift owner be the entity to generate the electricity credits for electric forklifts as long as that entity can provide the appropriate data to document how much electricity is being consumed. If not, then the forklift operator can generate those credits.
Electricity: Credit Generator	The owner of EV charging equipment should have priority to claim credits, with an EVSE only able to generate those credits if the owner has not registered with the CFP to do so.	18, 27	For all categories other than forklifts, the current regulation designates the owner of the charger as eligible to generate the electricity credits.
Electricity: Credit Generator	The credit generator for transportation refrigeration units should be the owner of the charging equipment, as they had to pay to install the charging equipment at their warehouse. This would align with how the CFP treats non-residential charging, CHE, OGV, and the proposal for ground service equipment	30, 51	The current regulation designates the owner of the charger as eligible to generate the electricity credits.
Electricity: Credit Generator	I support the changes to the credit generators for electricity	38	Thank you for your comment.
Electricity: Credit Generator	Want to confirm that if the charging equipment owner designates an aggregator, the aggregator takes on	42	Yes, this is our intent.

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	this priority credit generation position as well.		
Electricity: Credit Generator	Automakers should be allowed to claim incremental credits if they can provide telematic data for the charging and the utility has not claimed them.	44	DEQ may consider this topic in a future rulemaking.
Electricity: eCHE	The proposed rules exclude eCHE that operate at locations other than ports and Intermodal rail yards. Please remove this exclusion from the definition of eCHE.	64	The Energy Economy Ratio for eCHE was based on equipment that was located at ports and intermodal rail yards so DEQ believes that it is appropriate that this distinction remain in the definition.
Electricity: eGSE	Support the addition of ground service equipment into the program	42, 43	Thank you for your comment.
Electricity: Green-e	We support the requirement that Green-e certification be obtained for RECs used in the program to claim a carbon intensity other than that of a grid mix	40	Thank you for your comment.
Electricity: Green-e	DEQ should remove the requirement for biogas-to-electricity RECs to undergo certification from the Green-e program	42, 50, 54, 65	DEQ's requirement to be Green-e certified allows for certain criteria to be applied and independently tracked, thus saving the agency from doing this themselves and allowing these transactions to be exempt from third-party verification.
Electricity: Metering	I support the proposed provision to allow multiple EV chargers on a single circuit or panel to use a single meter for reporting.	27	Thank you for your comment.
Electricity: RECs	We appreciate that the REC provisions in the CFP do not conflict with programs such as	27	Thank you for your comment.

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	that created by HB 2021		
Electricity: RECs	DEQ should include the definition of a REC that it proposed during the informal rulemaking process in the definitions rule	40	DEQ believes that a REC does not need to be defined in -0040.
Electricity: Revenue	Re-evaluate guidelines for credit revenue investment	33	Thank you for your comment.
Ethanol Fuel Cells	As DEQ considers policies on zero emission vehicles in conjunction with the CFP, we would strongly encourage DEQ to consider ways to further develop [bioethanol fuel cell] technology for consideration.	53	DEQ may consider this topic in a future rulemaking.
Exemptions	DEQ should not move forward with the current changes to the requirements for documenting exempt fuel use and instead allow all dyed diesel to be presumptively exempt.	8	DEQ believes the proposed changes are critical to maintaining the most accurate accounting of transportation fuel that is authorized in statute. Modifying the exemption to encompass all dyed diesel will lower the stringency of the regulation as it will exempt more fuel than was intended to be exempted in statute.
Fossil-derived hydrogen	DEQ should consider assigning fossil natural gas-derived hydrogen a higher CI score based on higher methane leakage studies, and consider putting fossil natural gas-derived hydrogen on the list of regulated fuels.	49	DEQ uses OR-GREET to determine what the appropriate carbon intensity value is for Oregon's transportation fuels. OR-GREET is updated periodically to incorporate the latest science and will be addressed in a future rulemaking.
FSE Registration	The proposed rules do not include specific equipment registration requirements for eOGV or eTRU. Please extend	64	eOGV and eTRU are registered as FSE and registration requirements can be found under 340-253-0500(5). DEQ also has a guidance document that includes how to register FSE here:

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	the registration requirements.		https://www.oregon.gov/deq/FilterDocs/cfp-regfuelsupplyeq.pdf .
General	Add any administrative procedure language for staff practices that are not currently in the regulation to the regulation	25	Many of the proposed changes in this rulemaking are to make precisely the types of updates referenced in this comment—to address issues identified by staff that were in need of further definition.
General	In order to maximize emissions reductions and co-benefits under this program, it is critical to ensure that—as the Clean Fuels Standard gets stronger—early investments in the program do not result in perverse long-term consequences. We therefore urge DEQ to be cautious not to reward early emissions reductions that may not achieve meaningful carbon intensity reductions in the future. There may be a lot of competition for RNG throughout the economy, and transportation may not be the highest and best use for these limited molecules.	49	Thank you for your comment.
General	I support the proposed changes in this rulemaking	12, 26	Thank you for your comment.
General	See written comments posted on https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx	86 commenters	Thank you for your comment.
General	See written comments posted on https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx	144 commenters	Thank you for your comment.

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	v/deq/rulemaking/Pages/cfp2022.aspx		
General	See written comments posted on https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx	11 commenters	Thank you for your comment.
General	See written comments posted on https://www.oregon.gov/deq/rulemaking/Pages/cfp2022.aspx	251 commenters	Thank you for your comment.
General	The CFP accelerates transportation electrification	27	Thank you for your comment.
General	I support a strong and robust Clean Fuels program.	63	Thank you for your comment.
Health Benefits	The program's promotion of biodiesel, renewable diesel, and alternative jet fuel will provide health benefits to the state as shown in the study we commissioned by Trinity.	48	Thank you for your comment.
Health Benefits Study	The UC Davis study did not account for existing mobile source regulations for the business as usual case, which overstates the emissions reductions attributable to the CFP.	62	The UC Davis study assessed the difference in vehicles and fleets forecasted through 2035 using the current regulations as the business-as-usual and expanded clean fuels targets.
Hydrogen: Book and claim	Appreciates the additional clarity on book and claim accounting for renewable hydrogen derived from renewable electricity or natural gas as shown in 340-253-0600(6).	52	Thank you for your comment.
Hydrogen: Book and claim	We encourage DEQ to take a logical approach in determining CI	59	Thank you for your comment.

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	scores for different pathways, updating the rule if needed, so as to not to treat power from the same source with a different CI score based on that power's use. This unreasonably disadvantages certain use cases for renewable hydrogen as a fuel.		
Hydrogen: Capacity Credits	To promote the investment in sustainable hydrogen refueling infrastructure, an additional incentive above and beyond the advanced crediting for public fleets is needed, such as California's Hydrogen Refueling Infrastructure (HRI) credit (i.e., capacity credit).	52	Credits are statutorily defined as representing a single ton of emissions reduced against the standard. Therefore, credits cannot be issued when there is no documentation to support actual emissions were reduced.
Legal Comments	The rules appear to exceed EQC's statutory authority	62	Thank you for your legal analysis, but we disagree with it. DEQ has concluded that the proposed rule amendments are within the EQC's authority to adopt the Clean Fuels Program, under ORS 468A.265 through 468A.277
Legal Comments	The Rules were drafted without evaluation of mandatory considerations	62	DEQ believes that this rulemaking is being conducted within the authority given to the Environmental Quality Commission and considering all mandatory requirements.
Legal Comments	The Rules may violate the Commerce Clause of the United States Constitution.	62	Federal courts have previously rejected arguments that the CFP, violates the U.S. Constitution. We are confident that these rules would again be upheld against such a challenge
OFRS	Allow for data to be uploaded via excel or XML	25	Quarterly report data can already be uploaded via excel or XML.

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OFRS	Making updates to the system would help parties with reporting. Examples include adding the ability to have API integrations, increased functionality of managing registration statuses and corresponding with staff under specific FSEs or RUs, verifying forklift eligibility by serial number not by location (similar to other eligible vehicle classes).	31, 64	DEQ is considering upgrades to the Oregon Fuels Reporting System and will take this comment under advisement as we proceed.
OR-GREET	DEQ should update OR-GREET	36, 37	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.
OR-GREET	DEQ should review and update the emissions factors for vessel transportation of renewable diesel and its feedstocks.	36	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.
OR-GREET: eGRID	Update GREET eGRID factors on the same timetable as the statewide grid mix.	25	DEQ does not have the necessary data to update the eGRID values on an annual basis. However, users can provide user-defined grid mix data and supporting information in Tier 2 fuel pathway applications.
OR-GREET: Tier 1 Calculator	The ethanol tier 1 calculator should allow for user-defined chemical usage.	24	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking. The fuel producer can also submit a Tier 2 fuel pathway application to address this.
OR-GREET: Tier 1 Calculator	The ethanol tier 1 calculator should allow for producers to account for the higher electricity use for modified and dry distillers grains pathways and lower electricity use for wet	24, 53	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.

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	distillers grains pathways		
OR-GREET: Tier 1 Calculator	Support adding a tier 1 calculator for biogas to electricity pathways	50	Thank you for your comment.
Pathways: Co-products	DEQ should credit a fuel producer's CI scores for coproducts not subject to the CFP that displace fossil products, for example renewable diesel used as heating oil	25	Thank you for your comment.
Pathways: Dextrose	DEQ should consider dextrose as a critical feedstock for production of biobased, renewable chemicals and products ranging from jet fuel to biodegradable plastics and review the role it plays in the lifecycle of corn wet milling process	37	Thank you for your comment.
Pathways: Electricity	Update electricity CI values to include a full LCA for EV battery production and disposal	25	The version of OR-GREET that DEQ adopted for use in the CFP does not account for the vehicle manufacturing portion of the lifecycle.
Pathways: Farm-level accounting	DEQ should allow for farm-level accounting for the feedstocks used to make biofuels, including farm practices and soil organic carbon sequestration	24, 37, 53	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.
Pathways: ILUC	Update indirect land use change factors to best available science	25, 53	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.
Pathways: ILUC	Look at updates to the ILUC values, and consider the misalignment in ILUC values for corn ethanol between Oregon and	47, 48, 67,	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.

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	other jurisdictions and the use of different models for ILUC values		
Pathways: ILUC	The ILUC value for Sorghum should be updated in line with recent studies.	32	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.
Pathways: Indirect accounting	DEQ should allow the use of indirect accounting for renewable electricity, hydrogen, and natural gas in fuel pathways.	24, 25	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.
Pathways: Lookback Period	Set a maximum lookback period for CI values, credits, and deficits where DEQ will not take action if an error is discovered beyond a cutoff date.	25	DEQ must retain the rights to correct errors that impair the integrity of the program especially if the carbon intensity values may lead to incorrect credit or deficit generation.
Pathways: Methane Reduction Credits	DEQ should allow methane avoidance credits for beef cattle and additional farm animals in addition to the existing dairy and swine manure credits	24	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.
Pathways: Non-fuel Products	DEQ should allow for energy allocation to non-fuel products in order to avoid allocating the energy used for those products to the fuel carbon intensity scores	35	DEQ plans to review and update OR-GREET and the simplified calculators in a future rulemaking.
Pathways: Notification	Section 340-253-0400(9) adds a requirement consisting of "... A fuel producer must inform DEQ within fourteen calendar days after it becomes aware that its operational carbon intensity will exceed its certified carbon	61	DEQ has modified its proposal to limit this notification requirement to non-provisional pathways and the additional language has been added to processes to obtain and maintain a fuel pathway.

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	intensity on one or more pathways. RPMG believes this new requirement is ambiguous and unnecessary. We suggest it be struck from the final rule, and if not, then additional clarity needs to be added to the regulatory language to avoid creating an enforcement risk. If it were to remain as written, it is unclear in regard to what constitutes the expected procedure for “informing” DEQ, what constitutes an entity “becoming aware”, at what interval of time within a 24-month data period or within the Verification proceedings a fuel pathway holder may “become aware” and have certainty a CI “will exceed” the certified value.		
Pathways: Recertifications	DEQ should consider allowing pathways certified in Washington, British Columbia, and Canada's federal LCFS to be eligible for recertification in the CFP	36	DEQ currently allows for recertification of California LCFS-approved fuel pathways largely because we have designed OR-GREET be in alignment with CA-GREET. This may be the case with Washington when they formally adopt their Clean Fuel Standards and we will continue to monitor that situation. This is not the case with the British Columbia Renewable & Low Carbon Fuel Requirements or the Canadian Clean Fuel Regulations as they have adopted different lifecycle assessment models. That

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			said, the data that is used as inputs to those models are similar to those used in OR-GREET model and can be used to apply for a fuel pathway under the CFP.
Program Review	Instead of a 2029 program review, DEQ should annually review the program starting in 2023.	62	Based on the comments received, DEQ proposes to conduct two program reviews - one in 2025 (using 2024 data) and one in 2029 (using 2028 data) - to provide snapshots into the state of the CFP at 2 critical points in the future.
Program Review	Align the program review with data or policy actions on electric vehicles and related sectors	67	Based on the comments received, DEQ proposes to conduct two program reviews - one in 2025 (using 2024 data) and one in 2029 (using 2028 data) - to provide snapshots into the state of the CFP at 2 critical points in the future.
Program Review	Support the 2029 program review	10, 43, 61	Based on the comments received, DEQ proposes to conduct two program reviews - one in 2025 (using 2024 data) and one in 2029 (using 2028 data) - to provide snapshots into the state of the CFP at 2 critical points in the future.
Program Review	Support the 2029 program review, but consider an earlier one	33	Based on the comments received, DEQ proposes to conduct two program reviews - one in 2025 (using 2024 data) and one in 2029 (using 2028 data) - to provide snapshots into the state of the CFP at 2 critical points in the future.
Program Review	Support the 2029 program review, but recommend another one in 2025	8	Based on the comments received, DEQ proposes to conduct two program reviews - one in 2025 (using 2024 data) and one in 2029 (using 2028 data) - to provide snapshots into the state of the CFP at 2 critical points in the future.
Program Review	Support the 2029 program review, but consider an earlier program review limited	60	Based on the comments received, DEQ proposes to conduct two program reviews - one in 2025 (using 2024 data) and one in 2029 (using 2028 data) - to provide snapshots

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	to additional credit generation pathways.		into the state of the CFP at 2 critical points in the future.
Propane: Credit Generator	Make the fueling equipment owner for propane forklifts the credit generator, not the propane forklift fleet owner	6, 35	Under the current regulation, for fossil propane the forklift owner or operator is eligible to generate the credits. No changes are proposed at this time but DEQ may review this in a future rulemaking.
Quarterly report deadline	The Q3 reporting deadline should be changed from December 31st to January 15th	62	The Q3 reporting deadline is extended to January 10 th of the following year. This will allow the registered parties a few extra days to submit the reports while not significantly impacting DEQ's schedule to publish the quarterly data and tend to other Q1 deadlines.
Racial Impact Statement	We urge DEQ to consider the benefits of accelerating the transition to electric vehicles through directing revenue from utility generated projects towards electric school buses, public charging infrastructure, electric bike rebates, and more.	49	Thank you for your comment. The utilities' use of revenues is not within the regulatory jurisdiction of the EQC or DEQ, but is rather within the authority of the Oregon Public Utility Commission or the utility's governing board.
RNG: Book and Claim	Strongly encourage DEQ to look at book and claim RNG as a process input for fuel production facilities, including for process heat and RNG to hydrogen as a process input for renewable diesel and RNG to renewable methanol for biodiesel production	47, 50	DEQ may consider this in a future rulemaking.
RNG: Credit Generator	Support the proposed language on who claims credits for RNG	50	Thank you for your comment.
RNG: Tracking System	We support the environmental attribute requirements proposed	10, 40	Thank you for your comment.

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	in 340-253-0600(6)(a)-(6)(b)(B)		
RNG: Tracking System	Support requiring RNG to use a renewable thermal tracking system	10, 42, 50	Thank you for your comment.
Transaction Types	WSPA opposes the proposal to allow DEQ to create new transaction types	62	DEQ believes that sufficient safeguards have been included in the proposed rule to address WSPA's concerns that were raised earlier in the rulemaking process with respect to notifications to affected parties, modifications to the Oregon Fuels Reporting System, and training.
Utility Programs	DEQ should further advance equitable transportation electrification by encouraging utilities to fund affordable (cost parity to at-home charging), accessible public charging infrastructure in underserved areas such as low-income, BIPOC and rural communities, as well as projects and programs that support all modes of transportation electrification options. Many lower-income Oregonians without access to at-home charging continue to pay for higher electric vehicle charging even though they should be paying the least.	49	DEQ collaborates closely with its sister agency the Oregon Public Utility Commission on providing oversight to the spending of revenue from CFP credits. The combined stakeholder process ensures that a portfolio approach to funding many types of infrastructure investments and incentives, including many that benefit environmental justice communities.

Implementation

Notification

The proposed rules would become effective upon filing with the Secretary of State and will be done in two phases:

- Division 12 and Division 253-0680 will become effective on approximately Oct. 1, 2022
- The rest of Division 253 will become effective on approximately Jan. 1, 2023.

DEQ would notify affected parties by:

- Sending a GovDelivery to the subscribers of the Oregon Clean Fuels Program list
- Sending an email to all registered parties in the program

Compliance and enforcement

Affected parties - All registered parties in the program will be notified about the changes to Divisions 12 and 253. In addition, a GovDelivery will be sent out to the subscribers of the Oregon Clean Fuels Program list.

DEQ staff – There is no additional work to implement these changes.

Measuring, sampling, monitoring and reporting

Affected parties – Registered parties will need to modify their records and reports to comply with the new rules. DEQ has been working with the rulemaking advisory committee who represent all aspects of participants in the program to identify the most efficient and effective ways to implement the policy goals of this rulemaking. The proposed rules reflect that input, with a lens on what makes sense for the registered parties and the existing resources available to implement the CFP.

DEQ staff – Prior to the effective date of these proposed rules, DEQ staff will develop a detailed implementation plan identifying the major points where there are changes to the measurements, sampling, monitoring, and reporting are occurring.

Systems

Website – The Oregon Clean Fuels web page will be modified to reflect these proposed rules.

Oregon Fuels Reporting System – CFP staff will work with IT staff to implement the necessary changes. DEQ staff has done an initial screening of changes that are needed, but that plan will be formalized prior to the effective date of the proposed rules.

Training

Affected parties – DEQ staff will provide training to registered parties on the new rules.

DEQ staff – DEQ staff will also update the Frequently Asked Questions documents to reflect the new rules.

Five-Year Review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts most of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

Five-year rule review required

No later than Sept. 23, 2027, DEQ will review the newly adopted rules for which ORS 183.405 (1) requires review to determine whether:

- The rule has had the intended effect
- The anticipated fiscal impact of the rule was underestimated or overestimated
- Subsequent changes in the law require that the rule be repealed or amended
- There is continued need for the rule.

Rules Subject to Five Year Review
340-253-0680

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3).

Accessibility Information

You may review copies of all documents referenced in this announcement at:
Oregon Department of Environmental Quality
700 NE Multnomah St., Ste. 600
Portland, OR, 97232

To schedule a review of all websites and documents referenced in this announcement, call Cory-Ann Wind, 503-869-1326 (800-452-4011, ext. 5622 toll-free in Oregon).

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.



State of Oregon Department of Environmental Quality

Draft Rules – Redline from Original

Clean Fuels Program Expansion 2022

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

Division 12

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0054

Air Quality Classification of Violations

(1) Class I:

- (a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;
- (b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit that includes permit conditions required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;
- (c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;
- (d) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from DEQ;
- (e) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;
- (f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;
- (g) Exceeding a Plant Site Emission Limit (PSEL);

(h) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;

(i) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

(j) Exceeding a hazardous air pollutant emission limitation;

(k) Failing to comply with an Emergency Action Plan;

(l) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established under New Source Review/Prevention of Significant Deterioration (NSR/PSD);

(m) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;

(n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;

(o) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;

(p) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit or with an emission limitation or a performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;

(q) Causing emissions that are a hazard to public safety;

(r) Violating a work practice requirement for asbestos abatement projects;

(s) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;

- (t) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;
- (u) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;
- (v) Failing to hire a licensed contractor to conduct an asbestos abatement project;
- (w) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);
- (x) Failing to install certified vapor recovery equipment;
- (y) Delivering for sale a noncompliant vehicle by a vehicle manufacturer in violation of Oregon Low Emission and Zero Emission Vehicle rules set forth in OAR 340 division 257;
- (z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;
- (aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements, or to meet credit retirement and/or deficit requirements, under OAR 340 division 257;
- (bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;
- (cc) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (dd) ~~Failing to comply with~~Violating any of the clean fuel standards set forth in OAR 340-253-0100(6) and in Tables 1 and 2 of OAR 340-253-8010;
- (ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);
- (ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a ~~regulated~~registered party's true compliance obligation ~~denominated~~ in deficits under such program;
- (gg) ~~Making misstatements about~~Misstating material information or ~~knowingly or recklessly~~ providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450, OAR 340-253-0460, or OAR 340-253-0470, or when submitting an application for advance credits under OAR 340-253-1100;

(hh) Failing to timely submit a complete and accurate annual compliance report under OAR 340-253-~~0100(8);0650~~;

(ii) Failing to timely submit a complete and accurate emissions data report under OAR 340-215-0044 and OAR 340-215-0046;

(jj) Submitting a verification statement to DEQ prepared by a person not approved by DEQ under OAR 340-272-0220 to perform verification services;

(kk) Failing to timely submit a verification statement that meets the verification requirements under OAR 340-272-0100 and OAR 340-272-0495;

(ll) Failing to submit a revised application or report to DEQ according to OAR 340-272-0435;

(mm) Failing to complete re-verification according to OAR 340-272-0350(2);

(nn) Failing to timely submit a Methane Generation Rate Report or Instantaneous Surface Monitoring Report according to OAR 340-239-0100;

(oo) Failing to timely submit a Design Plan or Amended Design Plan in accordance with OAR 340-239-0110(1);

(pp) Failing to timely install and operate a landfill gas collection and control system according to OAR 340-239-0110(1);

(qq) Failing to operate a landfill gas collection and control system or conduct performance testing of a landfill gas control device according to the requirements in OAR 340-239-0110(2);

(rr) Failing to conduct landfill wellhead sampling under OAR 340-239-0110(3);

(ss) Failing to comply with a landfill compliance standard in OAR 340-239-0200;

(tt) Failing to conduct monitoring or remonitoring in accordance with OAR 340-239-0600 that results in a failure to demonstrate compliance with a landfill compliance standard in OAR 340-239-0200 or the 200 ppmv threshold in OAR 340-239-0100(6)(b) or OAR 340-239-0400(2)(c);

(uu) Failure to take corrective actions in accordance with OAR 340-239-0600(1);

(vv) Failing to comply with a landfill gas collection and control system permanent shutdown and removal requirement in OAR 340-239-0400(1);

(ww) Delivering for sale a new noncompliant on highway heavy duty engine, truck or trailer in violation of rules set forth under OAR 340 division 261;

(xx) Failing to notify DEQ of changes in ownership or operational control or changes to related entities under OAR 340-271-0120;

(yy) Owning or operating a covered entity, identified in OAR 340-271-0110, after a submittal deadline under OAR 340-271-0150(1)(a) or OAR 340-271-0330(1)(b) without having submitted a complete application for a Climate Protection Program permit or Climate Protection Program permit addendum required under OAR 340-271-0150;

(zz) Emitting covered emissions from a covered entity, as identified in OAR 340-271-0110, that is a new source, as defined in OAR 340-271-0020, without having been issued a BAER order under OAR 340-271-0320 and a permit issued under OAR 340-271-0150(3)(c);

(aaa) Failing to submit a BAER assessment or an updated BAER assessment according to OAR 340-271-0310;

(bbb) Failing to comply with a BAER order issued under OAR 340-271-0320.

(ccc) Failing to comply with a condition in a permit, Climate Protection Program permit, or Climate Protection Program permit addendum issued according to OAR 340-271-0150 that requires the reduction of greenhouse gas emissions;

(ddd) Failing to demonstrate compliance according to OAR 340-271-0450;

(eee) Failing to comply with the requirements for trading of compliance instruments under OAR 340-271-0500 or 340-271-0510; ~~or~~

(fff) Submitting false or inaccurate information on any application or submittal required under OAR chapter 340, division 271-;

(ggg) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4); or

(hhh) Failing by a fuel producer to inform DEQ if its operational carbon intensity exceeds its certified carbon intensity as described in OAR 340-253-0450(9)(e)(D) when credits generated from those certified carbon intensity values generated illegitimate credits as described in OAR 340-253-1005(7).

(2) Class II:

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP attachment, or registration without first obtaining such permit or registration, unless otherwise classified;

(b) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;

- (c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;
- (d) Exceeding an opacity limit, unless otherwise classified;
- (e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;
- (f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;
- (g) Failing to timely submit a certification, report, or plan as required by rule, permit or permit attachment, unless otherwise classified;
- (h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;
- (i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;
- (j) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;
- (k) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).
- (l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;
- (m) Failing to provide timely, accurate or complete notification of an asbestos abatement project;
- (n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;
- (o) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620;
- (p) Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;
- (q) Failing to ~~register as a regulated party in the Oregon Clean Fuels Program under~~receive Green-e certification for Renewable Energy Certificates used to generate incremental credits

~~when required by OAR 340-253-0100(1) and (4), when the person is a producer or importer of blendstocks, as defined in OAR 340-253-00400470;~~

(r) Failing to register as an aggregator or submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c);

(s) Failing to keep complete and accurate records under OAR 340-253-0600 ~~when the records relate to obtaining a carbon intensity under OAR 340-253-0450;~~

~~(t) Failing to keep records related to obtaining a carbon intensity under OAR 340-253-0450;~~

(t) Failing to ensure that a registered party has the exclusive right to the environmental attributes that it has claimed for biomethane, biogas, or renewable electricity either directly as a fuel or indirectly as a feedstock under OAR chapter 340, division 253 by either the registered party, the fuel producer, and/or fuel pathway holder;

(u) Failing to timely submit a complete and accurate quarterly report under OAR 340-253-~~0100(7);0630;~~

(v) Violating any requirement under OAR chapter 340, division 272, unless otherwise classified;

(w) Violating any requirement under OAR chapter 340, division 239, unless otherwise classified;

(x) Failing to comply with the reporting notification or warranty requirements for new engines, trucks, and trailers set forth in OAR chapter 340, division 261;

(y) Violating any requirement under the Climate Protection Program, OAR chapter 340, division 271, unless otherwise classified; ~~or~~

(z) Violating any condition in a permit, Climate Protection Program permit, or Climate Protection Program permit addendum issued according to OAR 340-271-0150, unless otherwise classified.;

(aa) Failing to notify DEQ of a change of ownership or control of a registered party under OAR chapter 340, division 253; or

(3) **Class III:**

(a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;

(b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;

- (c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;
- (d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;
- (e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project;
- (f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR Chapter 340, division 257;
- (g) ~~Failing~~Making changes to register as a regulated party in the Oregon Clean Fuels Programs submitted quarterly or annual report under OAR Chapter 340, ~~division 253-0100(1) and without DEQ approval under OAR 340-253-0650(4), when the person is an importer of finished fuels, as defined in OAR 340-253-0040;~~ or
- (h) Failing to ~~keep records~~upload transactions to a quarterly report by the 45-day deadline under OAR ~~340-253-0600, except as provided in subsection (2)(s):0630.~~

[Note: Tables and Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.045

Statutes/Other Implemented: ORS 468.020 & 468A.025

History:

DEQ 27-2021, amend filed 12/16/2021, effective 12/16/2021
DEQ 17-2021, amend filed 11/17/2021, effective 11/17/2021
DEQ 16-2021, amend filed 10/04/2021, effective 10/04/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
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DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0050, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 21-1994, f. & cert. ef. 10-14-94
DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 21-1992, f. & cert. ef. 8-11-92

DEQ 2-1992, f. & cert. ef. 1-30-92
DEQ 31-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89
DEQ 22-1988, f. & cert. ef. 9-14-88
DEQ 22-1984, f. & ef. 11-8-84
DEQ 5-1980, f. & ef. 1-28-80
DEQ 78, f. 9-6-74, ef. 9-25-74

340-012-0135
Selected Magnitude Categories

(1) Magnitudes for selected Air Quality violations will be determined as follows:

(a) Opacity limit violations:

(A) Major — Opacity measurements or readings of 20 percent opacity or more over the applicable limit, or an opacity violation by a federal major source as defined in OAR 340-200-0020;

(B) Moderate — Opacity measurements or readings greater than 10 percent opacity and less than 20 percent opacity over the applicable limit; or

(C) Minor — Opacity measurements or readings of 10 percent opacity or less over the applicable limit.

(b) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit: Major — if a Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) analysis shows that additional controls or offsets are or were needed, otherwise apply OAR 340-012-0130.

(c) Exceeding an emission limit established under New Source Review/Prevention of Significant Deterioration (NSR/PSD): Major — if exceeded the emission limit by more than 50 percent of the limit, otherwise apply OAR 340-012-0130.

(d) Exceeding an emission limit established under federal National Emission Standards for Hazardous Air Pollutants (NESHAPs): Major — if exceeded the Maximum Achievable Control Technology (MACT) standard emission limit for a directly-measured hazardous air pollutant (HAP), otherwise apply OAR 340-012-0130.

(e) Exceeding a cancer or noncancer risk limit that is equivalent to a Risk Action Level or a Source Risk Limit if the limit is a Risk Action Level established under OAR 340-245-0005 through 340-245-8050: Major, otherwise apply OAR 340-012-0130.

(f) Air contaminant emission limit violations for selected air pollutants: Magnitude determinations under this subsection will be made based upon significant emission rate (SER) amounts listed in OAR 340-200-0020.

(A) Major:

(i) Exceeding the annual emission limit as established by permit, rule or order by more than the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by more than the applicable short-term SER.

(B) Moderate:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the annual SER; or

(ii) Exceeding the short-term (less than one-year) emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the applicable short-term SER.

(C) Minor:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount less than 50 percent of the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount less than 50 percent of the applicable short-term SER.

(g) Violations of Emergency Action Plans: Major — Major magnitude in all cases.

(h) Violations of on road motor vehicle refinishing rules contained in OAR 340-242-0620: Minor — Refinishing 10 or fewer on road motor vehicles per year.

(i) Asbestos violations — These selected magnitudes apply unless the violation does not cause the potential for human exposure to asbestos fibers:

(A) Major — More than 260 linear feet or more than 160 square feet of asbestos-containing material or asbestos-containing waste material;

(B) Moderate — From 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet of asbestos-containing material or asbestos-containing waste material; or

(C) Minor — Less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material.

(D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(j) Open burning violations:

(A) Major — Initiating or allowing the initiation of open burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;

(B) Moderate — Initiating or allowing the initiation of open burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if DEQ lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned; or

(C) Minor — Initiating or allowing the initiation of open burning of less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires.

(D) The selected magnitude may be increased one level if DEQ finds that one or more of the following are true, or decreased one level if DEQ finds that none of the following are true:

(i) The burning took place in an open burning control area;

(ii) The burning took place in an area where open burning is prohibited;

(iii) The burning took place in a non-attainment or maintenance area for PM10 or PM2.5; or

(iv) The burning took place on a day when all open burning was prohibited due to meteorological conditions.

(k) Oregon Low Emission Vehicle Non-Methane Gas (NMOG) or Green House Gas (GHG) fleet average emission limit violations:

(A) Major — Exceeding the limit by more than 10 percent; or

(B) Moderate — Exceeding the limit by 10 percent or less.

(l) Oregon Clean Fuels Program violations:

(A) ~~Exceeding~~ Violating the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010 ~~by not retiring sufficient credits to satisfy a regulated party's compliance obligation:~~

~~(i): Major — more than 15 percent of their total deficit obligation remains unsatisfied;~~

~~(ii) Moderate—more than 10 percent but less than 15 percent of their total deficit obligation remains unsatisfied; or~~

~~(iii) Minor—less than 10 percent of their total deficit obligation remains unsatisfied.~~

(B) Failing to register under OAR 340-253-0100(1) and (4): ~~Moderate—producers and importers of blendstocks;~~ Major;

~~(C) Failing to submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c);~~ Minor;

~~(D) Failing to keep records as set forth in OAR 340-253-0600, when the records relate to obtaining a carbon intensity under OAR 340-253-04500600;~~ Minor;

~~(E) Failing to submit a complete and accurate annual compliance report or quarterly report under OAR chapter 340 division 253;~~ Moderate;

~~(C)~~ Failing to timely submit a complete and accurate annual compliance report or quarterly report under OAR chapter 340, division 253: ~~Minor~~ Major;

(D) Generating an illegitimate credit under OAR chapter 340, division 253: Major;

(E) Committing any action related to a credit transfer that is prohibited under OAR 340-253-1005(8): Major.

(m) Failing to timely submit a complete and accurate emissions data report under the Oregon Greenhouse Gas Reporting Program, OAR chapter 340, division 215, where the untimely, incomplete or inaccurate reporting impacts applicability or any compliance obligation under the Climate Protection Program, OAR chapter 340, division 271: Major.

(n) Oregon Climate Protection Program violations:

(A) Failing to demonstrate compliance according to OAR 340-271-0450: Major.

(B) Failing to comply with a BAER order issued under OAR 340-271-0320: Major

(C) Failing to comply with a condition in a permit, Climate Protection Program permit, or Climate Protection Program permit addendum issued according to OAR 340-271-0150 that requires the reduction of greenhouse gas emissions: Major.

(D) Failing to obtain a BAER order under OAR 340-271-0320 or a permit issued under OAR 340-271-0150(3)(c), for a covered entity, as identified in OAR 340-271-0110, that is a new source, as defined in OAR 340-271-0020: Major.

(2) Magnitudes for selected Water Quality violations will be determined as follows:

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

(i) The dilution (D) of the spill or technology based effluent limitation exceedance was less than two, when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the incident;

(ii) The receiving stream flow at the time of the water quality based effluent limitation (WQBEL) exceedance was at or below the flow used to calculate the WQBEL; or

(iii) The resulting water quality from the spill or discharge was as follows:

(I) For discharges of toxic pollutants: CS/D was more than CA_{acute} , where CS is the concentration of the discharge, D is the dilution of the discharge as determined under (2)(a)(A)(i), and CA_{acute} is the concentration for acute toxicity (as defined by the applicable water quality standard);

(II) For spills or discharges affecting temperature, when the discharge temperature is at or above 32 degrees centigrade after two seconds from the outfall; or

(III) For BOD5 discharges: $(BOD5)/D$ is more than 10, where BOD5 is the concentration of the five-day Biochemical Oxygen Demand of the discharge and D is the dilution of the discharge as determined under (2)(a)(A)(i).

(B) Moderate:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was two or more but less than 10 when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the discharge; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was greater than, but less than twice, the flow used to calculate the WQBEL.

(C) Minor:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was 10 or more when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR is the receiving stream flow and QI is the quantity or discharge rate of the incident; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was twice the flow or more of the flow used to calculate the WQBEL.

(b) Violating numeric water quality standards:

(A) Major:

- (i) Increased the concentration of any pollutant except for toxics, dissolved oxygen, pH, and turbidity, by 25 percent or more of the standard;
- (ii) Decreased the dissolved oxygen concentration by two or more milligrams per liter below the standard;
- (iii) Increased the toxic pollutant concentration by any amount over the acute standard or by 100 percent or more of the chronic standard;
- (iv) Increased or decreased pH by one or more pH units from the standard; or
- (v) Increased turbidity by 50 or more nephelometric turbidity units (NTU) over background.

(B) Moderate:

- (i) Increased the concentration of any pollutant except for toxics, pH, and turbidity by more than 10 percent but less than 25 percent of the standard;
- (ii) Decreased dissolved oxygen concentration by one or more, but less than two, milligrams per liter below the standard;
- (iii) Increased the concentration of toxic pollutants by more than 10 percent but less than 100 percent of the chronic standard;
- (iv) Increased or decreased pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard; or
- (v) Increased turbidity by more than 20 but less than 50 NTU over background.

(C) Minor:

- (i) Increased the concentration of any pollutant, except for toxics, pH, and turbidity, by 10 percent or less of the standard;
- (ii) Decreased the dissolved oxygen concentration by less than one milligram per liter below the standard;
- (iii) Increased the concentration of toxic pollutants by 10 percent or less of the chronic standard;
- (iv) Increased or decreased pH by 0.5 pH unit or less from the standard; or
- (v) Increased turbidity by 20 NTU or less over background.

(c) The selected magnitude under (2)(a) or (b) may be increased one or more levels if the violation:

(A) Occurred in a water body that is water quality limited (listed on the most current 303(d) list) and the discharge is the same pollutant for which the water body is listed;

(B) Depressed oxygen levels or increased turbidity and/or sedimentation in a stream in which salmonids may be rearing or spawning as indicated by the beneficial use maps available at OAR 340-041-0101 through 0340;

(C) Violated a bacteria standard either in shellfish growing waters or during the period from June 1 through September 30; or

(D) Resulted in a documented fish or wildlife kill.

(3) Magnitudes for selected Solid Waste violations will be determined as follows:

(a) Operating a solid waste disposal facility without a permit or disposing of solid waste at an unpermitted site:

(A) Major — The volume of material disposed of exceeds 400 cubic yards;

(B) Moderate — The volume of material disposed of is greater than or equal to 40 cubic yards and less than or equal to 400 cubic yards; or

(C) Minor — The volume of materials disposed of is less than 40 cubic yards.

(D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.

(b) Failing to accurately report the amount of solid waste disposed:

(A) Major — The amount of solid waste is underreported by 15 percent or more of the amount received;

(B) Moderate — The amount of solid waste is underreported by 5 percent or more, but less than 15 percent, of the amount received; or

(C) Minor — The amount of solid waste is underreported by less than 5 percent of the amount received.

(4) Magnitudes for selected Hazardous Waste violations will be determined as follows:

(a) Failure to make a hazardous waste determination;

(A) Major — Failure to make the determination on five or more waste streams;

(B) Moderate — Failure to make the determination on three or four waste streams; or

(C) Minor — Failure to make the determination on one or two waste streams.

(b) Hazardous Waste treatment, storage and disposal violations of OAR 340-012-0068(1)(b), (c), (h), (k), (l), (m), (p), (q) and (r):

(A) Major:

(i) Treatment, storage, or disposal of more than 55 gallons or 330 pounds of hazardous waste; or

(ii) Treatment, storage, or disposal of at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Treatment, storage, or disposal of 55 gallons or 330 pounds or less of hazardous waste; or

(ii) Treatment, storage, or disposal of less than one quart or 2.2 pounds of acutely hazardous waste.

(c) Hazardous waste management violations classified in OAR 340-012-0068(1)(d), (e) (f), (g), (i), (j), (n), (s) and (2)(a), (b), (d), (e), (h), (i), (k), (m), (n), (o), (p), (r) and (s):

(A) Major:

(i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Hazardous waste management violations involving more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving less than one quart or 2.2 pounds of acutely hazardous waste.

(C) Minor:

(i) Hazardous waste management violations involving 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste.

(5) Magnitudes for selected Used Oil violations (OAR 340-012-0072) will be determined as follows:

(a) Used Oil violations set forth in OAR 340-012-0072(1)(f), (h), (i), (j); and (2)(a) through (h):

(A) Major — Used oil management violations involving more than 1,000 gallons or 7,000 pounds of used oil or used oil mixtures;

(B) Moderate — Used oil management violations involving more than 250 gallons or 1,750 pounds, up to and including 1,000 gallons or 7,000 pounds of used oil or used oil mixture; or

(C) Minor — Used oil management violations involving 250 gallons or 1,750 pounds or less of used oil or used oil mixtures.

(b) Used Oil spill or disposal violations set forth in OAR 340-012-0072(1)(a) through (e), (g) and (k).

(A) Major — A spill or disposal involving more than 420 gallons or 2,940 pounds of used oil or used oil mixtures;

(B) Moderate — A spill or disposal involving more than 42 gallons or 294 pounds, up to and including 420 gallons or 2,940 pounds of used oil or used oil mixtures; or

(C) Minor — A spill or disposal of used oil involving 42 gallons or 294 pounds or less of used oil or used oil mixtures.

[NOTE: Tables & Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.065 & 468A.045

Statutes/Other Implemented: ORS 468.090 - 468.140 & 468A.060

History:

DEQ 27-2021, amend filed 12/16/2021, effective 12/16/2021

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 1-2014, f. & cert. ef. 1-6-14

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06

Renumbered from 340-012-0090, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

DEQ 1-2003, f. & cert. ef. 1-31-03

DEQ 19-1998, f. & cert. ef. 10-12-98

DEQ 4-1994, f. & cert. ef. 3-14-94

DEQ 21-1992, f. & cert. ef. 8-11-92

340-012-0140

Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) \$12,000 Penalty Matrix:

(a) The \$12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act, unless otherwise classified.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission and Zero Emission Vehicle rules (OAR 340-257) by a vehicle manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

(ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.

(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.

(F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.

(I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.

(J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.

(K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(M) Any violation of a hazardous waste statute, rule, permit or related order by:

(i) A person that is a large quantity generator or hazardous waste transporter.

(ii) A person that has or should have a treatment, storage or disposal facility permit.

(N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

- (i) A person that has or should have a solid waste disposal permit.
- (ii) A city with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as an importer of blendstocks,

(S) Any violation classified under OAR 340-012-0054 (1) (dd), (ee), (ff), or (gg).

(T) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions greater than or equal to 25,000 metric tons per year or by a person that has not reported greenhouse gas emissions to DEQ during the past five years, or by a person for which DEQ has insufficient information to accurately estimate emissions.

(U) Any violation of the Third Party Verification rules under OAR Chapter 340, division 272.

(V) Any violation of the Landfill Gas Emissions rules under OAR chapter 340, division 239 by a person required to comply with OAR 340-239-0110 through OAR 340-239-0800.

(W) Any violation of the rules for Emission Standards for New Heavy-Duty Trucks under OAR chapter 340 division 261 by engine, truck or trailer manufacturers and dealers.

(X) Any violation of the Climate Protection Program rules under OAR chapter 340, division 271.

(b) The base penalty values for the \$12,000 penalty matrix are as follows:

(A) Class I:

- (i) Major — \$12,000;
- (ii) Moderate — \$6,000;
- (iii) Minor — \$3,000.

(B) Class II:

- (i) Major — \$6,000;
- (ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

(C) Class III: \$1,000.

(3) \$8,000 Penalty Matrix:

(a) The \$8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix, unless otherwise classified.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.

(F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.

(H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.

(L) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 ~~by a person registered as a credit generator, an aggregator, or a registered fuel producer~~ unless the violation is otherwise classified in this rule.

(M) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 metric tons per year.

(N) Any violation of the Landfill Gas Emissions rules under OAR chapter 340, division 239 by a person that owns or operates a landfill with over 200,000 tons waste in place and is not required to comply with OAR 340-239-0110 through OAR 340-239-0800.

(O) Any violation of a hazardous waste pharmaceutical statute, rule, permit or related order committed by a person that is a reverse distributor.

(b) The base penalty values for the \$8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

(a) The \$3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person not listed under another penalty matrix.

(C) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

(v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.

- (vi) A person that has or should have a WPCF individual stormwater UIC system permit.
- (vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.
- (G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.
- (H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.
- (I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.
- (J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.
- (K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a very small quantity generator, unless listed under another penalty matrix.
- (L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.
- (M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.
- (N) Any violation of rigid pesticide container disposal requirements by a very small quantity generator of hazardous waste.
- (O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.
- (P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.
- ~~(Q) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 by a person registered as an importer of finished fuels unless the violation is otherwise classified in this rule.~~
- ~~(Q)~~ Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 5,000 metric tons per year.
- (b) The base penalty values for the \$3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

(a) The \$1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.

(H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.

(I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.

(J) Any violation of a statute, rule or order relating to the opportunity to recycle.

(K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.

(L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.

(M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.

(b) The base penalty values for the \$1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$1,000;

(ii) Moderate — \$500;

(iii) Minor — \$250.

(B) Class II:

(i) Major — \$500;

(ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

Statutory/Other Authority: ORS 468.020 & 468.090 - 468.140

Statutes/Other Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035

History:

DEQ 27-2021, amend filed 12/16/2021, effective 12/16/2021

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DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0042, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 9-1996, f. & cert. ef. 7-10-96
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 33-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89

Division 253 OREGON CLEAN FUELS PROGRAM

340-253-0000

Overview

(1) Context. The Oregon Legislature has found that climate change poses a serious threat to the economic well-being, public health, natural resources, and environment of Oregon. Section 1, chapter 907, Oregon Laws 2007. The Oregon Clean Fuels Program will reduce Oregon's contribution to the global levels of greenhouse gas emissions and the impacts of those emissions in Oregon in concert with other greenhouse gas reduction policies and actions by local governments, other states, and the federal government.

(2) Purpose. The purpose of the Oregon Clean Fuels Program is to reduce the amount of lifecycle greenhouse gas emissions per unit of energy by a minimum of 10 percent below 2010 levels by 2025, 20 percent by 2030, and 37 percent by 2035. This reduction goal applies to the average of all transportation fuels used in Oregon, not to individual fuels. A fuel user does not violate the standard by possessing fuel that has higher carbon content than the clean fuel standard allows.

(3) Background. The 2009 Oregon Legislature adopted House Bill 2186 enacted as chapter 754 of Oregon Laws 2009. The law authorizes the Environmental Quality Commission to adopt low carbon fuel standards for gasoline, diesel fuel and fuels used as substitutes for gasoline or diesel fuel. Sections 6 to 9 of chapter 754, Oregon Laws 2009 is printed as a note following ORS 468A.270 in the 2011 Edition. The 2015 Oregon Legislature amended those provisions when it adopted Senate Bill 324 (chapter 4, Oregon Laws 2015), which was codified in ORS 468A.~~275-265 through 468A.277~~. ORS 468A.~~275 was 265 through 468A.277~~ were further amended by the 2017 Oregon Legislature in House Bill 2017. OAR chapter 340, division 253 ~~of chapter 340~~ implements that law.

(4) LRAPA. Notwithstanding Lane Regional Air Pollution Agency authorization in OAR 340-200-0010(3), DEQ administers this division in all areas of the State of Oregon.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0040

Definitions

The definitions in OAR 340-200-0020, ~~OAR~~ 340-272-0020, 340-257-0030, and this rule apply to this division. If the same term is defined herein this rule and in ~~either of the other two divisions~~ another listed rule, the definition in this rule applies to this division. If a term that is not defined in this rule is defined in more than one of the other rules referenced in the preceding sentence, then the definition that applies shall be the definition in OAR 340-272-0020, if any, or else the definition in OAR 340-257-0030 will apply.

(1) “Above the rack” means sales of transportation fuel at pipeline origin points, pipeline batches in transit, barge loads in transit, and at terminal tanks before the transportation fuel has been loaded into trucks.

(2) “Advance Credits” refers to credits advanced under OAR 340-253-1100 for actions that will result in real reductions of the carbon intensity of Oregon’s transportation fuels.

(3) “Aggregation indicator” means an identifier for reported transactions that are a result of an aggregation or summing of more than one transaction: of the same type with, where applicable, the same business partner. An entry of “True” indicates that multiple transactions have been aggregated and are reported with a single transaction number. An entry of “False” indicates that the record reports a single fuel transaction.

(4) “Aggregator” or “Credit aggregator” means a person who registers to participate in the Clean Fuels Program, described in OAR 340-253-0100(3), on behalf of one or more credit generators to facilitate credit generation and trade credits.

(5) “Aggregator designation form” means a DEQ-approved document that specifies that a credit generator has designated an aggregator to act on its behalf.

(6) “Alternative Fuel Portal” or “AFP” means the portion of the Oregon Fuels Reporting System where fuel producers can register their production facilities and submit fuel pathway code applications and physical pathway demonstrations.

(7) “Alternative Jet Fuel” means a fuel, made from petroleum or non-petroleum sources, which can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure. The fuel must have a lower carbon intensity than the applicable annual standard under Table 3 under OAR 340-253-8010. This includes alternative jet fuel derived from co-processed feedstocks at a conventional petroleum refinery.

(8) “Application” means the type of vehicle where the fuel is consumed, shown as either LDV/MDV or HDV.

(9) “B5” means diesel fuel containing 5 percent biodiesel.

(10) “Backstop aggregator” means a qualified entity approved by DEQ under OAR 340-253-0330~~(6)~~ to aggregate credits for electricity used as a transportation fuel, when those credits would not otherwise be generated.

(11) “Battery electric vehicle” or “BEV” means any vehicle that operates solely by use of a battery or battery pack, or that is powered primarily through the use of an electric battery or battery pack but uses a flywheel or capacitor that stores energy produced by the electric motor or through regenerative braking to assist in vehicle operation.

(12) “Base Credits” refers to electricity credits that are generated by the carbon reduction between the gasoline or diesel standard and the carbon intensity of grid or utility electricity.

(13) “Below the rack” means sales of clear or blended gasoline or diesel fuel where the fuel is being sold as a finished fuel for use in a motor vehicle.

(14) “Bill of lading” means a document issued that lists goods being shipped and specifies the terms of their transport.

(15) “Bio-based” means a fuel produced from non-petroleum, biogenic renewable resources.

(16) “Biodiesel” means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, not including palm oil, designated as B100 and complying with ASTM D6751.

(17) “Biodiesel Blend” means a fuel comprised of a blend of biodiesel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend.

(18) “Biogas” means gas, consisting primarily of methane and carbon dioxide, produced by the anaerobic decomposition of organic matter. Biogas cannot be directly injected into natural gas pipelines or combusted in most natural gas-fueled vehicles unless first upgraded to biomethane.

(19) “Biomethane” or “Renewable Natural Gas” means refined biogas, or another synthetic stream of methane from renewable resources, that has been upgraded to a near-pure methane content product. Biomethane can be directly injected into natural gas pipelines or combusted in natural gas-fueled vehicles.

(20) “Blendstock” means a fuel component that is either used alone or is blended with one or more other components to produce a finished fuel used in a motor vehicle. A blendstock that is used directly as a transportation fuel in a vehicle is considered a finished fuel.

(21) “Bulk system” means a fuel distribution system consisting of refineries, pipelines, vessels and terminals. Fuel storage and blending facilities that are not fed by pipeline or vessel are considered outside the bulk transfer system.

(22) “Business partner” refers to the second party that participates in a specific transaction involving the regulated party. This can either be the buyer or seller of fuel, whichever applies to the specific transaction.

(23) “Buy/Sell Board” means a section of the Oregon Fuels Reporting System where registered parties can post that they are interested in buying or selling credits.

~~(24)~~(24) “Book and Claim” refers to the accounting methodology where the environmental attributes of an energy source are detached from the physical molecules or electricity when they are commingled into a common transportation and distribution system for that form of energy. The detached attributes are then assigned by the owner to the same form and amount of energy when it is used. For the purposes of this division, the common transportation and distribution system must be connected to Oregon.

(25) “Carbon intensity” or “CI” means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO₂e/MJ).

~~(25)~~26 “Carryback credit” means a credit that was generated during or before the prior compliance period that a regulated party acquires between January 1st and April 30th of the current compliance period to meet its compliance obligation for the prior compliance period.

~~(26)~~27 “Clean fuel” means a ~~transportation~~ fuel whose carbon intensity is lower than the applicable clean fuel standard, which ~~is either:~~

(a) For gasoline and gasoline substitutes and alternatives, is listed in Table 1 under OAR 340-253-8010;

(b) For diesel and diesel substitutes and alternatives, is listed in Table 2 under OAR 340-253-8010; or;

(c) For alternative jet fuel, is listed in Table 3 under OAR 340-253-8010.

(~~27~~28) “Clean fuel standard” or “Low carbon fuel standard” means the annual average carbon intensity a regulated party must comply with, as listed in Table 1 under OAR 340-253-8010 for gasoline and gasoline substitutes and in Table 2 under 340-253-8010 for diesel fuel and diesel substitutes.

(~~28~~29) “Clear diesel” means a light middle or middle distillate grade diesel fuel derived from crude oil that has not been blended with a renewable fuel.

(~~29~~30) “Clear gasoline” means gasoline derived from crude oil that has not been blended with a renewable fuel.

(~~30~~31) “Compliance period” means each calendar year(~~s~~) during which regulated parties must demonstrate compliance ~~under OAR 340-253-0100~~.

(~~31~~32) “Compressed natural gas” or “CNG” means natural gas stored inside a pressure vessel at a pressure greater than the ambient atmospheric pressure outside of the vessel.

(~~32~~33) “Co-processing” means the processing and refining of renewable or alternative low-carbon feedstocks intermingled with crude oil and its derivatives at petroleum refineries.

(~~33~~34) “Credit” means a unit of measure generated when a fuel with a carbon intensity that is less than the applicable clean fuel standard is produced, imported, or dispensed for use in Oregon, such that one credit is equal to one metric ton of carbon dioxide equivalent not emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

~~(34)~~(35) “Credit buyer” means a registered party that acquires credits from another registered party.

(36) “Credit facilitator” means a person in the Oregon Fuels Reporting System that a regulated party designates to initiate and complete credit transfers on behalf of the regulated party.

(~~35~~37) “Credit generator” means a person eligible to generate credits by providing clean fuels for use in Oregon and who voluntarily registers to participate in the Clean Fuels Program, described in OAR 340-253-0100(2), and specified by fuel type under OAR 340-253-0320 through 340-253-0340.

~~(36)~~(38) “Credit seller” means a registered party that sells or transfers credits to another registered party.

(39) “Crude oil” means any naturally occurring flammable mixture of hydrocarbons found in geologic formations.

(3740) “Deferral” means a delay or change in the applicability of a scheduled applicable clean fuel standard for a period of time, accomplished pursuant to an order issued under OAR 340-253-2000 or -2100, or under ORS 468A.273 and 468A.274.

(3841) “Deficit” means a unit of measure generated when a fuel with a carbon intensity that is more than the applicable clean fuel standard is produced, imported, or dispensed for use in Oregon, such that one deficit is equal to one metric ton of carbon dioxide equivalent ~~that is~~ emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

(3942) “Denatured Fuel Ethanol” or “Ethanol” means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. Before it is blended with gasoline, the denatured fuel ethanol is first made unfit for drinking by the addition of substances approved by the Alcohol and Tobacco Tax and Trade Bureau.

(4043) “Diesel fuel” or “diesel” means either:

(a) A light middle distillate or middle distillate fuel suitable for compression ignition engines blended with not more than 5 volume percent biodiesel and conforming to the specifications of ASTM D975 or;

(b) A light middle distillate or middle distillate fuel blended with at least 5 and not more than 20 volume percent biodiesel suitable for compression ignition engines conforming to the specifications of ASTM D7467.

(4144) “Diesel substitute” means a liquid fuel, other than diesel fuel, suitable for use as a compression-ignition piston engine fuel.

(4245) “Duty-cycle testing” means a test procedure used for emissions and vehicle efficiency testing.

(4346) “E10” means gasoline containing 10 volume percent fuel ethanol.

(4447) “Energy economy ratio” or “EER” means the dimensionless value that represents:

(a) The efficiency of a fuel as used in a powertrain as compared to a reference fuel; or

(b) The efficiency of a fuel per passenger mile, for fixed guideway applications.

~~(45) “Electric Transport Refrigeration Units (eTRUs)”~~(48) “Electric Cargo Handling Equipment” or “eCHE” means any off-road, self-propelled vehicle or equipment, other than yard trucks, used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. This equipment uses electric batteries to store propulsion and functional energy and only has

electric motors. Equipment includes, but is not limited to, rubber-tired gantry cranes, top handlers, side handlers, reach stackers, loaders, aerial lifts, excavators, tractors, and dozers.

(49) “Electric Transport Refrigeration Units” or “eTRUs” means refrigeration systems powered by electricity designed to refrigerate or heat perishable products that are transported in various containers, including, but not limited to, semi-trailers, truck vans, shipping containers, and rail cars.

(4650) “Electric Ground Support Equipment” or “eGSE” means self-propelled vehicles used off-road at airports to support general aviation activities that use electric batteries for propulsion and functional energy and only has electric motors. For the purpose of this division, that includes, but is not limited to, pushbacks, belt loaders, and baggage tractors.

(51) “Electric Forklift” or “eForklift” means a Class I, II, or III powered industrial truck as defined by the US Occupational Safety and Health Administration in the December 1, 1998 Powered Industrial Truck Operator Training final rule notice.

(52) “Electric Service Supplier” has the same definition as in OAR 860-038-005.

(4753) “Emergency period” is the period of time in which an Emergency Action under OAR 340-253-2000 is in effect.

(4854) “Environmental Justice Community” means communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including but not limited to seniors, youth and persons with disabilities.

(4955) “Export” means to have ownership title to transportation fuel from locations within Oregon, at the time it is delivered to locations outside Oregon by any means of transport, other than in the fuel tank of a motor vehicle for the purpose of propelling the motor vehicle.

(5056) “Feedstock transfer document” means a document, or combination of documents, that demonstrates the delivery of specified source feedstocks from the point of origin to the fuel production facility as required under OAR 340-253-0400~~(76)~~.

(5157) “Finished fuel” means a transportation fuel that can legally be used directly in a motor vehicle without requiring additional chemical or physical processing.

(5258) “Fixed guideway” means a public transportation facility using and occupying a separate right-of-way for the exclusive use of public transportation using rail, ~~using~~ a fixed catenary system, ~~using or~~ an aerial tramway, ~~or for a bus rapid transit system.~~

(5359) “Fossil” means any naturally occurring flammable mixture of hydrocarbons found in geologic formations such as rock or strata. When used as an adjective preceding a type of

fuel (e.g., “fossil gasoline,” or “fossil LNG”), it means the subset of that type of fuel that is derived from a fossil source.

(~~5460~~) “Fuel pathway” means a detailed description of all stages of fuel production and use for ~~any particular transportation~~ fuel, including feedstock generation or extraction; ~~production~~, distribution, and combustion of the fuel by the consumer. The fuel pathway is used to calculate the carbon intensity of each ~~transportation~~ fuel.

(~~5561~~) “Fuel pathway code” or “FPC” means the identifier used in the Oregon Fuels Reporting System that applies to a specific fuel pathway as approved or issued under OAR 340-253-0400 through 0470.

(~~5662~~) “Fuel pathway holder” means the entity that has ~~applied for and~~ received a certified fuel pathway code from DEQ, ~~or who has including those that are recertifications of a certified CARB-approved fuel pathway code from under the California Air Resources Board that has been approved for use~~ process in ~~Oregon by DEQ OAR 340-253-0450~~.

(~~5763~~) “Fuel production facility” means the facility at which a regulated or opt-in fuel is produced. With respect to biomethane, a fuel production facility means the facility at which the fuel is upgraded, purified, or processed to meet the standards for injection to a natural gas common carrier pipeline or for use in natural gas vehicles.

(~~5864~~) “Fuel supply equipment” ~~refers to or~~ “FSE” means equipment registered in the Oregon Fuels Reporting System that dispenses alternative fuel into vehicles, including but not limited to electric vehicle chargers, hydrogen fueling stations, and natural gas fueling equipment.

(~~5965~~) “Gasoline” means a fuel suitable for spark ignition engines and conforming to the specifications of ASTM D4814.

(~~6066~~) “Gasoline substitute” means a liquid fuel, other than gasoline, suitable for use as a spark-ignition engine fuel.

(~~6167~~) “Green-e” or “Green-e Program” means the certification program run by the Center for Resource Solutions.

(~~6268~~) “Heavy duty ~~motor~~ vehicle” or “HDV” means any motor vehicle rated at more than 10,000 pounds gross vehicle weight.

(~~6369~~) “Illegitimate credits” means credits that were not generated in compliance with this division, ~~as described in OAR 340-253-1005(7)~~.

(~~6470~~) “Import” means to have ownership title to transportation fuel at the time it is brought into Oregon from outside the state by any means of transport other than in the fuel tank of a motor vehicle for the purpose of propelling that motor vehicle.

(~~6571~~) “Importer” means:

(a) With respect to any liquid fuel, the person who imports the fuel; or

(b) With respect to any biomethane, the person who owns the biomethane when it is either physically transported into Oregon or injected into a pipeline located outside of Oregon and contractually delivered for use in Oregon through a book and claim accounting methodology.

~~(6672)~~ “Incremental aggregator” means a qualified entity approved by DEQ under OAR 340-253-0330(10) to earn incremental credits, when those credits would not otherwise be claimed.

~~(6773)~~ “Incremental credit” means a credit that is generated by an action to further lower the carbon intensity of electricity: from that of the statewide mix or a utility-specific mix. Incremental credits are calculated from the difference between the carbon intensity of the grid electricity and the carbon intensity of renewable electricity.

~~(6874)~~ “Indirect land use change” means the average lifecycle greenhouse gas emissions caused by an increase in land area used to grow crops that is caused by increased use of crop-based transportation fuels; and expressed as grams of carbon dioxide equivalent per megajoule of energy provided (gCO₂e/MJ). Indirect land use change values are listed in Table 10 under OAR 340-253-8010.

(a) Indirect land use change for fuel made from corn feedstocks is calculated using the protocol developed by the Argonne National Laboratory.

(b) Indirect land use change for fuel made from sugarcane, sorghum, soybean, canola and palm feedstocks is calculated using the protocol developed by the California Air Resources Board.

~~(6975)~~ “Invoice” means the receipt or other record of a sale transaction, specifying the price and terms of sale, that describes an itemized list of goods shipped.

~~(7076)~~ “Large importer of finished fuels” means any person who imports into Oregon more than 500,000 gallons of finished fuels in a given calendar year.

~~(7177)~~ “Light-duty ~~motor~~ vehicle” or “LDV” means any motor vehicle rated at 8,500 pounds gross vehicle weight or less.

~~(7278)~~ “Lifecycle greenhouse gas emissions” are:

(a) The aggregated quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions, such as significant emissions from changes in land use associated with the fuels;

(b) Measured over the full fuel lifecycle, including all stages of fuel production, from feedstock generation or extraction, production, distribution, and combustion of the fuel by the consumer; and

(c) Stated in terms of mass values for all greenhouse gases as adjusted to CO₂e to account for the relative global warming potential of each gas.

~~(7379)~~ “Liquefied compressed natural gas” or “L-CNG” means natural gas that has been liquefied and transported to a dispensing station where it was then re-gasified and compressed to a pressure greater than ambient pressure.

~~(7480)~~ “Liquefied natural gas” or “LNG” means natural gas that has been liquefied.

~~(7581)~~ “Liquefied petroleum gas” or “propane” or “LPG” means a petroleum product composed predominantly of any of the hydrocarbons, or mixture thereof; propane, propylene, butanes and butylenes maintained in the liquid state.

~~(7682)~~ “Material information” means:

(a) Information that would result in a change of the carbon intensity of a fuel, expressed in a gCO₂e/MJ basis to two decimal places; or

(b) Information that would result in a change by any whole integer of the number of credits or deficits generated under OAR 340-253-1000 through OAR 340-253-1030.

~~(7783)~~ “Medium duty vehicle” or “MDV” means any motor vehicle rated between 8,501 pounds and 10,000 pounds gross vehicle weight.

~~(7884)~~ “Motor vehicle” means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is self-propelled.

~~(79(85))~~ “M-RETS Renewable Thermal” means the electronic tracking and trading system for North American biomethane and other renewable thermal attributes run by the M-RETS organization. The attributes are serialized and issued as renewable thermal certificates. For the purposes of this division, only the biomethane or renewable natural gas certificates generated by this system are recognized as legitimate.

~~(86)~~ “Multi-family housing” means a structure or facility established primarily to provide housing that provides four or more living units, and where the individual parking spaces that an electric vehicle charger serves, and the charging equipment itself, are not deeded to or owned by a single resident.

~~(8087)~~ “Natural gas” means a mixture of gaseous hydrocarbons and other compounds with at least 80 percent methane by volume.

~~(81(88))~~ “Natural gas common carrier pipeline” means a natural gas pipeline that offers natural gas transportation services to any third party under a standard set of terms. For the purpose of this division, any common carrier pipeline used for book and claim must be part of a larger network directly or indirectly connected to Oregon.

(89) “Oregon Fuels Reporting System” means the interactive, secured, web-based, electronic data tracking, reporting and compliance system that DEQ develops, manages and operates to support the Clean Fuels Program.

(8290) “Oregon Fuels Reporting System reporting deadlines” means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

(8391) “OR-GREET” means the Greenhouse gases, Regulated Emissions, and Energy in Transportation (GREET) model developed by Argonne National Laboratory that DEQ modifies and maintains for use in the Oregon Clean Fuels Program. The most current version is OR-GREET 3.0. DEQ ~~will make~~has made available a copy of OR-GREET 3.0 on its website (<https://www.oregon.gov/deq/ghgp/cfp/Pages/indexClean-Fuel-Pathways.aspx>). As used in this rule, OR-GREET refers to both the full model and the fuel-specific simplified calculators that the program has adopted.

~~(84)~~(92) “Ocean-Going Vessel” or “OGV” means a commercial, government, or military watercraft meeting any one or more of the following criteria:

(A) A vessel greater than or equal to 400 feet in length overall;

(B) A vessel greater than or equal to 10,000 gross tons pursuant to the convention measurement (international system); or

(C) A vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

(93) “Physical Transport Mode” means the applicable combination of actual fuel delivery methods, such as truck routes, rail lines, pipelines and any other fuel distribution methods through which the regulated party reasonably expects the fuel to be transported under contract from the entity that generated or produced the fuel; to any intermediate entities and ending in Oregon.

(8594) “Plug-In Hybrid Electric Vehicle” or “PHEV” means a hybrid vehicle with the capability to charge a battery from an off-vehicle electric energy source that cannot be connected or coupled to the vehicle in any manner while the vehicle is being driven.

(8695) “Position holder” means any person that has an ownership interest in a specific amount of fuel in the inventory of a terminal operator. This does not include inventory held outside of a terminal, retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

(8796) “Power Purchase Agreement” means a written agreement between an electricity service supplier and a customer that specifies the source or sources of electricity that will supply the customer.

(8897) “Producer” means:

(a) With respect to any liquid fuel and renewable propane, the person who makes the fuel; or

(b) With respect to any biomethane, the person who refines, treats or otherwise processes biogas into biomethane.

~~(8998)~~ “Product transfer document” or “PTD” means a document, or combination of documents, that authenticates the transfer of ownership of fuel between parties and must include all information identified in OAR 340-253-0600(2). A PTD may include bills of lading, invoices, contracts, meter tickets, rail inventory sheets or RFS product transfer documents.

~~(9099)~~ “Public transportation” means regular, continuing shared passenger-transport services along set routes which are available for use by the general public.

~~(91100)~~ “Public transit agency” means an entity that operates a public transportation system.

~~(92101)~~ “Registered party” means a regulated party, credit generator, ~~or~~ aggregator, or an out-of-state fuel producer that has a DEQ-approved registration under OAR 340-253-0500~~(1)~~ to participate in the Clean Fuels Program.

~~(93102)~~ “Regulated fuel” means a transportation fuel identified under OAR 340-253-0200~~(2)~~ and (3).

~~(94103)~~ “Regulated party” means a person responsible for compliance with requirements listed under OAR 340-253-0100(1).

~~(95104)~~ “Related entity” means any direct parent company, direct subsidiary, or a company with common ownership or control.

~~(96105)~~ “Renewable hydrocarbon diesel” or “renewable diesel~~”;~~” means a diesel fuel that is produced from non-~~petroleum~~fossil renewable resources but is not a monoalkylester and which is registered as a motor vehicle fuel or fuel additive under Title 40, part 79 of the Code of Federal Regulations. This includes the renewable portion of a diesel fuel derived from co-processing biomass with a petroleum feedstock.

~~(97106)~~ “Renewable hydrocarbon diesel blend” or “renewable diesel blend” means a fuel comprised of a blend of renewable hydrocarbon diesel with petroleum or fossil-based diesel fuel or biodiesel, designated RXX. In the abbreviation RXX, the XX represents the volume percentage of renewable hydrocarbon diesel fuel in the blend.

~~(98107)~~ “Renewable gasoline” means a spark ignition engine fuel that substitutes for fossil gasoline and that is produced from non-fossil renewable resources.

~~(99108)~~ “Renewable propane” means liquefied petroleum gas (LPG~~-or,~~ also known as propane) that is produced from non-~~petroleum~~fossil renewable resources.

(~~400~~109) “Renewable naphtha” means naphtha that is produced from non-~~petroleum~~fossil renewable resources.

(~~401~~110) “Small importer of finished fuels” means any person who imports into Oregon 500,000 gallons or less of finished fuels in a given calendar year. ~~Any fuel, including the aggregate total of finished fuels~~ imported by persons that are related, or share common ownership or control, ~~shall be aggregated together to determine whether a person meets this definition.~~

(~~402~~111) “Specified source feedstocks” are feedstocks for fuel pathways that require chain of custody evidence to be eligible for a reduced CI associated with the use of a waste, residue, by-product, or similar material under the fuel pathway certification process under OAR 340-253-0400(~~76~~).

(~~403~~112) “Substitute fuel pathway code” means a fuel pathway code that is used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use when the seller of a fuel does not pass along the credits or deficits to the buyer and the buyer does not have accurate information on the carbon intensity of the fuel or its blendstocks.

(~~404~~113) “Tier 1 calculator”, “Simplified calculator” or “OR-GREET 3.0 Tier 1 calculator” means the tools used to calculate lifecycle emissions for commonly produced fuels, including the instruction manuals on how to use the calculators. DEQ will make available copies of these simplified calculators and the instruction manual on its website (<https://www.oregon.gov/deq/Pages/index.aspx>). The simplified calculators used in the program are:

- (a) Tier 1 Simplified Calculator for Starch and Corn Fiber Ethanol;
- (b) Tier 1 Simplified CI Calculator for Sugarcane-derived Ethanol;
- (c) Tier 1 Simplified CI Calculator for Biodiesel and Renewable Diesel;
- (d) Tier 1 Simplified CI Calculator for LNG and L-CNG from North American Natural Gas;
- (e) Tier 1 Simplified CI Calculator for Biomethane from North American Landfills;
- (f) Tier 1 Simplified CI Calculator for Biomethane from Anaerobic Digestion of Wastewater Sludge;
- (g) Tier 1 Simplified CI Calculator for Biomethane from Food, Green and Other Organic Wastes; ~~and~~
- (h) Tier 1 Simplified CI Calculator for Biomethane from AD of Dairy and Swine Manure; and

~~(105)(i) Tier 1 Simplified CI Calculator for Biomethane to Electricity from Anaerobic Digestion of Dairy and Swine Manure.~~

~~(114)~~ “Tier 2 calculator” or “OR-GREET 3.0 model” means the tool used to calculate lifecycle emissions for next-generation fuels, including the instruction manual on how to use the calculator. Next-generation fuels include, but are not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first-generation fuels produced using innovative production processes. DEQ will make available a copy of the Tier 2 calculator on ~~its website~~ [https://www.oregon.gov/deq/Pages/its website](https://www.oregon.gov/deq/Pages/its%20website) (<https://www.oregon.gov/deq/Pages/index.aspx>).

~~(106)~~115 “Transaction date” means the title transfer date as shown on the PTD.

~~(107)~~116 “Transaction quantity” means the amount of fuel reported in a transaction.

~~(108)~~117 “Transaction type” means the nature of the fuel transaction as defined below:

(a) “Produced in Oregon” means the transportation fuel was produced at a facility in Oregon;

(b) “Import within the bulk system” means the transportation fuel was imported into Oregon and placed into the bulk system;

(c) “Import outside the bulk system” means the transportation fuel was imported into Oregon and delivered outside the bulk system;

(d) “Purchased with obligation” means the transportation fuel was purchased with the compliance obligation passing to the purchaser;

(e) “Purchased without obligation” means the transportation fuel was purchased with the compliance obligation retained by the seller;

(f) “Sold with obligation” means the transportation fuel was sold with the compliance obligation passing to the purchaser;

(g) “Sold without obligation” means the transportation fuel was sold with the compliance obligation retained by the seller;

(h) “Position holder sale without obligation” means the transportation fuel was sold below the rack without a transfer of the compliance obligation;

(i) “Position holder sale with obligation” means the transportation fuel was sold below the rack with a transfer of the compliance obligation;

(j) “Position holder sale for export” means the transportation fuel was sold below the rack to an entity who exported the fuel;

~~(jk)~~ “Purchase below the rack for export” means the transportation fuel was purchased below the rack and exported-;

~~(kl)~~ “Export” means a transportation fuel that was reported under the Clean Fuels Program but was later moved from a location inside of Oregon to a location outside of Oregon;

~~(lm)~~ “Loss of inventory” means the fuel exited the Oregon fuel pool due to volume loss, such as through evaporation or due to different temperatures or pressurization, or the fuel was transferred to a new fuel pathway code;

~~(mn)~~ “Gain of inventory” means the fuel entered the Oregon fuel pool due to a volume gain, such as through different temperatures or pressurization, or the fuel was transferred from a different fuel pathway code;

~~(no)~~ “Not used for transportation” means a transportation fuel that was used in an application unrelated to the movement of goods or people, such as process heat at an industrial facility, home or commercial building heating, or electric power generation-;

~~(op)~~ “EV charging” means providing electricity to recharge EVs including BEVs and PHEVs;

~~(pq)~~ “LPGV fueling” means the dispensing of liquefied petroleum gas at a fueling station designed for fueling liquefied petroleum gas vehicles;

~~(qr)~~ “NGV fueling” means the dispensing of natural gas at a fueling station designed for fueling natural gas vehicles;

~~(rs)~~ "Exempt fuel use - Aircraft", "Exempt fuel use - Racing Activity Vehicles (ORS 801.404)", "Exempt fuel use - Military tactical and support Vehicle and equipment", "Exempt fuel use - ~~Locomotives~~Locomotive", "Exempt fuel use - Watercraft", "Exempt fuel use - Farm vehicles, tractors, implements of husbandry", "Exempt fuel use - Motor trucks primary used to transport logs", "Exempt fuel use - Off-highway construction vehicles which must meet OAR 340-253-0250(2)(a)(J)" means that the fuel was delivered or sold into the category of vehicles or fuel users that are exempt under OAR 340-253-0250-~~or~~. Each of these categories is further defined as follows:

~~(s)~~ ~~“ProductionA)~~ “Aircraft” has the same definition as in ORS 836.005;

(B) “Racing Activity Vehicles” has the same definitions in ORS 801.404;

(C) “Military tactical and support vehicle and equipment” means a motor vehicle or equipment designed to be operated in combat or to directly support combat, combat service support, tactical, or relief operations that is owned by the United States Department of Defense, the Oregon Military Department, or another United States military service;

(D) “Railroad Locomotive” means a locomotive operated on and by a railroad as defined in ORS 824.020(2);

(E) “Watercraft” means a vehicle designed for exclusive operation in water;

(F) “Farm Vehicles” means motor vehicles registered as farm vehicles under the provisions of ORS 805.300;

(G) “Tractors” means Farm Tractors as defined in ORS 801.265;

(H) “Implements of Husbandry” has the same definition as in ORS 801.310;

(I) “Motor trucks primary used to transport logs” means motor trucks, as defined in ORS 801.355, used primarily to transport logs; and

(J) “Off-highway construction vehicles” means motor vehicles that are not designed primarily to transport persons or property, that are operated on highways only incidentally and that are used primarily for construction work;

(t) “Importing production for import gallons inside of the bulk system” means reporting the Import into Oregon” means the out-of-state production of a of fuel that will be imported from outside of Oregon into Oregon.the bulk system; and

(409)(u) “Importing production for import gallons outside of the bulk system” means reporting the import into Oregon of fuel from outside of Oregon outside of the bulk system.

(118) “Transportation fuel” means gasoline, diesel, any other flammable or combustible gas or liquid, and electricity that can be used as a fuel for the operation of a motor vehicle. Transportation fuel does not mean unrefined petroleum products.

(440119) “Unit of fuel” means fuel quantities expressed to the largest whole unit of measure, with any remainder expressed in decimal fractions of the largest whole unit.

(441120) “Unit of measure” means either:

(a) The International System of Units defined in NIST Special Publication 811 (2008) commonly called the metric system;

(b) US Customer Units defined in terms of their metric conversion factors in NIST Special Publications 811 (2008); or

(c) Commodity Specific Units defined in either:

(A) The NIST Handbook 130 (2015), Method of Sale Regulation; or

(B) OAR chapter 603, division 027.

(~~412~~121) “Unspecified source of electricity” or “unspecified source” means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity. Such electricity will be assigned an emissions factor of 0.428 metric tons per megawatt-hour.

(~~413~~122) “Utility Renewable Electricity Product” means a product where a utility customer has elected to purchase renewable electricity through a product that retires renewable energy credits (RECs) or represents a bundled purchase of renewable electricity and its RECs.

[NOTE: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
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DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 160-2018, minor correction filed 04/12/2018, effective 04/12/2018
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14
DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0060

Acronyms

The following acronyms apply to this division:

- (1) “AFP” means Alternative Fuel Portal.
- (2) “ASTM” means ASTM International (formerly American Society for Testing and Materials).
- (3) “BEV” means battery electric vehicle.
- (4) “CARB” means the California Air Resources Board.
- (5) “CA-GREET” means the California Air Resources Board adopted version of GREET.
- (6) “CFP” means the Clean Fuels Program established under OAR chapter 340, division 253.
- (7) “CI” means carbon intensity.

(8) “CNG” means compressed natural gas.

(9) “CO₂e” means carbon dioxide equivalents.

(10) “DEQ” means Oregon Department of Environmental Quality.

(11) “eCHE” means electric cargo handling equipment.

(12) “EER” means energy economy ratio.

~~(1213)~~ “EN” means a European Standard adopted by one of the three European Standardization Organizations.

~~(13)~~ “(14) “eOGV” means electric ocean-going vessels.

(15) “EQC” means Oregon Environmental Quality Commission.

~~(14)~~ “(16) “eTRU” means electric transport refrigeration unit.

(17) “EV” means electric vehicle.

~~(1518)~~ “FEIN” means federal employer identification number.

~~(1619)~~ “FFV” means flex fuel vehicle.

~~(1720)~~ “FPC” means fuel pathway code.

~~(18)~~ (21) “FSE” means fuel supply equipment.

(22) “gCO₂e/MJ” means grams of carbon dioxide equivalent per megajoule of energy.

~~(1923)~~ “HDV” means heavy-duty vehicle.

~~(2024)~~ “HDV-CIE” means a heavy-duty vehicle compression ignition engine.

~~(2125)~~ “HDV-SIE” means a heavy-duty vehicle spark ignition engine.

~~(2226)~~ “L-CNG” means liquefied-compressed natural gas.

~~(2327)~~ “LDV” means light-duty vehicle.

~~(2428)~~ “LNG” means liquefied natural gas.

~~(2529)~~ “LPG” means liquefied petroleum gas.

~~(2630)~~ “LPGV” means liquefied petroleum gas vehicle.

~~(2731)~~ “MDV” means medium-duty vehicle.

~~(2832)~~ “mmBtu” means million British Thermal Units.

~~(2933)~~ “NERC” means the North American Electric Reliability Corporation.

~~(3034)~~ “NGV” means natural gas vehicle.

~~(31)~~ ~~(35)~~ “OFRS” means the Oregon Fuels Reporting System, the electronic reporting, trading, and compliance platform for the Clean Fuels Program and the Greenhouse Gas Reporting Program.

~~(36)~~ “PHEV” means partial hybrid electric vehicle.

~~(3237)~~ “PTD” means product transfer document.

~~(3338)~~ “REC” means Renewable Energy Certificate.

~~(34)~~~~(39)~~ “RTC” means Renewable Thermal Certificate.

~~(40)~~ “RFS” means the Renewable Fuel Standard implemented by the US Environmental Protection Agency.

~~(3541)~~ “scf” means standard cubic foot.

~~(3642)~~ “ULSD” means ultra-low sulfur diesel.

~~(3743)~~ “WREGIS” means the Western Renewable Energy Generation Information System run by the Western Electricity Coordinating Council.

~~(3844)~~ “WECC” means the Western Electricity Coordinating Council.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0100

Oregon Clean Fuels Program Applicability and Requirements

(1) Regulated parties.

(a) All persons that produce in Oregon, or import into Oregon, any regulated fuel, other than fuels that become regulated fuels under OAR 340-253-0200(2)(g), must comply with the rules in this division;

~~(b)~~ For any fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g):

(A) The owner of the compressor or fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle must comply with the rules in this division; and

(B) For fossil LPG dispensed for use in a forklift, the forklift fleet owner or operator must comply with the rules in this division;

~~(c)~~ The regulated parties for regulated fuels are designated under OAR 340-253-0310 and must comply with sections (4) through (8) below;

~~(e)~~ An out-of-state producer of ethanol, biodiesel, renewable diesel, alternative jet fuel, renewable natural gas, or renewable propane that is not an importer is not required to participate in the program. Any out-of-state producer that is not an importer who chooses voluntarily to participate in the program in order to initially generate credits from the volumes of their fuel that is imported into Oregon must comply with sections (4), (5), (7), (8), and (9) below;

~~(d)~~ Small importers of finished fuels are exempt from sections (6) and (7) below; and

~~(e)~~ Regulated parties must comply with OAR chapter 340, division 215.

(2) Credit generators.

(a) The following rules designate persons eligible to generate credits for each of the following fuel types:

(A) OAR 340-253-0320 for compressed natural gas, liquefied natural gas, liquefied compressed natural gas, and liquefied petroleum gas, as provided in that rule;

(B) OAR 340-253-0330 for electricity;

(C) OAR 340-253-0340 for hydrogen fuel or a hydrogen blend; and

(D) OAR 340-253-0350 for alternative jet fuel.

(b) Any person eligible to be a credit generator, and that is not a regulated party, is not required to participate in the program. Any person who chooses voluntarily to participate in the program in order to generate credits must comply with sections (4), (5), (7), (8), and (9) below.

(3) ~~Aggregator~~Aggregators.

(a) Aggregators must comply with this section and sections (4), (5), (7), and (8) below.

~~(b) Aggregators~~ A registered party may designate an aggregator to act on its behalf to facilitate credit generation and trade credits only if a regulated party or a credit generator has authorized an aggregator to act on its behalf by submitting an Aggregator Designation Form. An eligible credit generator may designate an aggregator. Aggregators may only register for its credit generation. The CFP once they have a complete and valid Aggregator Designation Form. Aggregators may only exception to that designation by a credit generator is the backstop submit their own registration form to the CFP after a registered party has designated them as their aggregator through a complete and valid Aggregator Designation Form. When designated, the aggregator takes on the privileges and requirements of this division for the credit generator that has designated them.

(c) This section does not apply to the Backstop Aggregator or Incremental Aggregators designated under OAR 340-253-0330(7). A regulated party or credit generator already registered with the program party may also serve as an aggregator for others. When serving as an aggregator is for another party, the aggregator and the designating party are both responsible for notifying DEQ when the aggregator's authorization to act on behalf of a credit generator or regulated party has been withdrawn. Aggregator designations may only take effect at the start of the next full calendar quarter after DEQ receives such notice. Aggregator withdrawals may only take effect at the end of the current full calendar quarter currently open reporting period when DEQ receives such notice.

(4) Registration.

(a) A regulated party must ~~submit a complete~~ update their organization's registration application to DEQ under OAR 340-253-0500 in OFRS for each fuel type on or before the date upon which that party begins producing the fuel in Oregon or importing the fuel into Oregon. ~~The registration application must be submitted using DEQ approved forms. If they are not registered, they must submit their program registration under OAR 340-253-0500 prior to producing the fuel in Oregon or importing the fuel into Oregon.~~

(b) A credit generator must submit a complete registration application to DEQ under OAR 340-253-0500 for each fuel type before it may generate credits for fuel produced, imported, or dispensed for use in Oregon. DEQ will not recognize credits allegedly generated by any person that does not have an approved, accurate and current registration.

(c) An aggregator must submit a complete registration application to DEQ under OAR 340-253-0500 and an Aggregator Designation Form each time it enters into a new contract with a

regulated party, a credit generator, or another aggregator to facilitate credit generation or trade credits. Any violations by the aggregator may result in enforcement against both the aggregator and the party it was designated to act on behalf of.

(5) Records. ~~Regulated~~Registered parties, ~~credit generators, and aggregators~~ must develop and retain all records ~~OAR 340-253-0600 requires~~required by this division.

(6) Clean fuel standards. Each ~~regulated~~registered party must comply with the following standards for all transportation fuel it produces in Oregon or imports into Oregon in each compliance period. Each ~~regulated~~registered party may demonstrate compliance in each compliance period either by producing or importing fuel that in the aggregate meets the standard or by obtaining sufficient credits to offset the deficits it has incurred for such fuel produced or imported into Oregon. ~~The initial compliance period is for two years, 2016 and 2017, and after that compliance periods will be for each single calendar year.~~

(a) Table 1 under OAR 340-253-8010 establishes the Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes; and

(b) Table 2 under OAR 340-253-8010 establishes the Oregon Clean Fuel Standard for Diesel and Diesel Substitutes.

(7) Quarterly report. Each ~~regulated~~registered party, ~~credit generator, and aggregator~~ must submit quarterly reports under OAR 340-253-0630, unless they are exempt under ~~subsection~~OAR 340-253-0250 (1)(b) or they are a credit generator solely registered for residential charging of electric vehicles.

(8) Annual report. Each ~~regulated~~registered party, ~~credit generator, and aggregator~~ must submit an annual report under OAR 340-253-0650. ~~Each regulated party must submit an annual report for 2016 notwithstanding that the initial compliance period is for 2016 and 2017.~~

(9) Voluntary participation. The voluntary participation in the program by any person shall conclusively establish that person's consent to be subject to the jurisdiction of the State of Oregon, its courts, and the administrative authority of DEQ to implement this program. If a person does not consent to such jurisdiction, then the person may not participate in the program.

(10) Change of Ownership or Control. If a registered party undergoes a change of ownership or operational control, the following requirements apply:

(a) Notification by previous owner. The previous owner or operator must notify DEQ in writing within 30 days of the ownership or operational control change and provide the following information:

(A) Name of the previous owner or operator;

(B) Name of the new owner or operator;

(C) Date of the ownership or operational control change;

(D) Name of previous account representatives pursuant to OAR 340-253-0500 for the affected entity's account in OFRS; and

(E) What the planned disposition of net credits in the previous owner's OFRS account and/or the certified fuel pathways associated with the previous owner's AFP account will be;

(b) Notification by new owner. The new owner or operator must notify DEQ in writing within 30 days of the ownership or operational control change, including the following information:

(A) Name of the previous owner or operator;

(B) Name of the new owner or operator;

(C) Date of ownership or operator change; and

(D) Name of new account representatives pursuant to OAR 340-253-0500 for the affected entity's account in OFRS;

(c) The previous owner or operator remains the owner or operator of record until complete notices under both subsections (a) and (b) have been submitted;

(d) Responsibilities for reporting. A single report must be submitted for an entire reporting period. Reported data must not be split or subdivided for a reporting period, based on ownership. Both the owner or operator of record at the time of a deadline specified in this division and the actual owner or operator at such time are responsible for complying with the reporting requirements of this division, if a required report is not submitted; and

(e) Responsibility for net deficits. The new owner or operator is responsible for demonstrating compliance when filing the annual report under OAR 340-253-0650.

(11) Withdrawal from the program or company dissolution. If a registered party no longer wants to participate in the program or is dissolved, the following requirements apply:

(a) The registered party must submit a letter detailing the company name(s) and any CFP ID numbers associated with the company or companies;

(b) If the registered party is registered as a large importer of finished fuels, it must:

(A) Show through one full calendar year of reporting that it imported into Oregon 500,000 gallons or less of finished fuels; and

(B) File an annual report for the last year of its registration. If the company will not be reporting to either the CFP or GHG Reporting Program going forward, it will be deactivated in the OFRS once the appropriate letter and filing has been submitted;

(c) Responsibility of Credits. If a party dissolves or otherwise ceases to exist without notifying DEQ pursuant to this rule, then DEQ will assign to the Incremental Aggregator any net credits in the party's account;

(d) Responsibility of Deficits. Prior to dissolution or deregistration, a registered party is responsible for retiring credits equal to any net deficits in its OFRS account and fulfill account closure requirements; and

(e) A registered party leaving the program must complete and file all required quarterly reports and an annual report for the year in which it leaves the program.

(13) Bankruptcy. Deficits constitute regulatory obligations under Oregon law.

(14) Inactivity. If a registered party does not have any fuel transactions reported in a calendar year, the party will:

(a) Be deregistered from the program;

(b) Have its account in OFRS deactivated within 30 days of deregistering;

(c) Be able to re-register and have its account reactivated after having qualifying fuel transactions in Oregon; and

(d) Give up any credits remaining in its OFRS account to the Incremental Aggregator.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0200

Regulated and Clean Fuels

(1) Applicability. In-state producers, out-of-state producers that have voluntarily registered under 340-253-0100(c)(1), and importers of transportation fuels listed in this rule, unless the fuel is exempt under OAR 340-253-0250, are subject to this division ~~253~~.

(2) Regulated fuels include:

(a) Gasoline;

(b) Diesel;

(c) Ethanol;

(d) Biodiesel;

(e) Renewable hydrocarbon diesel;

(f) Any blends or constituents of the above fuels; ~~and~~

~~(g)~~ Fuels listed in section (2), beginning in the year specified and thereafter; and

(h) Any other liquid or non-liquid transportation fuel not listed in section ~~(34)~~.

~~(3)~~ Transition from clean fuels to regulated fuels. As the Clean Fuel Standards decrease, the following fossil fuels that were clean fuels in the initial years of the program will begin generating deficits and become regulated fuels in the year specified and thereafter:

(a) Fossil CNG in 2026;

(b) Fossil L-CNG in 2022;

(c) Fossil LNG in 2022;

(d) Fossil LPG in 2029;

(4) Clean fuels include:

(a) Bio-based CNG;

(b) Bio-based L-CNG;

(c) Bio-based LNG;

(d) Electricity;

(e) Fossil CNG prior to 2026;

- (f) Fossil L-CNG prior to 2022;
- (g) Fossil LNG; prior to 2022;
- (h) Hydrogen or a hydrogen blend;
- (i) Fossil LPG prior to 2029;
- (j) Renewable LPG, and
- (k) Alternative jet fuel.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0250

Exemptions

(1) Exempt fuels. The following fuels are exempt from the list of regulated fuels under OAR 340-253-0200(2):

(a) Fuels used in small volumes. A single type of transportation fuel supplied for use in Oregon if the producer or importer documents that all providers supply an aggregate volume of less than 360,000 gallons of liquid fuel per year; and

(b) Small volume fuel producer. A transportation fuel under OAR 340-253-0200(2) supplied for use in Oregon if the producer documents that:

(A) The producer has an annual production volume of less than 10,000 gallons of liquid fuel per year; ~~or~~

(B) The producer uses the entire volume of fuel produced in motor vehicles used by the producer directly and has an annual production volume of less than 50,000 gallons of liquid fuel; or

(C) The producer is a research, development or demonstration facility.

(2) Exempt fuel uses.

(a) Transportation fuels supplied for use in any of the following motor vehicles are exempt from ~~the definition of regulated fuels under OAR 340-253-0200; regulation, subject to subsections (b) and (c):~~

- (A) Aircraft;
- (B) Racing activity vehicles defined in ORS 801.404;
- (C) Military tactical vehicles and tactical support equipment;
- (D) Locomotives;
- (E) Watercraft;
- (F) Motor vehicles registered as farm vehicles as provided in ORS 805.300;
- (G) Farm tractors defined in ORS 801.265;
- (H) Implements of husbandry defined in ORS 801.310;
- (I) Motor trucks defined in ORS 801.355 if used primarily to transport logs; and
- (J) Motor vehicles that meet all of the following conditions:
 - (i) Not designed primarily to transport persons or property;
 - (ii) Operated on highways only incidentally; and
 - (iii) Used primarily for construction work.

(b) To ~~be claim as~~ exempt, ~~a regulated fuel used as described in subsection (a),~~ the regulated party must ~~document~~provide the following documentation that the fuel was supplied for use in a motor vehicle listed in subsection (2)(a). ~~The method of documentation is subject a):~~

(A) Individual receipts or invoices for each fuel sale claimed as exempt that list the specific customer and exempt vehicle type;

(B) If the fuel is sold through a dedicated tank for a single customer, electronic or paper records that document that the customer's vehicle(s) being fueled are in an exempt category under subsection (a), and that the tank is not used to ~~approval~~ fuel any other vehicles; or

(C) Other comparable documentation approved in writing by DEQ ~~and prior to exemptions~~ being claimed. The documentation must:

(A~~i~~) Establish that the fuel was sold through a dedicated source to use in ~~one a type~~ of the ~~vehicle~~ specified ~~motor vehicles; in subsection (a);~~ or

(Bii) Be on a fuel transaction basis if the fuel is not sold through a dedicated source.

(c) The records described in subsection (b) must be kept by the person asserting the exemption for not fewer than five years after the year in which they occurred, and the person must provide them to DEQ upon request.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

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340-253-0310

Regulated Parties: Providers of Gasoline, Diesel, Ethanol, Biodiesel, Renewable Diesel, and Blends Thereof, and Other Regulated Fuels

(1) Regulated party.

(a) The regulated party is the producer or importer of the regulated fuel under OAR 340-253-0200(2)-, except for a fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g); and

(b) The regulated party for a fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g) is the owner of the compressor or fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle and, for fossil LPG dispensed for use in a forklift and that is a regulated fuel under OAR 340-253-0200(2)(g), the regulated party is the forklift fleet owner or operator.

(2) Recipient notification requirement. If a regulated party intends to transfer ownership of fuel, it is the recipient's responsibility to notify the transferor whether the recipient is a producer, a position holder, an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, or is not an importer or otherwise registered under this program. The notification does not have to be in writing.

~~(3) Recipient is a position holder, an importer of blendstocks or a large importer of finished fuels above the rack. If a regulated party transfers the fuel to a position holder, an importer of blendstocks, or a large importer of finished fuels above the rack, the transferor and the recipient have the options and responsibilities under this section.~~

~~(a) Unless the transferor elects to remain the regulated party under (3)(b):~~

~~(A) The recipient is now the regulated party who:~~

~~(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;~~

~~(ii) Is responsible for compliance with the clean fuel standard for (3) Compliance obligations.~~

~~(a) Deficits and credits associated with a given volume of regulated fuels are created when the fuels are produced in Oregon, imported into the state, or, for a fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g), when the fuel is dispensed for use in a motor vehicle or forklift.~~

~~(b) Importers and producers must report the fuel that they import and produce and must comply with this division.~~

~~(c) For a fuel that becomes a regulated fuel under OAR 340-253-0100(6); and~~

~~(iii) Is eligible to generate credits for the fuel, as applicable.~~

~~(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the recipient is now 0200(2)(g), the regulated party.~~

~~(C) The transferor is no longer responsible for compliance with the clean fuel standard for such fuel, except for maintaining the product transfer documentation under OAR 340-253-0600.~~

~~(b) The transferor may elect to remain the regulated party for the transferred fuel. If the transferor elects to remain the regulated party:~~

~~(A) The transferor remains the regulated party who:~~

~~(i) must report the fuel that it dispenses for use in a motor vehicle or forklift and must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;this division.~~

~~(ii) Is responsible for d) A regulated party may not transfer its compliance with the clean fuel standard for such fuelobligations under OAR 340-253-0100(6); and~~

~~(iii) Is eligiblethis division when it sells fuel from above the rack to generate credits for the fuel, as applicable.~~

~~(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the transferor remains the regulated party.~~

~~(C) The recipient:~~

~~(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;~~

~~(ii) Is not responsible for compliance with the clean fuel standard for such fuel under OAR 340-253-0100(6); and~~

~~(iii) Is not eligible to generate credits for the fuel, as applicable.~~

~~(4) Recipient is a large importer of finished fuels below the rack. If~~

~~(e) Except as provided in subsections (d) and (f), a regulated party transfers clear or blended gasoline or diesel to a large importer of finished fuels below the rack; registered party may voluntarily transfer its compliance obligations under this division for fuel sold to another registered party. for such a transfer to be effective, it must be clearly documented in the written product transfer document(s) at the time of the transfer.~~

~~(a) The transferor remains the regulated party who:~~

~~(A) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel; and~~

~~(B) Is responsible for compliance with the clean fuel standard for such fuel under OAR 340-253-0100(6).~~

~~(b) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the transferor remains the regulated party.~~

~~(c) The recipient:~~

~~(A) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;~~

~~(B) Is) Compliance obligations may not responsible for compliance with the clean fuel standard for such fuel under OAR 340-253-0100(6); and~~

~~(C) Is not eligible be transferred to generate credits for the fuel, as applicable.~~

~~(d) This provision does not apply if the fuel is meant for export.~~

~~(5) Recipient is a producer, a small importer of finished fuels, or is not an importer. If a regulated party transfers the fuel to a producer, a small importer of finished fuels, or a person~~

~~who is not an importer, the transferor and the recipient have the options and responsibilities under this section: fuel producer registered only to hold fuel pathways.~~

~~(g) When a) Unless the recipient and the transferor agree in writing the recipient compliance obligation is transferred with the regulated party fuel under subsection (5)(b):~~

~~(A) The transferor remains recipient acquires the regulated party who:~~

~~(i) deficits and credits associated with the fuel and must comply with the registration, recordkeeping and reporting all the applicable requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel; of this division.~~

~~(ii) Is (B) The transferor is no longer responsible for compliance with the clean fuel standard for such fuel for such fuel under OAR 340-253-0100(6); credits and~~

~~(iii) Is eligible to generate credits for the fuel, as applicable.~~

~~(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the transferor remains the regulated party.~~

~~(C) The recipient is not the regulated party.~~

~~(b) The recipient may elect to be the regulated party deficits for the transferred fuel. If the recipient elects to be the regulated party:~~

~~(A) The recipient is the regulated party who:~~

~~(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;~~

~~(ii) Is responsible for compliance with the clean fuel standard for such fuel for such fuel under OAR 340-253-0100(6); and~~

~~(iii) Is eligible to generate credits for the fuel, as applicable.~~

~~(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the recipient is now the regulated party.~~

~~(C) The transferor is not the regulated party, except for maintaining the product transfer documentation under OAR 340-253-0600.~~

~~(6)(4) Fuel produced by a voluntarily registered an out-of-state producer that is voluntarily registered under OAR 340-253-0100(1)(c) is ineligible not eligible to generate credits or deficits unless and until it is imported into Oregon for use in the state.~~

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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340-253-0320

Credit Generators: Providers of Compressed Natural Gas, Liquefied Natural Gas, Liquefied Compressed Natural Gas, and Liquefied Petroleum Gas

(1) Applicability.

(a) Except as provided in subsection (b), this rule applies to providers of compressed natural gas, liquefied natural gas, liquefied compressed natural gas, and liquefied petroleum gas for use as a transportation fuel in Oregon; and

(b) This rule does not apply to providers of fuels listed in OAR 340-253-0200(3), beginning in the year specified in that rule and thereafter.

(2) Compressed natural gas. For CNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil CNG. For fuel that is solely fossil CNG, the person that is eligible to generate credits is the owner of the compressor at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based CNG. For fuel that is solely bio-based CNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil CNG and bio-based CNG. For fuel that is a blend of fossil CNG and bio-based CNG, the generated credits will be split between the persons eligible to generate credits or the regulated party under subsections (a) and (b) to give each credits based on the actual amount of each fuel in the blend.

(3) Liquefied natural gas. For LNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil LNG. For fuel that is solely fossil LNG, the person that is eligible to generate credits is the owner of the fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based LNG. For fuel that is solely bio-based LNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil LNG and bio-based LNG. For fuel that is a blend of fossil LNG and bio-based LNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of each fuel in the blend.

(4) Liquefied compressed natural gas. For L-CNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil L-CNG. For fuel that is solely fossil L-CNG, the person that is eligible to generate credits is the owner of the compressor at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based L-CNG. For fuel that is solely bio-based L-CNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil L-CNG and bio-based L-CNG. For fuel that is a blend of fossil L-CNG and bio-based L-CNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of each fuel in the blend.

(5) Liquefied petroleum gas. For LPG used as a transportation fuel, subsections (a) through ~~(d)~~ determine the person who is eligible to generate credits.

(a) Fossil LPG.

(i) For fossil LPG that is dispensed for use in a motor vehicle, the person that is eligible to generate credits is the owner of the fueling equipment at the facility ~~;~~.

(ii) For fossil LPG that is dispensed for use in a forklift, the person that is eligible to generate credits is the forklift fleet owner or operator. The fleet owner or operator may also designate an aggregator.

(b) Renewable LPG. The producer or importer of the renewable LPG is eligible to generate credits.

(c) Blend of fossil and renewable LPG. For fuel that is a blend of fossil and renewable LPG, the generated credits will be split between the person eligible to generate credits under subsections (a) and (b) based on the actual amounts of each fuel in the blend.

(6) Responsibilities to generate credits. Any person specified in sections (2) through (5) may generate ~~clean fuel~~ credits by complying with the registration, recordkeeping, reporting, and attestation requirements of this division ~~—for the fuel.~~.

(7) For bio-based or renewable fuels under this rule, the ability to generate credits for the fuel may be transferred along with the fuel to another recipient of the fuel in the state so long as it is documented in a written contract.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0330

Credit Generators: Providers of Electricity

(1) Applicability. This rule applies to providers of electricity used as a transportation fuel.

(2) For residential charging. For electricity used to charge an electric vehicle at a residence, subsections (a) and (b) determine the person who is eligible to generate credits.

(a) Electric Utility. In order to generate credits for the following year, an electric utility must notify DEQ by October 1 of the current year whether it will generate credits ~~or designate an aggregator to act on its behalf.~~ The utility ~~or its aggregator~~ must have an active registration approved by DEQ under OAR 340-253-0500. Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to DEQ.

(b) Backstop and Incremental Aggregators. If an electric utility does not register or designate an aggregator under subsection (a), then backstop and incremental aggregators are eligible to claim any credits that the utility could have generated for the following year, as provided in sections (10) and (11), as applicable. The backstop aggregator may claim any base credits and the incremental aggregator may claim any incremental credits.

(3) For non-residential charging. For electricity used to charge an electric vehicle at non-residential locations, such as in a public space, for a fleet, at a workplace, or at multi-family housing sites, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) ~~Owner or service provider of the electric-charging equipment.~~ The owner ~~or service provider~~ of the electric-charging equipment may generate the credits. ~~Only one entity may generate credits from each piece of~~ If the owner of charging equipment is not registered and that charging equipment is part of an electric vehicle supply equipment network, then the network service provider may register until and unless the owner registers.

(b) Electric Utility. If the owner ~~or service provider~~ of the electric-charging equipment does not generate the credits, then an electric utility or an aggregator designated to act on the utility's behalf is eligible to generate the credits. The utility or its aggregator must have an active registration approved by DEQ under OAR 340-253-0500. Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to DEQ.

(c) Backstop and Incremental Aggregators. If an electric utility does not ~~register or designate an aggregator under subsection (b),~~ elect to generate the credits ~~elect to generate the credits,~~ then the backstop and incremental aggregators are eligible to claim any credits that the utility could have generated for the following year, as provided in sections (10) and (11), as applicable. The backstop aggregator may claim any base credits and the incremental aggregator may claim any incremental credits.

(4) Public Transit. For electricity used to power fixed guideway vehicles such as light rail systems, streetcars, ~~and~~ aerial trams, or transit buses, a transit agency may generate the credits ~~or designate an aggregator.~~ The transit agency ~~or aggregator~~ must have an active registration approved by DEQ under OAR 340-253-0500.

(5) Electric Forklifts. For electricity used to power forklifts, the forklift ~~fleet owner or fleet operator~~ may generate the credits ~~or designate an aggregator. Only one entity.~~ If the forklift is being operated by a person other than the owner, the owner may generate the credits ~~from each piece of equipment. The fleet owner has precedence if they have detailed data that enables them to generate accurately report the electricity used to operate the forklift as required by OAR 340-253-1000(2), otherwise the operator of the forklift may generate the credits or designate an aggregator.~~

(6) Electric Transportation Refrigeration Units. The ~~fleet owner or fleet operator~~ of the electric transportation refrigeration unit may generate credits, ~~or designated an aggregator,~~ for electricity used in transport refrigeration units. ~~Only one entity may generate credits from each piece of equipment. The fleet owner has precedence to generate credits or designate an aggregator.~~

(7) Electric Cargo Handling Equipment. The owner ~~or service provider~~ of the electric-charging equipment may generate the credits ~~or designate an aggregator. Only one entity may generate credits from each piece of charging equipment.~~

(8) Electric Ocean-Going Vessel ~~powering~~. The owner of the equipment that provides electrical power from the shore to the vessel is eligible to generate credits ~~or designate an aggregator.~~

(9) Electric Ground Support Equipment. The owner of the charging equipment for Ground Support Equipment is eligible to generate credits.

(10) Responsibilities to generate credits. Any person specified under sections (2) through (89) may generate clean fuel credits by complying with the registration, recordkeeping and reporting requirements of this division.

(11) Backstop Aggregator. The backstop aggregator that serves as the credit generator of electricity credits that have not been claimed by an electric utility, an aggregator designated by an electric utility, or an owner or service provider of electric charging equipment under sections (2) and (3).

(a) To qualify to submit an application to be a backstop aggregator, an organization must:

(A) Be an organization exempt from federal taxation under section 501(c)(3) of the U.S. Internal Revenue Code;

(B) Complete annual independent financial audits.

(b) An entity that wishes to be the backstop aggregator must submit an application with DEQ that includes:

(A) A description of the mission of the organization and how being a backstop aggregator fits into its mission;

(B) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being a backstop aggregator;

(C) A plan describing:

(i) How the organization will promote transportation electrification statewide or in specific utility service territories, if applicable;

(ii) Any entities that the organization might partner with to implement its plan;

(iii) How the organization plans to use the revenue from the sale of credits, which may include, without limitation, programs that provide incentives to purchase electric vehicles or install electric vehicle chargers, opportunities to educate the public about electric vehicles, and anticipated costs to administer its plan; and

(iv) The financial controls that are, or will be put, in place to segregate funds from the sale of credits from other monies controlled by the organization.

(D) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified them as qualifying as an exempt organization under 501(c)(3);

(c) Initial applications to be a backstop aggregator are due to DEQ no later than March 15, 2018, to be eligible to be the backstop aggregator beginning in 2018. If the EQC does not

approve the designation of a backstop aggregator under subsection (e), then DEQ may set a new deadline for applications if it decides to undertake a new selection process.

(d) Applications will be evaluated by DEQ with the assistance of relevant experts selected by DEQ. DEQ will evaluate applications based on the likelihood that the applicant will maximize the benefits from the credits it receives to expand the use of alternative fuel vehicles and reduce greenhouse gas emissions from the transportation sector in Oregon.

(e) DEQ may recommend an organization be designated as the initial backstop aggregator to the EQC by May 31, 2018. If DEQ does not recommend an organization to be the backstop aggregator or the EQC does not approve DEQ's recommendation, then DEQ may undertake a new selection process at a later date under the same criteria in subsections (b) and (d).

(f) Following EQC approval of an organization to be the backstop aggregator, DEQ and the organization may enter into a written agreement regarding its participation in the program. A written agreement must be in place prior to the backstop aggregator registering an account in the ~~CFP Online System~~OFRS and receiving credits for the first time. The backstop aggregator must:

(A) By March 31st of each year, submit a report that summarizes the previous year's activity including:

(i) How much revenue was generated from the credits it received;

(ii) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes; and

(iii) The results of its most recent independent financial audit.

(B) Maintain records and make them available upon request by DEQ, including records required to be maintained under OAR 340-253-0600 and, in addition, any records relating to its application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.

(g) If DEQ determines that a backstop aggregator is in violation of this division or the agreement that it enters into with DEQ to be the backstop aggregator, DEQ may rescind its designation and solicit applications to select a new backstop aggregator.

(h) If backstop aggregator wishes to terminate its agreement with DEQ, then DEQ may solicit applications to select a new backstop aggregator.

(i) After a backstop aggregator has been in place for three years, DEQ may hold a new selection process to appoint a backstop aggregator for future years. Unless DEQ has rescinded an organization as backstop aggregator under subsection (g), the current backstop aggregator may apply to be re-designated as the backstop aggregator for future years.

(112) Incremental ~~credits~~ Aggregator.

(a) ~~Other than for~~ For non-residential charging, incremental credits may be claimed by the eligible credit generator ~~or its aggregator~~ identified in sections (3)-(89) of this rule ~~or the incremental aggregator.~~

(b) For residential charging, the following entities may claim incremental credits:

(A) An electric utility claiming base credits for the same vehicles under subsection (2)(a) or its designated aggregator if it notifies DEQ by June 15 or December 15 that it wishes to begin generating incremental credits starting with the charging covered by the next period of residential electric vehicle charging. A utility's election remains in place until it informs DEQ otherwise; or

(B) Incremental Aggregator. The incremental aggregator that serves as the credit generator of incremental electricity credits that have not been claimed by an electric utility, an aggregator designated by an electric utility, or the eligible credit generator under sections (3)-(8). The incremental aggregator will be selected as provided in subsection (c).

(c) Selection of the incremental aggregator.

(A) To qualify to submit an application to be the incremental aggregator, an organization must:

(i) Be an organization exempt from federal taxation under section 501(c)(3) of the U.S. Internal Revenue Code; and

(ii) Complete annual independent financial audits.

(B) An entity that wishes to be the incremental aggregator must submit an application with DEQ that includes:

(i) A description of the mission of the organization and how being the incremental aggregator fits into its mission;

(ii) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being the incremental aggregator;

(iii) How the organization plans to promote transportation electrification statewide in an equitable manner and conduct programs on a statewide basis;

(iv) The financial controls that are, or will be put, in place to segregate funds from the sale of credits from other monies controlled by the organization; and

(v) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified them as qualifying as an exempt organization under 501(c)(3).

(C) Initial applications to be the incremental aggregator are due to DEQ no later than ~~July 1, 2021~~December 31, 2022, to be eligible to be selected by the EQC to be the incremental aggregator beginning with 2020 residential EV crediting. If the EQC does not approve the designation of an incremental aggregator under subsection (11)(e), then DEQ may set a new deadline for applications if it decides to undertake a new selection process.

(D) Applications to be the incremental aggregator will be evaluated by DEQ in partnership with the equity advisory committee selected under subsection (11)(j). DEQ will evaluate applications based on the likelihood that the applicant will use the revenue from the credits it receives to advance transportation electrification statewide with a focus on actions that will help vulnerable populations and communities impacted by air pollution and climate change.

(E) Based on DEQ's review of applications to be the incremental aggregator, DEQ may recommend that an applicant organization be designated as the initial incremental aggregator to the EQC by August 15, 2021. If DEQ does not recommend an organization to be the incremental aggregator or the EQC does not approve DEQ's recommendation, then DEQ may undertake a new selection process at a later date under the same process and criteria in paragraphs (11)(c)(A) through (D).

(F) Following EQC approval of an organization to be the incremental aggregator, DEQ and the organization may enter into a written agreement regarding the selected organization's participation in the program. In addition to the requirements described in paragraph (11)(c)(K), a written agreement must be in place prior to the incremental aggregator receiving credits for the first time. The incremental aggregator must:

(i) By March 31st of each year, submit a report that summarizes the previous year's activity including:

(I) How much revenue was generated from the credits it received;

(II) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes; and

(III) The results of its most recent independent financial audit; and

(ii) Maintain records and make them available to DEQ upon request by DEQ, including records required to be maintained under OAR 340-253-0600 and, in addition, any records relating to its application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.

(G) If DEQ determines that an incremental aggregator is in violation of this division or the agreement that it enters into with DEQ to be the incremental aggregator, DEQ may rescind its designation and solicit applications to select a new incremental aggregator.

(H) If the incremental aggregator wishes to terminate its agreement with DEQ, then DEQ may solicit applications to select a new incremental aggregator.

(I) After an incremental aggregator has been in place for three years, DEQ may hold a new selection process to appoint an incremental aggregator for future years. Unless DEQ has rescinded an organization as incremental aggregator under paragraph (11)(c)(G), the current backstop aggregator may apply to be re-designated as the incremental aggregator for future years.

(J) Equity advisory committee. DEQ will appoint and convene an advisory committee to help the agency design projects and programs for the incremental aggregator to implement that prioritize the revenue for transportation electrification projects that equitably distribute benefits and address the needs and interests of impacted communities that are the most vulnerable to the adverse effects of transportation air pollution and climate change. The committee will also advise DEQ in its review of reports on utility spending, and:

(i) The committee will advise DEQ in:

(I) The selection of the incremental aggregator;

(II) Establishing criteria that will be used to set priorities to be carried out by the incremental aggregator;

(III) Developing the annual work plan for the incremental aggregator;

(IV) Identifying areas of need that should be prioritized by utility projects and programs paid for by revenue from CFP incremental credit sales in order to ensure equitable outcomes and benefits;

(V) Reviewing the utility reports submitted under OAR 340-253-0640(9); and

(VI) Reviewing the performance of the incremental aggregator;

(ii) DEQ will solicit applications for residents of the state of Oregon to be appointed to the equity advisory committee. DEQ will seek representatives with the following interests and areas of expertise as well as representatives from the following communities:

(I) Transportation and transportation electrification; and

(II) Environmental Justice Communities

(iii) DEQ will solicit applications to serve on the equity advisory committee in May 2021 and may select the committee from those applicants. Committee members may serve terms of three years and DEQ may annually solicit applications and make additional selections to serve on the committee.

(K) The incremental aggregator must consult with DEQ and the equity advisory committee to propose an annual workplan to guide its spending for the next year, subject to approval by DEQ. DEQ will not award credits to the incremental aggregator unless DEQ has approved such workplan and the incremental aggregator has followed such workplan. The incremental aggregator and DEQ may mutually agree to modify the annual workplan at any time, after consultation with the equity advisory committee. Projects to be undertaken by the incremental aggregator may include:

(i) Electrification and battery swap programs for school or transit buses;

(ii) Electrification of drayage trucks;

(iii) Investment in public EV charging infrastructure and EV charging infrastructure in multi-family residences;

(iv) Investment in electric mobility solutions, such as EV sharing and ride-hailing programs;

(v) Multilingual marketing, education, and outreach designed to increase awareness and adoption of EVs and clean mobility options that includes information about their benefits to individuals, the environment, and human health;

(vi) Additional rebates and incentives for low-income individuals beyond existing local, federal and state rebates and incentives, for:

(I) Purchasing or leasing new or previously owned EVs;

(II) Installing EV charging infrastructure in residences and related electrical work;

(III) Promoting the use of public transit and other clean mobility; and

(IV) Off-setting costs for residential or non-residential EV charging; and

(vii) Other projects that promote transportation electrification in or for Environmental Justice Communities and that are reviewed by the equity advisory committee and approved by DEQ. Individuals and organizations may submit proposals for such projects to DEQ for consideration, and the application must include:

(I) A complete description of the project, the demonstration that the project promotes transportation electrification in Environmental Justice, or that the project provides increased access to electric transportation for those communities; and

(II) Evidence that the project was developed in coordination with local environmental justice advocates, local community-based organizations, local units of government, or multiple such entities.

(13) Credit Generator transition during 2023. For all electricity fuel supply equipment and facilities that has a current registration on January 1, 2023, each registered credit generator of such equipment as of December 31, 2022, may continue to generate credits based on the use of that equipment until DEQ calls in the registration to confirm that they may continue to generate credits under this rule. DEQ will call in the registrations in batches and will not act on another party's request to become the registered credit generator for such currently-registered fuel supply equipment and facilities until that current registration is called in for review.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0340

Credit Generators: Providers of Hydrogen Fuel or a Hydrogen Blend

(1) Applicability. This rule applies to providers of hydrogen fuel and a hydrogen blend for use as a transportation fuel in Oregon.

(2) Credit generation. For a hydrogen fuel or a hydrogen blend, the person who owns the finished hydrogen fuel where the fuel is dispensed for use into a motor vehicle is eligible to generate credits.

(3) Forklifts. For hydrogen forklifts, the forklift fleet ~~owner or fleet~~ operator is the credit generator eligible to generate credits. Only one entity may generate credits from each piece of equipment.

~~The fleet owner has precedence to generate credits or designate an aggregator.~~ (4) Responsibilities to generate credits. Any person specified in section (2) or (3) may generate clean fuel credits by complying with ~~the registration, recordkeeping and reporting requirements under of~~ this division.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0400

Carbon Intensities

(1) OR-GREET. Carbon intensities for fuels must be calculated using OR-GREET 3.0 or a model approved by DEQ. If a party wishes to use a modified or different lifecycle carbon intensity model, it must be approved by DEQ in advance of an application under OAR 340-253-0450.

(2) DEQ review of carbon intensities. Every three years, or sooner if DEQ determines that new information becomes available that warrants an earlier review, DEQ will review the carbon intensities used in the CFP and must consider, at a minimum, changes to:

(a) The sources of crude and associated factors that affect emissions such as flaring rates, extraction technologies, capture of fugitive emissions, and energy sources;

(b) The sources of natural gas and associated factors that affect emissions such as extraction technologies, capture of fugitive emissions, and energy sources;

(c) Fuel economy standards and energy economy ratios;

(d) GREET, OR-GREET, CA-GREET, GTAP, AEZ-EF or OPGEE;

(e) Methods to calculate lifecycle greenhouse gas emissions;

(f) Methods to quantify indirect land use change; and

(g) Methods to quantify other indirect effects.

(3) Statewide carbon intensities.

(a) ~~Regulated~~Registered parties, ~~credit generators and aggregators~~ must use the statewide average carbon intensities listed in ~~Tables 3 and~~Table 4 under OAR 340-253-8010 ~~and 8010~~ for the following fuels:

(A) Clear gasoline or the gasoline blendstock of a blended gasoline fuel;

(B) Clear diesel or the diesel blendstock of a blended diesel fuel;

(C) Fossil CNG;

(D) Fossil LNG; and

(b) For electricity suppliers,

(A) The statewide average electricity carbon intensity is calculated annually under OAR 340-253-0470 and posted on the DEQ website.

(B) ~~Credit generators or aggregators~~ Registered parties may use an electricity carbon intensity different from the statewide average under subsection (b)(A) if:

(i) The utility has applied for an individual carbon intensity under OAR 340-253-0470; or

(ii) The party generates lower carbon electricity at the same location as it is dispensed into a motor vehicle consistent with the conditions of the approved fuel pathway code under OAR 340-253-0470(3).

(c) A hydrogen supplier may apply to use the applicable value in Table 4 under OAR 340-253-8010; or apply for a specific carbon intensity under OAR 340-253-0450. DEQ may require application materials as part of its review of an application to use a Table 4 value in order to determine if that value is appropriate and applicable. DEQ may not approve the use of a Table 4 value if it believes the actual operational carbon intensity of the hydrogen will exceed the Table 4 value.

(4) Carbon intensities for established fuel pathways. Except as provided in sections (3) or (5), ~~regulated registered parties, credit generators, and aggregators can~~ may use a carbon intensity that:

(a) CARB has certified for use in the California Low Carbon Fuel Standard program, ~~as that~~ has been adjusted for fuel transportation distances ~~and~~, indirect land use change and other comparable adjustments, and that has been reviewed and approved by DEQ as being consistent with OR-GREET 3.0; or

(b) Matches the description of a fuel pathway listed in Table 4 under OAR 340-253-8010; ~~and~~ provided that:

(A) For Hydrogen produced using one or more of biomethane or ~~renewable power~~ wind or solar electricity, the producer of the hydrogen ~~will have to~~ must:

(i) Demonstrate to DEQ that the value in Table 4 is appropriate for its production facility; and ~~must submit attestations~~

(ii) Submit retirement records from an electronic tracking system recognized by DEQ such as WREGIS or M-RETS Renewable Thermal on an annual basis that the renewable ~~power~~ electricity and biomethane attributes, as applicable, were not claimed in any other program except for the federal RFS; and the greenhouse gas reporting program under OAR chapter 340, division 215. Any such claims under the federal RFS must be made for the same

use and volume of biomethane or its derivatives as it is being claimed for in the CFP, or the claim under the CFP is invalid; and

~~(5) Transition to OR-GREET 3.0.~~

~~(a) Pathways certified under OR-GREET or CA-GREET 2.0 will be deactivated by DEQ in the Oregon Fuels Reporting System for reporting after the fourth quarter of 2020. Fuel pathway holders with pathways certified under OR-GREET or CA-GREET 2.0 that wish to keep generating credits from those fuels from January 1, 2021 onward must follow the pathway application and certification process in this rule to obtain a new pathway under OR-GREET 3.0, or request DEQ approval of a CARB-certified CA-GREET 3.0 pathway.~~

~~(b) Table 4 pathways. Entities reporting fuels using Table 4 pathways that do not require an application under subsection (a) will have those pathways automatically updated to the OR-GREET 3.0 values on January 1, 2019 for first quarter 2019 reporting.~~

~~(c) New pathway applications. DEQ will not consider new applications using OR-GREET 2.0.~~

~~(6(B) To use the hydrogen electrolysis pathway using only electricity from the Bonneville Power Administration (BPA), the producer of the hydrogen must: (i) Demonstrate in its request that its electricity is sourced from a customer utility that relies entirely on BPA for all of the power it needs to meet its total load; and~~

~~(ii) Submit records annually showing that the full electric load for the electrolyzer is being met by that utility's electricity.~~

~~(5) Primary alternative fuel pathway classifications. If it is not possible to identify an applicable carbon intensity under either section (3) or (4), then the regulated party, credit generator, or aggregator has the option to develop its own fuel pathway and apply for it to be certified under 340-253-0450. Fuel pathway applications fall into one of two tiers:~~

~~(a) Tier 1. Conventionally-produced alternative fuels of a type that have been well-evaluated in the Oregon and California low carbon fuel standards. Tier 1 fuels include:~~

~~(A) Starch- and sugar-based ethanol;~~

~~(B) Biodiesel produced from conventional feedstocks ~~(such as~~ plant oils, tallow and related animal wastes and used cooking oil);~~

~~(C) Renewable diesel produced from conventional feedstocks ~~(such as~~ plant oils, tallow and related animal wastes and used cooking oil);~~

~~(D) Natural Gas; ~~and~~~~

(E) Biomethane from landfills; anaerobic digestion of dairy and swine manure or wastewater sludge; and food, vegetative or other organic waste.

(F) Biogas to electricity.

(b) Tier 2. All fuels not included in Tier 1 including but not limited to:

(A) Cellulosic alcohols;

(B) Biomethane from other sources;

(C) Hydrogen;

(D) Renewable hydrogen;

(E) Renewable hydrocarbons other than renewable diesel produced from conventional feedstocks;

~~(EF)~~ Biogenic feedstocks co-processed at a petroleum refinery

~~(FG)~~ Alternative Jet Fuel;

~~(GH)~~ Renewable propane; and

~~(HI)~~ Tier 1 fuels using innovative methods, including but not limited to carbon capture and sequestration or a process that cannot be accurately modeled using the simplified calculators.

~~(7G)~~ Specified source feedstocks. Fuels that are produced from a specified source feedstock may be eligible for a reduced carbon intensity value when applying under OAR 340-253-0450 so long as they meet all of the following requirements:

(a) Specified source feedstocks are non-primary products of commercial or industrial processes for food, fuel or other consumer products and include, but are not limited to, used cooking oil, animal fats, fish oil, yellow grease, distiller's corn oil, distiller's sorghum oil, brown grease, and other fats, oils, and greases;

(b) The specified source feedstocks are used in fuel pathways for biodiesel; renewable diesel; alternative jet fuel; co-processed refinery products; biomethane supplied using book and claim accounting and claimed as a feedstock for CNG, LNG, L-CNG; or steam-methane reformation produced hydrogen;

(c) Under OAR 340-253-0450(9)(d), any feedstock can be designated as a specified source feedstock if requested by a supplier using site-specific carbon intensity data or if it is specified in a fuel pathway approval condition; and

(d) Chain-of-custody evidence must be used to demonstrate the proper characterization and accuracy of the quantity of the specified source feedstocks going into a fuel production facility or claimed as biomethane, subject to all of the following provisions:

(A) Chain-of-custody evidence must be provided to the verifier and to DEQ upon request;

(B) Joint applicants may assume responsibility for different portions of the chain-of-custody evidence;

(C) Fuel pathway applicants using specified source feedstocks must maintain either:

(i) Delivery records that show shipments of feedstock type and quantity directly from the point of origin to the fuel production facility; or

(ii) Information from material balance or energy balance systems that control and record the assignment of input characteristics to output quantities at relevant points along the feedstock supply chain between the point of origin and the fuel production facility; and

(e) In order to maintain the fuel pathway, the fuel production and any joint applicant must meet the following requirements:

(A) Maintain records of the type and quantity of feedstock obtained from each supplier, including feedstock transaction records, feedstock transfer documents pursuant to (f), weighbridge tickets, bills of lading or other documentation for all incoming and outgoing feedstocks;

(B) Maintain records used for material balance and energy balance calculations; and

(C) Ensure DEQ staff and verifier access to audit feedstock suppliers to demonstrate proper accounting of attributes and conformance with certified CI data.

(87) The carbon intensity value certified under OAR 340-253-0450, including any margin of safety requested by the fuel producer, is the maximum carbon intensity value that a fuel can be reported in the CFP. The actual operational carbon intensity of a fuel will be calculated from the most recent production data covering 24 months of the fuel production facility's operation. Registered parties shall ~~may~~ not report fuel sale transactions under any CFP certified carbon intensity unless the actual operational carbon intensity is equal to or less than the certified CI.

(98) Fuel producers labeling fuel sold in Oregon with a carbon intensity under the CFP and registered entities parties using those labeled carbon intensities to report in the Oregon Fuels Reporting System, must ensure that the fuel so labeled and reported will be found to have an actual operational lifecycle carbon intensity equal to or below its certified carbon intensity.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14
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DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0450

Obtaining a Carbon Intensity

(1) Fuel producers can apply to obtain a carbon intensity by following the process to obtain a carbon intensity under this rule.

(2) Applicants seeking approval to use a carbon intensity that is currently approved by the CARB must provide:

(a) The application package submitted to CARB;

(b) The CARB-approved Tier 1 or Tier 2 CA-GREET 3.0 calculator, and the OR-GREET 3.0 equivalent with the fuel transportation distance and ~~distribution-cellsmode~~ modified for ~~that fuel's~~the fuel pathway to Oregon;

(c) The CARB review report for the approved fuel pathway;

(d) Any other supporting materials relating to the fuel pathway, as requested by DEQ; and

(e) If the applicant is seeking to use a provisional fuel pathway approved by CARB, then the applicant must submit to DEQ the ongoing documentation it provides to CARB, and as required in section (6). The applicant must provide DEQ within fourteen calendar days:

(A) Any additional documentation it has submitted to CARB; and

(B) A notification of any changes to the status of its CARB-approved provisional fuel pathway.

(3) Applicants seeking to obtain a carbon intensity using either the Tier 1 or Tier 2 calculator must submit the following information:

(a) Company name and full mailing address.

(b) Company contact person's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website address.

- (c) Facility name (or names if more than one facility is covered by the application).
- (d) Facility address (or addresses if more than one facility is covered by the application).
- (e) Facility ID for facilities covered by the RFS program.
- (f) Facility geographical coordinates (for each facility covered by the application).
- (g) Facility contact person's contact information including the name, title or position, phone number, mobile phone number, facsimile number, and email address.
- (h) Facility nameplate production capacity in million gallons per year (for each facility covered by the application).
- (i) If applicable, consultant's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website URL.
- (j) Declaration whether the applicant is applying for a carbon intensity for a Tier 1 or Tier 2 fuel.

(4) In addition to the items in section (3), applicants seeking to obtain a carbon intensity for a Tier 1 fuel using one of the simplified calculators must submit the following and any other materials or information related to the fuel pathway requested by DEQ:

(a) The applicable simplified calculator with all necessary inputs completed, following the instructions in the applicable instruction manual dated September 2022 for that calculator;

~~(b) The most recent RFS third party engineering report, if one has been conducted for the facility.~~

~~(c) Proof that the inputs completed in the simplified calculator supplied under subsection (a) are correct in the form of:~~

~~(A) A positive verification statement from an approved verification body, provided in compliance with OAR chapter 340, division 272, stating that it has reviewed and validated all of the data used to form the inputs for the Tier 1 calculator submitted under subsection (a); or~~

~~(B) The invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, along with a summary of those invoices and receipts; and,~~

~~(c) The most recent RFS third party engineering report, if one has been conducted for the facility.~~

(5) In addition to the items in section (3), applicants seeking to obtain a carbon intensity for a Tier 2 fuel using the full OR-GREET 3.0 model must submit the following and any other materials or information related to the fuel pathway requested by DEQ:

(a) Proof that the Tier 2 model inputs are correct in the form of:

(A) a positive verification statement from an approved verification body, provided in compliance with OAR chapter 340, division 272, stating that it has reviewed and validated all ~~of~~ the data used to form the inputs for the Tier 2 calculator submitted under subsection (c-);
or

(B) or the invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, and a summary of those invoices and receipts~~;~~.

(b) The geographical coordinates of the fuel production facility;

(c) A completed Tier 2 model;

(d) Process flow diagrams that depict the complete fuel production process;

(e) Applicable air permits issued for the facility;

(f) A copy of the RFS third party engineering report, if available;

(g) A copy of the RFS fuel producer co-products report; and

(h) A lifecycle analysis report that describes the fuel pathway and describes in detail the calculation of carbon intensity for the fuel. The report shall contain sufficient detail to allow staff to replicate the carbon intensity the applicant calculated. The applicant must describe all inputs to, and outputs from, the fuel production process that are part of the fuel pathway.

(6) Applicants seeking a provisional carbon intensity. If a fuel production facility has been in full commercial production for at least 90 calendar days but less than 24 months, it can apply for a provisional carbon intensity.

(a) The applicant shall submit operating records covering all periods of full commercial operation in accordance with sections (2) through (5).

(b) DEQ may approve the provisional carbon intensity under section (9).

(c) At any time before the plant reaches a full 24 months of full commercial production, DEQ may revise as appropriate the operational carbon intensity based on the required ongoing submittals or other information it learns.

(d) If, after a plant has been in full commercial production for more than 24 months of full commercial production, the facility's operational carbon intensity is higher than the provisionally ~~certified~~ carbon intensity, DEQ will replace the certified carbon intensity with the operational carbon intensity in the Oregon Fuels Reporting System and adjust the credit balance accordingly.

(e) If the facility's operational carbon intensity appears to be lower than the certified carbon intensity, DEQ will take no action. The applicant may, however, petition DEQ for a new carbon intensity that reflects the operational data. In support of such a petition, the applicant must submit a revised application packet that fully documents the requested reduction.

(7) Applicants employing co-processing at a petroleum refinery. Applicants employing co-processing of biogenic feedstocks at a petroleum refinery must submit all information required under sections (3) and (5).

(a) For the renewable diesel or other renewable refinery product of the fuel, the applicant must also submit:

(A) The planned proportions of biogenic feedstocks to be processed;

(B) A detailed methodology for the attribution of biogenic feedstocks to the renewable products; and

(C) The corresponding carbon intensities from each biogenic feedstock.

(b) The attribution methodology will be subject to approval by DEQ and may be modified at DEQ's discretion based on ongoing quarterly reporting of production data at the refinery.

(c) DEQ may adjust the carbon intensities applied for under this section as it determines is appropriate.

(8) Temporary Fuel Pathway Codes for Fuels with Indeterminate Carbon Intensities. A ~~regulated~~registered party ~~or credit generator~~ that has purchased a fuel without a carbon intensity must submit a request to DEQ for permission to use a temporary fuel pathway code found in Table 9 under OAR 340-253-8010, or a temporary fuel pathway code otherwise approved and posted by DEQ under OAR 340-253-0450(11). A fuel producer may also apply to DEQ for approval to have a temporary fuel pathway code assigned to its facility.

(a) The request must:

(A) Be submitted within 45 calendar days of the end of the calendar quarter for which the applicant is seeking to use a temporary fuel pathway code; and

(B) Explain and document that the production facility is unknown or that the production facility is known but there is no approved fuel pathway code.

(b) Temporary fuel pathway codes may be used for up to two calendar quarters. If more time is needed to obtain a carbon intensity, the party that obtained the temporary fuel pathway must submit an additional request to DEQ for an extension of the authorization to use a temporary fuel pathway code.

(c) If DEQ grants a request to use a temporary fuel pathway code, credits and deficits may be generated subject to the quarterly reporting provisions in OAR 340-253-0630. DEQ may impose conditions on the use of a temporary fuel pathway code by an applicant in order to ensure the accuracy and proper reporting of the carbon intensity being used.

(9) Approval process to use carbon intensities for fuels other than electricity.

(a) For applications proposing to use CARB-approved fuel pathways, including provisional fuel pathways, DEQ will:

(A) Confirm that the proposed fuel pathway is consistent with OR-GREET 3.0; and

(B) Review the materials submitted under subsection (2).

(b) For applications proposing to use the Tier 1 or Tier 2 calculators, DEQ may approve the application if it can:

(A) Replicate the calculator outputs; and

(B) Verify the energy consumption and other inputs.

(c) If DEQ has approved or denied ~~thea~~ application for a carbon intensity under this rule, DEQ will notify the applicant of its determination.

(d) DEQ may impose conditions in its approval of ~~thea~~ carbon intensity under this rule. Conditions may include specific limitations, recordkeeping or reporting requirements, adherence to protocols to assure carbon reduction or sequestration claims, or operational conditions that DEQ determines should apply to assure the ongoing accuracy and proper use of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked, an enforcement action being taken by DEQ, or both.

(A) For applicants seeking a provisional fuel pathway, DEQ will specify the conditions used to establish the fuel pathway.

(i) In order to maintain an active provisional fuel pathway eligible to generate credits, the applicant must file the annual fuel pathway report and seek third-party verification if required under OAR 340-253-0700.

(ii) At any point during the 24 months following the certification of a provisional fuel pathway, DEQ may revise as appropriate the CI score for the provisional fuel pathway based on new information or a better understanding of the fuel pathway.

(iii) DEQ may remove the provisional status of the fuel pathway after the applicant provides 24 months of operational data with a positive or qualified positive verification status.

(iv) For fuel pathways that are not subject to verification, DEQ may remove the provisional status upon review of 24 months of operational data demonstrating that the fuel pathway data supports the provisional CI.

(B) For a CARB-approved fuel pathway that DEQ has approved for use in Oregon, if at any time the ~~pathway's~~fuel pathway approval is revoked by CARB then:

(i) The fuel pathway holder must inform DEQ within seven calendar days of the revocation and provide DEQ with documentation related to that decision.

(ii) Upon DEQ request, the fuel pathway holder must provide to DEQ additional documentation.

(iii) DEQ may at its discretion revoke its approval of the ~~pathway's~~fuel pathways for use in Oregon at any time.

(iv) If CARB modifies its approval of the fuel pathway, then the fuel pathway holder must notify DEQ of the modification not later than 14 calendar days after CARB's modification and must provide to DEQ any accompanying documentation the fuel pathway holder received from CARB.

(v) Based on the underlying facts that led to CARB's modification of the ~~pathway's~~fuel pathway status, within 30 calendar days DEQ may modify its approval, take no action, or revoke its approval and will provide the fuel pathway holder with written notice of its decision.

(e) In order to receive and maintain an active fuel pathway code under this rule, the producer of any fuel must:

(A) Maintain an active registration with the AFP;

(B) Provide proof of delivery to Oregon through a physical pathway demonstration in the quarter in which the fuel is first reported in the Oregon Fuels Reporting System;

~~(C) Beginning in calendar year 2021,~~(C) Comply with the requirements of this division and OAR chapter 340, division 272. In addition to, and not in lieu of, any other remedies for violations of this division, failure to timely submit an annual fuel pathway report or a required verification statement for fuel pathways will result in the deactivation of those fuel pathways;

(D) For non-provisional fuel pathways, a fuel producer must inform DEQ within fourteen calendar days after it becomes aware that its operational carbon intensity will exceed its certified carbon intensity on one or more fuel pathways; and

(E) If a fuel pathway employs carbon capture and sequestration, the fuel pathway holder or joint applicant must submit annual reports of greenhouse gas emissions reductions, project operations, and ongoing monitoring results. Reports must include measurements of relevant parameters sufficient to ensure that the quantification and documentation of CO2 sequestered is replicable and verifiable. DEQ may specify a protocol for measuring and reporting such information in its approval of such an application;

(f) Annual Fuel Pathway Reports. Each fuel pathway holder must submit an annual fuel pathway report into the AFP no later than March 31st of each calendar year. The annual fuel pathway report must include:

(A) The certified version of the simplified OR-GREET or full OR-GREET calculator, as applicable, updated to include the most recent two calendar years of operational data;

(B) If the fuel pathway is a recertification of a CARB-approved fuel pathway, the fuel pathway holder must comply with regulations under OAR 340-253-0450(9)(d)(B);

(C) The annual fuel pathway report for renewable electricity and hydrogen lookup table pathways, in lieu of the CI calculator, must include invoices or metering records substantiating the quantity of renewable electricity or biomethane or low-CI inputs procured from a qualifying source. If the renewable electricity, biomethane, or other qualifying source of low-CI inputs is owned by another party, the unredacted contract by which the fuel pathway holder obtained those environmental attributes must be provided;

(D) If the fuel or fuel production process involves biomethane, biogas, or renewable electricity, the fuel producer must provide the attestation regarding environmental attributes or proof of non-generation or retirement of any RECs or RTCs as required by OAR 340-253-0640~~(1)(d)~~ or OAR 340-253-0470~~(35)~~(d); and

(E) For biomethane injected into a natural gas common carrier pipeline, then:

(i) The retirement records for the RTCs from M-RETS Renewable Thermal or another renewable thermal tracking system recognized by DEQ. The use of an electronic tracking system is required instead of an attestation, and the specific volume of biomethane claimed as being used as a feedstock for the fuel production process must have been injected into the pipeline in the current or prior quarter as the fuel is being produced;

(ii) If the renewable electricity, biomethane, or other qualifying source of low-CI inputs is owned by another party, the unredacted contract and unredacted invoices by which the fuel pathway holder obtained those environmental attributes must be provided; and

(iii) Biomethane can only be claimed in this manner in a fuel pathway application as the feedstock for CNG, LNG, L-CNG or hydrogen production, and cannot be claimed as an energy source for another fuel production process;

~~(F)~~ Any fuel pathway holder, including a joint applicant, who is not subject to site visits by a third party verifier, whose fuel pathway involves the use of renewable or low-CI process energy, must submit invoices for that energy to the AFP. Additionally, for any renewable electricity, including and on-site or directly connected ~~renewable electricity generator~~, that is used to reduce the carbon intensity of electricity used as a ~~transportation~~-fuel or hydrogen production via electrolysis, the fuel pathway holder must upload records demonstrating that any renewable energy certificates generated were retired in WREGIS or another comparable, recognized REC tracking system for the purpose of lowering the certified CI, or for credit generation; Any offsite source of renewable electricity must meet the qualifications in OAR 340-253-0470(5).;

~~(vG)~~ Any temporally-variable information that was requested or required by DEQ to be included in the initial application as supplemental information, or any required data or documentation listed in the pathway's operating conditions. ~~The information required to be submitted under this section must cover the same time period as the updated OR-GREET model required under subparagraph (i).~~;

~~(vi)~~(H) Any additional information requested by DEQ after its review of the annual fuel pathway report; and

(I) If the verified operational CI as calculated from the operational data covering the prior two calendar years of production is found to be lower than the certified CI, and a positive verification statement is issued for this period, the fuel pathway holder may elect to keep the original certified CI, or may request to replace the certified CI with the verified operational CI. ~~The~~The new certified CI will take effect for the following reporting year. The fuel pathway holder may elect to add a margin of safety to the new certified CI, and must submit an attestation that the new CI can be maintained through the next reporting period with the acknowledgement that exceeding the newly certified CI in subsequent annual reports or verifications is a violation of the requirements of this division; ~~and.~~

~~(vii)~~ If the operational CI is found to be greater than the certified CI, the fuel pathway holder is out of compliance with this division and may be subject to investigation and enforcement by DEQ;

~~(D)~~ Comply with the requirements of this division and OAR chapter 340, division 272. Failure to timely submit an annual fuel pathway report or a required verification statement for a facility's pathways will result in the deactivation of those pathways; and

~~(E)~~ If a pathway employs carbon capture and sequestration, the fuel pathway holder or joint applicant must submit annual reports of greenhouse gas emissions reductions, project operations, and ongoing monitoring results. Reports must include measurements of relevant parameters sufficient to ensure that the quantification and documentation of CO₂ sequestered is replicable and verifiable. DEQ may specify a protocol for measuring and reporting such information in its approval of such an application.

(fg) If DEQ determines ~~thethat a~~ proposal for ~~thea~~ carbon intensity has not met the criteria in subsection (b), DEQ will notify the applicant that the proposal is denied and identify the basis for the denial.

(g)h) ~~Notwithstanding OAR 340-253-0670,~~ DEQ may modify ~~anany~~ approved fuel ~~pathway's~~ pathway CI or approval conditions upon receipt of a verification statement that shows that the verified operational CI is higher than the certified CI.

(hi) Any applicant for a fuel pathway under this rule may include a margin of safety in its application which will increase its certified CI in order to account for potential process variability and to reduce the risk that it will violate this division by having its operational CI exceed its certified CI.

(10) Completeness determination process. DEQ will follow the steps described in subsections (a) through (d) to determine whether a fuel pathway application is complete.

(a) For applications calculated using the Tier 1 or Tier 2 calculator, DEQ will determine whether the proposal is complete within 1 month after receiving a registration application.

(b) If DEQ determines the proposal is complete, DEQ will notify the applicant in writing of the completeness determination.

(c) If DEQ determines the proposal is incomplete, DEQ will notify the applicant of the deficiencies. The applicant has 30 calendar days to address the deficiencies or DEQ will deny the application. Upon request, DEQ may grant an extension of up to 30 additional days.

(d) If the applicant submits supplemental information, DEQ ~~has 30 calendar days to~~ will determine if the supplemental submittal is complete within 30 calendar days, or ~~to~~ will notify the party and identify the continued deficiencies within that time. This process may repeat until the application is deemed complete or 180 calendar days have elapsed from the date that the applicant first submitted the registration application.

(11) Issuing additional substitute and temporary fuel pathway codes. For new fuels or new fuel blends being provided within Oregon, registered parties may request that DEQ issue additional fuel pathway codes that can be used in the same manner as those in Tables 8 or 9 (substitute or temporary fuel pathway codes) under OAR 340-253-8010. DEQ may approve such substitute or temporary fuel pathway codes if it concludes they are technically sound and supported by appropriate evidence. If any are approved, DEQ will post these additional fuel pathway codes in the Oregon Fuels Reporting System and on its public website for the Clean Fuels Program. All of the following requirements apply to such requests:

(a) Requests must be made in writing to DEQ.

(b) If DEQ concludes the proposed fuel pathway may be technically sound and supported by appropriate evidence, then it will post the proposed new substitute or temporary fuel pathway codes on its website and take comments for:

(A) 14 calendar days in the case of a substitute fuel pathway code; or

(B) 45 calendar days in the case of a temporary fuel pathway code.

(c) DEQ will consider any comments received, make any modifications, if necessary, and make a final decision on the proposed fuel pathway.

(d) If DEQ concludes the proposed fuel pathway is technically sound and supported by appropriate evidence, then DEQ may approve it and publish its final decision on its website.

(e) Any newly approved substitute or temporary fuel pathway code will be effective for use in the quarter in which it is approved.

(12) Measurement accuracy.

(a) All measurement devices that log or record data for use in a fuel pathway application must comply with the manufacturer-recommended calibration frequency and precision requirements. If manufacturer-recommendations are not provided, the measurement devices must be calibrated at least every six years.

(b) Requests to Postpone Calibration. For units and processes that operate continuously with infrequent outages, it may not be possible to meet manufacturer-recommended calibration deadlines for measurement devices ~~as required under subsection (a)~~. In such cases, the owner or operator may submit a written request to DEQ to postpone calibration or inspection until the next scheduled maintenance outage. Such postponements are subject to the procedures of paragraphs (A) ~~and (B) through (C)~~ below and must be documented in the monitoring plan required under OAR 340-253-0600.

(A) A written request for postponement must be submitted to DEQ not less than 30 calendar days before the required calibration, recalibration or inspection date. DEQ may request additional documentation to validate the operator's claim that the device meets the accuracy requirements of this section. The operator shall provide any additional documentation to DEQ within ~~ten (10) business~~ 14 calendar days of a request for documentation.

(B) The request under paragraph (B) must include:

(i) The date of the required calibration, recalibration, or inspection;

(ii) The date of the last calibration or inspection;

(iii) The date of the most recent field accuracy assessment, if applicable;

(iv) The results of the most recent field accuracy assessment, if applicable, clearly indicating a pass/fail status;

(v) The proposed date for the next field accuracy assessment, if applicable;

(vi) The proposed date for calibration, recalibration, or inspection which must be during the time period of the next scheduled shutdown. If the next shutdown will not occur within three years, this must be noted and a new request must be received every three years until the shutdown occurs and the calibration, recalibration or inspection is completed; ~~and~~.

(vii) A description of the meter or other device, including at a minimum the: make, model, installation date, location, parameter measured by the meter or other device, the rate of data capture by the meter or other device, description of how data from the meter or other device is used in a fuel pathway, calibration or inspection procedure, reason for delaying the calibration or inspection, proposed method to ensure that the precision requirements listed by the manufacturer are upheld, and the contact details for an individual at the fuel production facility who can answer questions about the meter or other device; ~~and~~

(C) DEQ will approve or deny the request at its discretion based on whether or not it concludes that the device's calibration is reasonably reliable.

(13) Missing Data Provisions.

(a) Meter Record, Accuracy, or Calibration Requirements Not Met. If a measurement device is not functional, not calibrated within the time period recommended by the manufacturer, or fails a field accuracy assessment, the fuel production facility operator must otherwise demonstrate to a verifier or DEQ that the reported data are accurate within +/-5 percent. The following requirements apply to such demonstration:

(A) If the operator can demonstrate to the verifier or DEQ that reported data are accurate, the data are acceptable. The entity must then provide a detailed plan describing when the measurement device will be brought into calibration. This plan is subject to approval by DEQ; and

(B) If the operator cannot demonstrate to the verifier or DEQ that reported data are accurate, the data is not acceptable and the missing data provisions in subsection (b) apply.

(b) Missing Data Provisions. If missing data exists, the entity must submit for DEQ approval an alternate method of reporting the missing data. Alternate methods shall be evaluated on a case-by-case basis for reasonableness and continuity with the rest of the dataset. DEQ may choose to require a more conservative approach to the missing data if it is concerned that the alternative method may understate actual lifecycle emissions associated with the fuel or fuels produced by the facility.

(c) Force Majeure Events. In the event of a facility shutdown or disruption drastically affecting production attributable to a force majeure event, the fuel pathway applicant or holder must notify DEQ.

(14) Biomethane applications. In addition to the other requirements of this rule, for any fuel pathway where biomethane is being injected into a natural gas common carrier pipeline to be reported in the CFP using book and claim accounting, the fuel pathway holder, fuel producer,

or both must ensure that no other party can make a claim on the specific biomethane attributes that are being used in the CFP. If the biomethane is being injected into the pipe of a local distribution company, the fuel producer must have an agreement with that company along with any other purchaser of the physical gas that they will not make any claims on the biomethane reported through book and claim in this program. That agreement must be submitted at the time of the fuel pathway application or in the next annual fuel pathway report if the fuel pathway is currently certified.

(15) For non-provisional pathways, if a fuel pathway's operational CI is found to be greater than its certified CI, the fuel pathway holder is out of compliance with this division and may be subject to investigation and enforcement by DEQ.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0460

Energy Economy Ratio-Adjusted carbon intensity applications

(1) ~~Energy Economy Ratio~~EER-adjusted CI-~~Applications~~. Applications submitted under this rule are modified Tier 2 pathway applications under OAR 340-253-0450. The vehicles covered by these applications must not be currently covered by a vehicle-category specific EER.

(2) The following persons are eligible to submit an application under this rule:

(a) Vehicle owners or operators that would be eligible to generate credits for their vehicles; based in Oregon, including for vehicles otherwise exempt from this program under OAR 340-253-0250, subject to section (7);

(b) Manufacturers of vehicles that would be eligible to generate credits may make a joint application with an owner or operator of their vehicles based in Oregon; and

(c) A single, joint application may be submitted on behalf of, and combining data from, any combination of multiple vehicle owners, operators, and manufacturers- except that at least one of the applicants must qualify under subsection (a).

(3) Applications made under this rule must be for electric vehicles capable of full normal operation using energy from onboard batteries or fuel cells.

(4) Application requirements for an ~~Energy Economy Ratio-Adjusted CI~~ under this rule-EER-adjusted CI under this rule. Applications can be made in connection with a Tier 1 or Tier 2 electricity fuel pathway application or the applicant can apply for a value that can be used in conjunction with one of the generally-available electricity fuel pathway codes. In addition to the application requirements for a Tier 2 pathway application under OAR 340-253-0450, the applicant or applicants must include:

(a) A letter of intent to request an ~~Energy Economy Ratio (EER)~~-adjusted ~~carbon intensity~~ CI and why the EER values provided in OAR 340-253-8010 are inapplicable. The letter must demonstrate using data that electricity is not the majority of the fuel currently used in the particular vehicle category;

(b) A detailed description of the methodology used in its calculations, all assumptions made, and provide all data and references to calculations. The methodology used must compare the useful output from the alternative fuel-vehicle technology under consideration to comparable conventional fuel-vehicle technology;

(c) Supplemental information including records and datasets used to establish any part of the application provided under (b); and

(d) If the applicant or applicants plan to use a value in the lookup table in OAR 340-253-8010 for the carbon intensity of the fuel, or an electricity fuel pathway code issued under OAR 340-253-0470, to request an EER-adjusted ~~carbon intensity~~ CI then they do not need to provide the fuel facility-~~specific~~ information required for a Tier 1 or Tier 2 fuel pathway application under OAR 340-253-0450(3)(e) through (h) and (5).

(5) Minimum data requirements to apply for an ~~Energy Economy Ratio~~ EER-adjusted CI under this rule:

(a) Any application made under this rule must include at least three months of operating data that represents typical usage for each individual vehicle included in the application, except that the application must cover at least 300 hours of operating data for each individual vehicle included in the application; and

(b) Notwithstanding subsection (a), an application from a manufacturer may provide data from duty-cycle testing. A manufacturer seeking to apply using duty-cycle testing data must consult with DEQ prior to submitting an application and receive written, advanced approval from the agency for the duration and test cycles it is including in the application in addition to or in lieu of operational data.

(6) Application review process to apply for an ~~Energy Economy Ratio~~ EER-adjusted CI under this rule:

(a) DEQ will review an application for completeness, soundness of the assumptions and comparison to the conventional fuel technology, and accuracy of the data. DEQ may deny an application without prejudice if it is incomplete. DEQ may deny any application that it

believes is adequately covered by an existing EER value in OAR 340-253-8010 or that it believes does not fit the intent and purpose of the ~~Clean Fuels Program~~CFP;

(b) DEQ may prioritize its review of applications under this provision to those that cover a greater number of entities or that the agency believes are critical to the state's transportation electrification goals;

(c) If DEQ intends to approve an application, it first must present a review report with a proposed EER value and ~~pathway~~operating conditions to the applicant or applicants. If the applicant or applicants accept the proposed review report and EER value and operating conditions, DEQ will post the review report and application on its website for a 30-day public comment period. DEQ staff will work with the applicant to aggregate and summarize any submitted data in order to ameliorate concerns regarding trade secrets included in the application. The aggregated data must still allow external stakeholders to understand and replicate the EER value that DEQ is proposing to approve; and

(d) Based on comments received during that public comment period, DEQ may move forward with approving the application as provided in section (7), deny the application, request additional information from the applicant or applicants, or modify the review report. If DEQ modifies the review report or receives additional information that has a material bearing on the proposed EER value, it will issue the modified review report and any affected supplemental materials for another round of public comment.

(7) Based on its review of the application materials and any comments submitted upon the application under section (6), DEQ may issue an EER-adjusted ~~fuel pathway~~CI or issue a value that it would post on its website that could be used similarly to the EER values contained in Table 7 of OAR 340-253-8010. Values issued under this rule can only be used by the applicant or applicants for that value. In its consideration of these applications, DEQ may, at its sole and complete discretion, deny applications for vehicles otherwise exempt under OAR 340-253-0250 if DEQ determines granting such an application is not in the best interests of program administration and goals.

(8) Adding Joint Applicants after a value is approved. If DEQ has issued a value under section (7) as part of an application that includes the manufacturer of the vehicle(s), owners or operators who begin to operate the same vehicle(s) covered in that application in Oregon may request to be added as a joint applicant. In order to do so they must provide the following:

(a) A letter from ~~the manufacturer stating that the manufacturer supports the additional~~ at least one of the ~~joint applicant~~;

~~(b) Any current operational data by the new joint applicant, or other data elements required to be reported~~ applicants that qualify under ~~the value's pathway conditions; and~~ either subsection (2)(a) or (2)(b);

(~~eb~~) A statement by the new joint applicant that they understand and accept any and all ~~pathway~~operating conditions associated with the ~~value~~EER-adjusted CI; and

(c) Any current operational data by the new joint applicant, or other elements requested by DEQ.

(9) Ongoing reporting requirements.

(a) For any EER-adjusted ~~fuel pathway~~CI approved by DEQ under section (7), the applicant for such approval must annually submit vehicle usage and energy consumption data for each individual vehicle using the value approved by DEQ to generate credits or deficits ~~in the Clean Fuels Program.~~ DEQ may specify additional data elements that must be reported annually as part of its pathway conditions for an application that is approved under this rule.

(b) Notwithstanding the applicability requirements of OAR chapter 340, division 272, for any EER-adjusted ~~fuel pathway~~CI approved by DEQ under section (7), DEQ may require third party verification of the annual fuel pathway report submitted by the applicant or joint applicants for such approval. If DEQ determines that third party verification is required, DEQ will include that as ~~a pathway~~an operating condition presented to the applicant or applicants under this rule as part of its approval of ~~such fuel pathway~~the EER value.

(10) Modifications to EER values issued under this rule. Based on the ongoing reported data required under section (9) or additional applications for vehicles that DEQ determines to be in the same category, DEQ may modify any ~~value~~EER values issued under this provision for reporting beginning ~~with~~within the next full calendar quarter following its notice that the agency is modifying the value. DEQ will provide notice to the applicant(s) for such ~~fuel pathway~~EER value prior to doing so, and may request comment from them and the public prior to modifying the value.

Statutory/Other Authority: ORS 468.020, ORS 468A.266, ORS 468A.268 & ORS 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, adopt filed 03/26/2021, effective 03/26/2021

340-253-0470

Determining the Carbon Intensity of Electricity

(1) Statewide electricity mix. The carbon intensity for the statewide electricity mix will reflect the average carbon intensity of electricity served in Oregon and be calculated by using the carbon-intensity of electricity from the most recent year as submitted to DEQ under OAR chapter 340, division 215. In calculating the statewide mix DEQ will exclude the energy and emissions related to utilities that have received utility-specific carbon intensity values under section (3) of this rule for that year. No later than December 31 of each year, ~~except that DEQ may revise the 2021 value no later than June 15,, 2021,~~ DEQ will:

- (a) Post the updated statewide electricity mix carbon intensity for the next year on the DEQ webpage;
- (b) Post the updated utility-specific carbon intensities for the next year on the DEQ webpage; and
- (c) Add the new fuel pathway codes to the Oregon Fuels Reporting System effective for ~~Q~~the first quarter reporting for the next year.

(2) Retirement of major fossil-fuel generators. For the 2021 and 2022 statewide mixes and any applicable utility-specific mixes, DEQ will replace the direct emissions associated with power from the Boardman coal-fired power plant with an emissions rate of 0.428 metric tons CO₂e per megawatt-hour. For indirect emissions, DEQ will continue to use the most recent fuel mix data available.

(3) Utility-specific carbon intensity. An electric utility may apply to obtain a utility-specific carbon intensity under OAR 340-253-0400 that reflects the average carbon intensity of electricity served in that utility district.

(a) The carbon intensity will be calculated by using the carbon intensity of electricity over the most recently reported year.

(b) Once DEQ has calculated a utility-specific carbon intensity, DEQ will propose its draft carbon intensity to the utility.

(A) If the utility does not agree with DEQ's proposed carbon intensity, then it must provide DEQ with an explanation of why it believes the proposed carbon intensity is not accurate within seven calendar days of receiving DEQ's proposal. DEQ will consider whether to change its proposed carbon intensity based on the information it receives from the utility. If DEQ determines not to change its proposed carbon intensity within 30 calendar days, then the utility may choose to accept the proposed carbon intensity or use the statewide electricity mix carbon intensity.

(B) If the utility agrees with DEQ's proposed carbon intensity, then the draft carbon intensity is made final and approved.

(C) If the utility fails to submit a timely objection to the calculation, then the draft carbon intensity is made final and approved.

(c) A utility that wants to discontinue a utility-specific carbon intensity may submit a written request to DEQ by October 31 for the following year. A utility can reapply for a utility-specific carbon intensity at any time in the future.

(4) For on-site generation of electricity using renewable generation systems such as solar or wind, applicants must document that:

(a) The renewable generation system is on-site or directly connected to the electric vehicle chargers;

(b) The fuel pathway codes listed in Table 3 under OAR 340-253-8010 for solar-generated or wind-generated electricity can only be used for the portion of the electricity dispensed from the charger that is generated by that dedicated renewable energy system;

(c) Any grid electricity dispensed from the charger must be reported separately under the statewide electricity mix or utility-specific fuel pathway codes; and

(d) RECs are not generated from the renewable generation system or, if they are, then an equal number of RECs generated from that facility to the number of MWh reported ~~in the Oregon Fuels Reporting System~~ from that facility must be retired in the recognized REC tracking system.

(5) Offsite renewable electricity. In order to lower the carbon intensity of electricity claimed as a ~~vehicle-fuel~~ in the ~~Clean Fuels Program~~ CFP, credit generators and aggregators may retire renewable electricity certificates that meet the following qualifications:

(a) ~~Renewable Energy Certificates (RECs)~~ retired in order to claim a carbon intensity other than the statewide mix or utility-specific mix must be certified by the Green-e Program under the Green-e Renewable Energy Standard for Canada and the United States version 3.5, or by a certification system approved by DEQ as being substantially equivalent, and:

(A) Unbundled RECs being used to claim low-carbon electricity through book and claim accounting must be certified at the wholesale level, ~~while~~; and

(B) RECs used in a power purchase agreement or Utility Renewable Electricity Product may be certified at the retail level; ~~and~~

(b) RECs must be generated by an electric generator that was placed into service after 2015, or in the case of biogas generators they must meet the new date requirements of the Green-e Standard;

(c) RECs must be generated from facilities located in the Western Electricity Coordinating Council; and

(d) RECs must be recorded and retired in a recognized REC tracking system; and:

(A) In addition to recognizing the ~~Western Renewable Energy Generation Information System~~ WREGIS, DEQ may recognize additional REC tracking systems upon a request from a registered party; and

(B) In reviewing ~~those requests~~, a request from a registered party referenced in paragraph (A), DEQ ~~will~~may consider whether the tracking system is comparable to WREGIS and ~~if~~whether it has systems in place to ensure accurate issuance and tracking of RECs.

(6) Carbon intensity of renewable electricity.

(a) The carbon intensity of solar, wind, geothermal, hydropower, and ocean power renewable electricity is deemed to be zero.

(b) For renewable electricity generated from biomass, biogas, biodiesel, and hydrogen, the generator must file a Tier 1 or Tier 2 fuel pathway application to determine the carbon intensity of its electricity.

(c) DEQ may adopt an efficiency adjustment factor for biogas to electricity pathways that include emissions reduction credits in order to maintain the program's incentive for energy efficiency.

(7) Utility Renewable Electricity Products and Power Purchase Agreements. Electric utilities and Electric Service Suppliers may apply ~~via a Tier 2 fuel pathway application~~ for DEQ to assign a carbon intensity to one or more of their renewable electricity products or a specific power purchase agreement, which may then be used to generate credits from charging electric vehicles attributable to the use of such products or agreements. All of the following requirements apply to such applications:

~~(a) Notwithstanding OAR 340-253-0450, Tier 2(a)~~ Applications made under this section must include:

(A) A letter describing the power purchase agreement or Utility Renewable Electricity Product, the existing or planned source, or sources, of electricity and environmental attributes, and the terms by which it is being offered to customers;

(B) Samples or examples of bills, invoices, contracts, or other documentation that an entity claiming renewable energy under this product could provide to DEQ to prove that their electric vehicle charging is covered by the product or agreement;

(C) In the case of a Utility Renewable Electricity Product, any filings with, and orders by, the Oregon Public Utility Commission or a local governing board that approves the product; and

(D) An estimate of the amount of electric vehicle charging attributable to customers for the product or agreement.

(b) DEQ will review ~~pathway~~ applications under this section to determine if they result in a substantially similar environmental outcome to the sources of renewable energy required under section (5) of this rule. In reviewing a utility product or agreement that contains multiple sources of power, DEQ may use the estimate under paragraph (a)(C) of this section to determine if sufficient renewable energy that is substantially similar to the requirements of section (5) is included in the product to cover ~~transportation-related~~ charging that may be claimed under the CFP. DEQ may revisit this determination annually using the annual fuel pathway report for these products or agreements.

(c) Annual ~~Fuel Pathway Report. The annual fuel pathway~~Report for renewable electricity products and agreements. If DEQ has approved an application under this section then, the applicant must submit a report annually by June 30 for pathways covered by this section ~~must include information to that includes:~~

(A) An update of the source(s) of electricity or environmental attributes that were used in the prior year and are planned for use in the year in which the report is submitted. That documentation must include;

(B) Retirement records for any RECs used to lower the claimed carbon intensity of the electricity being used by customers of those products approved for use in the Clean Fuels Program CFP for the prior year.;

(C) If the product is certified by the Green-e Program, proof of completion of final verification of the product must be included, or a validation statement if the product is undergoing the program's Customer Procurement Review. That documentation must also;

(D) An update the estimate of the amount of electric vehicle charging attributable to customers using the products or agreements. Fuel pathway reports required by this section are due by June 30, notwithstanding OAR 340-253-0450 (9)(e)(C).; and

(E) Annual reports required by this section are due by June 30 of each year.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-0500

Registration

(1) Registering as a regulated party, credit generator, aggregator, or an out-of-state producer voluntarily registering under 340-253-0100(1)(c).

(a) To register as a regulated party, credit generator, aggregator, or an out-of-state producer voluntarily registering under 340-253-0100(1)(c), the following information must be included in a registration application and approved by DEQ:

(A) Company identification, including physical and mailing addresses, phone numbers, e-mail addresses, contact names, ~~and~~ EPA RFS identification numbers where applicable, and the Oregon Secretary of State Corporations Division business registry number where applicable;

(B) The status of the registrant as a producer, importer of blendstocks, small importer of finished fuels, large importer of finished fuels, credit generator, or aggregator;

(C) The category of each ~~transportation~~ fuel that the company or organization will be producing, importing, or dispensing for use in Oregon;

(D) A list of all related entities for the registrant, and any registered parties that share common ownership or control;

(E) For registrants dispensing natural gas, propane, or hydrogen, using FSE, the number of dispensing facilities located in Oregon and their locations ~~and the estimated annual fuel throughput per location~~;

(F) For registrants charging electric vehicles using FSE, the number of chargers located in Oregon and their locations ~~and the estimated annual discharge of electricity per location~~;

(G) For registrants that are also electric utilities, whether they want to:

(i) Aggregate the residential electric credits in their service territory under OAR 340-253-0330(2) or (3); or

~~(ii) Designate an aggregator to act on their behalf under OAR 340-253-0330(2) or (3); and~~

~~(iii)(ii)~~ Obtain a utility-specific carbon intensity under OAR 340-253-~~0400~~0470;

(H) Any other information requested by DEQ related to registration.

(b) After DEQ approves the registration application, the regulated party, credit generator, or aggregator must establish an account in the ~~Oregon Fuels Reporting System~~OFRS and fill out an Account Administrator Designation form.

(c) Modifications to the registration.

(A) The registrant must submit an amended registration to DEQ within 30 days of any change occurring to information described in section (1).

(B) DEQ may require a registrant to submit an amended registration based on new information DEQ receives.

(C) If a registrant amends its registration under this section, the registrant must also update the registrant's account in the ~~Oregon Fuels Reporting System~~OFRS to accurately reflect the amended information, as appropriate.

(d) Cancellation of the registration.

(A) A regulated party, credit generator, or aggregator must cancel its registration if it is:

(i) A regulated party that no longer meets the applicability of the program under OAR 340-253-0100(1); or

(ii) A credit generator or aggregator that is registered and reporting to the CFP and decides to voluntarily ~~to~~ opt-out of the CFP. The credit generator or aggregator must provide a 90-day notice of intent to opt out of the CFP by letter and a proposed effective date for the completion of the opt-out process.

(B) A regulated party, credit generator or aggregator that is ~~cancelling~~canceling its registration under this section must submit any outstanding quarterly ~~reports~~ and annual reports. ~~Any regulated party must and~~ be in full compliance with the program's standards ~~for the annual reports it submits, and any credit generator or aggregator must. Any party canceling its registration will~~ not ~~have~~be allowed to do so until they comply with any outstanding deficits on their account.

(C) Any credits that remain in an account of a regulated party, credit generator or aggregator that is cancelling its registrations under this section shall be forfeited and the account in the ~~Oregon Fuels Reporting System~~OFRS shall be closed.

(D) Once DEQ determines that the actions described in paragraphs (A) through (C) are complete, DEQ will notify the registrant in writing of the cancellation of its registration.

~~(e) Starting in December 2020 and each December thereafter, (e)~~ Registered parties must submit to DEQ an updated version of the related entity form required in paragraph (1)(a)(D) ~~within 30 days of any event that necessitates a change or update to that form.~~

(2) Registering as a fuel producer.

(a) To register as a fuel producer in the ~~Oregon Fuels Reporting System~~OFRS, the following information must be included in the AFP Account Administrator Designation application and approved by DEQ:

(A) Company identification, including physical and mailing addresses, phone numbers, e-mail addresses, contact names, and EPA RFS identification numbers;

(B) Any other information requested by DEQ related to registration.

(b) DEQ will review the registration application for completeness and validity.

(c) Upon registration approval by DEQ, the fuel producer must establish an account in the AFP portion of the ~~Oregon Fuels Reporting System~~OFRS and comply with the requirements of this division and any conditions placed upon the fuel pathway codes that it holds.

(3) Registering FSE and certain vehicles. Credit generators and aggregators reporting on behalf of credit generators for use of electricity, hydrogen, alternative jet fuel, and fossil and bio-based or renewable LPG, CNG, and LNG, must register their fuel supply equipment

(FSE), certain vehicles, or both, to report fuel volumes used, as provided in section (5). An FSE registration is not valid until approved by DEQ.

(4) DEQ will not review or approve FSE and vehicle registrations submitted in the second 45 days of a calendar quarter until the following quarter.

(5) Fuel Supply Equipment. Registered parties may register their active and operational FSE, vehicles, or both to report fueling of vehicles with electricity, natural gas, renewable natural gas, propane, renewable propane, or hydrogen as follows:

(a) To register FSE and vehicles the following must be provided in OFRS:

(A) The entity registering the FSE and vehicles and, if they have been designated as an aggregator, the entity that designated them;

(B) The location of the FSE, including the name of the facility, the address, and latitude and longitude;

(C) For CNG fueling equipment, the utility meter number for a CNG station and an invoice from utility demonstrating fuel delivery to the site or FSE;

(D) For LNG fueling equipment, the fueling station identification number and the owner of the station, as well as the type of station and an invoice demonstrating fuel delivery to the site or FSE;

(E) For propane fueling equipment, the fueling station identification number and the fueling station owner, and an invoice or other documentation demonstrating service to the site or FSE;

(F) For hydrogen fueling equipment, the fueling station identification number, and an invoice or other documentation demonstrating service to the site or FSE; and;

(G) For electrical fuel equipment, the type of charger, the serial number of the fueling equipment, the manufacturer of the fueling equipment, and documentation that the electrical fueling equipment being registered is active and operational;

(b) To register off-road electrical and hydrogen vehicles or their fueling equipment, the registered party must provide the following information:

(A) The quarter and year of the registration;

(B) The address where the vehicle or FSE is based;

(C) The category of FSE;

(D) The type of equipment or vehicle;

(E) The name of the equipment manufacturer;

(F) The unique serial number assigned to by the manufacturer;

(G) The model year;

(H) The vehicle identification number, if applicable;

(I) The date that the information being submitted was collected or last updated; and

(J) Any other information that DEQ requests in order to reduce the likelihood of multiple entities registering the same equipment or reporting the same quantity of fuel, or to ensure that the correct fuel application and energy economy ratio is being used when credits or deficits are being calculated. Information must be provided to DEQ within 14 calendar days of such a request, or the registration will be rejected;

(c) DEQ may request additional documentation or evidence prior to approving a registration of FSE, and DEQ may deny the registration if the applicant fails to provide the requested documentation or evidence within 7 calendar days or another deadline set by DEQ;

(d) For electric vehicle chargers on a single dedicated circuit or panel, a single meter for that circuit or panel may be registered and used as the FSE so long as the registered party can prove that no other electrical equipment is or will be connected to that circuit, so the meter is only recording EV charging; and

(e) Registrations will only be processed for active and operational FSE or vehicles. Registered parties must inform DEQ if registered FSE or vehicles are replaced or retired, or if they have a maintenance outage that last for more than 90 days. Registered parties must note any maintenance outages in the FSE transaction description of each quarterly report.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0600

Records

(1) Records Retention. ~~Regulated~~Registered parties, ~~credit generators, and aggregators~~ must retain the following records for at least seven years:

(a) Product transfer documents as described in section (2);

(b) Records related to obtaining a carbon intensity or other value described in OAR 340-253-0450, OAR 340-253-0460, and OAR 340-253-0470;

(c) Copies of all data and reports submitted to DEQ;

(d) Records related to each fuel transaction;

(e) Records used for compliance or credit calculations;

(f) Records used to establish that feedstocks are specified source feedstocks; and

(g) Records related to third-party verification, if required under OAR 340-253-0700.

(2) Documenting Fuel Transactions. ~~A product transfer document must prominently state the information specified below.~~

(a) Except as provided in subsection (b), fuel transactions must be documented through a product transfer document and include the information specified below:

(A) Transferor company name, address, and contact information;

(B) Recipient company name, address, and contact information;

(C) Transaction date;

(D) Fuel pathway code;

(E) Carbon intensity;

(F) Volume/amount;

(G) A statement identifying whether the transferor or the recipient has the compliance obligation; ~~and~~

(H) The EPA fuel production company identification number and facility identification number as registered with the RFS program; ~~and~~

~~(I) The state where the fuel will be delivered, if known at the time of sale. If unknown, then the PTD must state the destination as unknown.~~

(b) For transactions of clear and blended gasoline and diesel below the rack where the fuel is not destined for export, only the records described in ~~subsections~~paragraphs (2)(a)(A), (B), (C), (F), and (G) are required to be retained.

(43) Documenting Credit Transactions. ~~RegulatedRegistered~~ parties, ~~credit generators, and aggregators~~ must retain the following records related to all credit transactions for at least seven years:

- (a) The contract under which the credits were transferred;
- (b) Documentation on any other commodity trades or contracts between the two parties conducting the transfer that are related to the credit transfer in any way; and
- (c) Any other records relating to the credit transaction, including the records of all related financial transactions.

(54) Review by DEQ. All data, records, and calculations used by a ~~regulatedregistered~~ party, a ~~credit generator~~fuel producer, or ~~an aggregator~~fuel pathway holder registered under OAR 340-253-0500(2) to comply with OAR chapter 340, division 253 are subject to inspection and verification by DEQ. ~~RegulatedRegistered~~ parties, ~~credit generators~~fuel producers, and ~~aggregators~~fuel pathway holders must provide records retained under this rule within ~~60~~30 ~~calendar~~ days after the date DEQ requests a review of the records, unless DEQ specifies otherwise.

~~(6) Initial 2016 Inventory. All regulated fuels held in bulk storage in the state on January 1, 2016 are subject to the program and must be reported as the initial inventory of fuels by regulated parties.~~

~~(7)~~(5) Information exempt from disclosure. Pursuant to the provisions of the Oregon public records law, ORS 192.410 to 192.505, all information submitted to DEQ is subject to inspection upon request by any person unless such information is determined to be exempt from disclosure under the Oregon public records law or other applicable Oregon law.

(86) Attestations regarding environmental attributes used for book and claim for renewable electricity, biomethane, or biogas.

(a) ~~An entity A registered party~~ reporting any ~~biomethane as a transportation fuel claimed in the CFP, and using a book and claim accounting method~~ must retire RTCs or RECs that embody the full environmental attributes of that fuel in an electronic tracking system approved by DEQ. The quantity of energy covered by the RTC or the REC must match or exceed the volume of fuel claimed in the CFP. The environmental attributes embodied by that RTC or REC must not have been used or claimed in any other program or jurisdiction with the exception of the federal RFS, any reporting required under OAR chapter 340, division 215, and the program under OAR chapter 340, division 271. To be validly used in compliance with this division, any such claims under the federal RFS or OAR chapter 340, divisions 215 and 271, must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP.

(b) A fuel pathway holder using directly delivered renewable electricity, biogas or biomethane as a process energy, or feedstock must obtain and keep attestations from each

upstream party collectively demonstrating that such holder has exclusive right to use those environmental attributes. The attestation must include documentation that shows:

(A) The entity claiming the environmental attributes has for renewable electricity, biogas or biomethane in the CFP must have the exclusive right to claim the environmental attributes associated with the ~~sale or~~ use of ~~the biogas or biomethane~~ that fuel; and

(B) The environmental attributes have not been used or claimed in any other program or jurisdictions with the exception of the federal RFS- and any reporting required under OAR chapter 340, divisions 215 and 271. To be validly used in compliance with this division, any such claims under the federal RFS or OAR chapter 340, divisions 215 and 271 must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP, ~~or the claim under the CFP is invalid.~~

~~(b)~~ (c) Any attestation ~~under subsection (a)~~ or retirement records for biogas, biomethane, and renewable electricity must be provided to DEQ within seven calendar days of receiving a request for such attestation by DEQ. Failure to provide such attestations is grounds for credit invalidation under OAR 340-253-0670.

(9) Monitoring plan for ~~entities and fuel producers~~ registered parties who are required to obtain third-party verification services under OAR 340-253-0700-~~2~~. Each ~~entity~~ registered party responsible for obtaining third-party verification of their data under OAR chapter 340, division 272 must complete and retain a written monitoring plan for review by a verifier or DEQ. If a fuel production facility is required to complete and maintain a monitoring plan by the California LCFS, the same monitoring plan may be used to meet the requirements of this rule unless there are substantive differences between the two programs' treatment of the fuel production process. A monitoring plan must include the following, as applicable:

(a) All of the following general items are required for all monitoring plans:

(A) Information to allow DEQ and the verification team to develop a general understanding of boundaries and operations relevant to the entity, facility, or project, including participation in other markets and other third-party audit programs;

(B) Reference to management policies or practices applicable to reporting pursuant to this division, including recordkeeping;

(C) Explanation of the processes and methods used to collect necessary data for reporting pursuant to this ~~subarticle~~ division, including identification of changes made after January 1, 2020;

(D) Explanations and queries of source data to compile summary reports of intermediate and final data necessary for reporting pursuant to this division;

(E) Reference to one or more simplified block diagrams that provide a clear visual representation of the relative locations and positions of measurement devices and sampling

locations, as applicable, required for calculating reported data (e.g., temperature, total pressure, LHV or HHV, fuel consumption); the diagram(s) must include storage tanks for raw material, intermediate products, and finished products, fuel sources, combustion units, and production processes, as applicable;

(F) Clear identification of all measurement devices supplying data necessary for reporting pursuant to this ~~subarticle~~division, including identification of low flow cutoffs as applicable, with descriptions of how data from measurement devices are incorporated into the submitted report;

(G) Descriptions of measurement devices used to report CFP data and how acceptable accuracy is demonstrated, e.g., installation, maintenance, and calibration method and frequency for internal meters and financial transaction meters; this provision does not apply to data reported in the Oregon Fuels Reporting System for generating credits for EV charging;

(H) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems, flow meters, and other instrumentation used to provide data for CFP reports;

(I) Original equipment manufacturer (OEM) documentation or other documentation that identifies instrument accuracy and required maintenance and calibration requirements for all measurement devices used to collect necessary data for reporting pursuant to this division;

(J) The dates of measurement device calibration or inspection, and the dates of the next required calibration or inspection;

(K) Requests for postponement of calibrations or inspections of internal meters and subsequent approvals by DEQ. The entity must demonstrate that the accuracy of the measured data will be maintained pursuant to the measurement accuracy requirements of OAR 340-253-0450(12);

(L) A listing of the equation(s) used to calculate flows in mass, volume, or energy units of measurement, and equations from which any non-measured parameters are obtained, including meter software, and a description of the calculation of weighted average transport distance;

(M) Identification of job titles and training practices for key personnel involved in CFP data acquisition, monitoring, reporting, and report attestation, including reference to documented training procedures and training materials;

(N) Records of corrective and subsequent preventative actions taken to address verifier and DEQ findings of past nonconformance and material misstatements;

(O) Log of modifications to a fuel pathway report conducted after attestation in response to review by third-party verifier or DEQ staff;

(P) Written description of an internal audit program that includes data report review and documents ongoing efforts to improve the entity's CFP reporting practices and procedures, if such an internal audit program exists; and

(Q) Methodology used to allocate the produced fuel quantity to each fuel pathway code;

(b) Any monitoring plan related to a fuel pathway carbon intensity or reporting quantities of fuels must also include the following elements specific to fuel pathway carbon intensity calculations and produced quantities of fuels per fuel pathway code:

(A) Explanation of the processes and methods used to collect necessary data for fuel pathway application and annual fuel pathway reports and all site-specific OR-GREET 3.0 inputs, as well as references to source data;

(B) Description of steps taken, and calculations made to aggregate data into reporting categories, for example aggregation of quarterly fuel transactions per fuel pathway code;

(C) Methodology for assigning fuel volumes by fuel pathway code, if not using a method prescribed by DEQ. If using a DEQ prescribed methodology, the methodology should be referenced;

(D) Methodologies for testing conformance to specifications for feedstocks and produced fuels, particularly describing physical testing standards and processes;

(E) Description of procedure taken to ensure measurement devices are performing in accordance with the measurement accuracy requirements of OAR 340-253-0450(12);

(F) Methodology for monitoring and calculating weighted average feedstock transport distance and modes, including the specific documentation records that will be collected and retained on an ongoing basis;

(G) Methodology for monitoring and calculating fuel transport distance and modes, including the specific documentation records that will be collected and retained on an ongoing basis;

(H) References to contracts and accounting records that confirm fuel quantities were delivered into Oregon for ~~transportation~~ use in carbon intensity determination, and confirm feedstock and finished fuel transportation distance; and

(I) All documentation required pursuant to OAR 340-253-0600(10) for specified source feedstocks, defined in OAR 340-253-0400(~~76~~); and

(c) The monitoring plan must also include documentation that can be used to justify transaction types reported for fuel in the Oregon Fuels Reporting System, including the production amount, sale/purchase agreements and final fuel dispensing records. Such documentation must be specific to quarterly fuel transactions reports for importers of

blendstocks, importers of finished fuels, Oregon producers, credit generators, aggregators, and out-of-state producers.

(10) Feedstock Transfer Documents. A feedstock transfer document for specified source feedstocks must prominently state the following information:

- (a) Transferor company name, address and contact information;
- (b) Recipient company name, address and contact information;
- (c) Type and amount of feedstock, including units; and
- (d) Transaction date.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

- DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
- DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
- DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
- DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
- DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
- DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
- DEQ 8-2014, f. & cert. ef. 6-26-14
- DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
- DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0620

Oregon Fuels Reporting System

(1) Online reporting. ~~Regulated~~Registered parties, ~~credit generators, and aggregators~~ must use the ~~Oregon Fuels Reporting System~~OFRS to submit all required reports, including quarterly ~~progress reports~~reporting under OAR 340-253-0630 and annual compliance reports under OAR 340-253-0650.

(2) Credit transactions. ~~Regulated~~Registered parties, ~~credit generators, and aggregators~~ must use the ~~Oregon Fuels Reporting System~~OFRS to transfer credits.

(3) Establishing an account. After DEQ approves a registration application under OAR 340-253-0500, the ~~regulated~~registered party, ~~credit generator, or aggregator~~ must establish an account in the ~~Oregon Fuels Reporting System~~OFRS and must include the following information ~~to register as a user in the Oregon Fuels Reporting System:~~

- (a) Business name, address, state and county, date and place of incorporation, and FEIN;

(b) The name of the person who will be the primary contact, and that person's business and mobile phone numbers, email address, ~~Oregon Fuels Reporting System~~OFRS username and password;

(c) Name and title of ~~a person~~at least two persons who will act as ~~the Administrator~~Administrators for the account;

(d) Optionally the name and title of one or more persons who will be Contributors on the account;

(e) Optionally the name and title of one or more persons who will be Reviewers on the account;

(f) Optionally the name and title of one or more persons who will be Credit Facilitators on the account; and

(g) Any other information DEQ may require in the ~~Oregon Fuels Reporting System~~OFRS.

(4) Account management roles. The roles and account authorizations of OFRS administrators, contributors, reviewers and credit facilitators are as follows:

(a) Administrators are:

(A) Authorized to sign for the account;

(B) Responsible for submitting quarterly ~~progress~~ and annual compliance reports;

(C) ~~Makes~~Authorized to make changes to the company profile; and

(D) ~~May~~Authorized to designate other persons who can review and upload data, but ~~not~~may not authorize others to submit reports~~-. except as provide in paragraph (4)(b)(A).~~

(b) Contributors are:

(A) Authorized to submit quarterly ~~progress~~ and annual compliance reports, if given signature authority~~;~~but by an administrator for that organization; and

(B) ~~Cannot~~May not make changes to the account profile.

(c) Reviewers are:

(A) Provided read-only access; ~~but~~and

(B) ~~Cannot~~May not submit quarterly ~~progress~~ and annual compliance reports.

(d) Credit Facilitators are:

(A) Authorized to initiate and complete credit transfers on behalf of the registered party;

(B) Authorized to add postings to the ~~Oregon Fuels Reporting System's~~OFRS "Buy/Sell Board"; and

(C) Provided read-only access to quarterly and annual reports.

(5) Signature. An administrator or a contributor authorized by the registered party to sign reports on its behalf must sign each report required under this division to certify that the submitted information is true, accurate, and complete.

(6) Alternative ~~Fuels~~Fuel Portal. Fuel producers registered under OAR 340-253-0500 must establish an account in the AFP portion of the ~~Oregon Fuels Reporting System~~OFRS, as described in this section, and must designate an administrator for their account. ~~The fuel producer may:~~

(a) In order to register in the AFP, a fuel producer must provide as part of its registration application:

(A) The EPA-assigned company identification number under the Title 40 Code of Federal Regulations Part 80 Fuel Programs registration, if applicable;

(B) The production company name, FEIN issued by the United States Internal Revenue Service, and the corporate address of the company;

(C) The name and title of the legal contact for the fuel producer, along with their business phone, email, and a website address for the fuel producer; and

(D) The name and title of the designated administrator of the fuel producer's account, and a signed account administrator form for that administrator.

(b) Once a fuel producer has an approved account in the AFP, it may:

(a) Register its individual fuel production facilities in the AFP; by supplying the following information:

(i) The EPA facility identification number under Part 80 if applicable;

(ii) The name, address, and geographic coordinates of the facility; and

(iii) A contact at the facility, including their name, title, phone number, and email.

(b) Submit fuel pathway code applications through the AFP for each of its facilities for DEQ approval along with the annual fuel pathway report for each of those facilities; and

(c) Submit the physical transport mode demonstration package through the AFP for DEQ approval, once a fuel pathway code has been approved.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

340-253-0630

Quarterly Reports

(1) Quarterly reports. Except for persons exempt from this requirement under OAR 340-253-0100, ~~regulated~~registered parties, ~~credit generators, and aggregators~~ must submit a quarterly ~~progress~~ report using the ~~Oregon Fuels Reporting System~~OFRS by:

(a) June 30 — for January through March of each year;

(b) September 30 — for April through June of each year;

(c) ~~December 31~~January 10 — for July through September of each year; ~~and~~

(d) March 31 — for October through December of each previous year.;

(e) If a reporting deadline occurs on a Saturday, Sunday, or a state holiday, the deadline is extended to the following business day; and

(f) The first quarterly report each year, due June 30, may not be submitted prior to May 1st in order to allow time for DEQ to generate carry-back credits for the previous year.

(2) General reporting requirements for quarterly reports. Quarterly reports must comply with all of the following requirements:

(a) Quarterly reports must contain the information specified in Table 5 under OAR 340-253-8010 for each ~~transportation fuel subject to the CFP~~fuel.

(b) ~~Reporters~~All persons required to file a quarterly report under this rule must upload ~~the~~their data for the quarterly reports ~~into~~ the ~~Oregon Fuels Reporting System~~OFRS within the first 45 calendar days after the end of the quarter.

(c) During the second 45 calendar days, ~~reporters~~all persons required to file a quarterly report must work with each other to resolve any fuel transaction discrepancies between different reporters' reported transactions.

~~(d) In order to allow for carry-back credits to have been generated only in the applicable years, the Q1 report may not be submitted prior to May 1st.~~

(d) For reporting all fuel transactions in a quarterly report, registered parties must use the transaction types defined in OAR 340-253-0040, or those issued by DEQ under subsection (e), to report imports, exports, transfers of ownership, sales to exempt vehicles, and gains or losses of inventory of regulated fuels, and the fueling of vehicles.

(e) DEQ may issue additional transaction types that registered parties may use in the same manner as those authorized under OAR 340-253-0040(110). DEQ may propose a new transaction type on its own initiative or in response to a request from a regulated party. DEQ may approve such new transaction types if they do not expand the program's current reporting requirements for registered parties by requiring additional actions to be reported. The additional transaction types may only refine the detailed reporting of actions that previously were required to be reported under a different transaction type. Prior to approving a new transaction type:

(A) DEQ must post a proposal for the new transaction type on its website and take public comments for no fewer than 45 calendar days;

(B) DEQ will consider any comments received, make any modifications, if necessary, and make a final decision on whether the proposed new transaction type is appropriate, at DEQ's sole discretion;

(C) DEQ will publish its final decision on its website; and

(D) A new approved transaction type will be effective for use in the quarter following the date that it is approved by DEQ.

(3) ~~Conditions of~~ Submitting a quarterly report. In order to submit a quarterly report, a registered party must confirm the following statement by acceptance and certification in the Oregon Fuels Reporting System:

"I, [Name of real person], as person with Signatory Authority, am submitting this report on behalf of [Company Name], with the understanding that the information contained in this report is considered an official submission to Oregon Department of Environmental Quality for purposes of compliance with the Clean Fuels Program (CFP) regulation. Furthermore, by submitting this report, I understand that I am bound by, and authenticate this record, and attest to the statements contained within. I also understand that submitting or attesting to false statements is prohibited under Oregon law, and may subject me to civil enforcement, criminal enforcement, or both. I certify that information supplied herein is correct and that I have the authority to submit this report on behalf of the company named above. As a condition of participating in the program, I acknowledge that credits are regulatory instruments that do not constitute personal property, instruments, securities or any other form of property, as provided in OAR 340-253-~~1005(1)(a)~~1000(6)(b). Credits and deficit calculations are subject to the provisions of OAR 340-253-0670, under which DEQ may,

without limitation, correct errors should a regulated party or credit generator not do so themselves, place holds on credits and/or accounts as part of an inquiry, and invalidate credits or fuel pathway codes that were illegitimately generated or otherwise created in error. I acknowledge that DEQ may, at its discretion, place a hold on credits and accounts while DEQ undertakes any inquiry regarding such credits or accounts. Suspension, revocation, and/or modification actions by DEQ may be contested as provided under Oregon law.”

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0640

Specific Requirements for Reporting Under This Division

(1) For natural gas or biomethane (inclusive of CNG, LNG, and L-CNG), any registered party must report the following as applicable under this division:

(a) For CNG and L-CNG, the amount of fuel in therms dispensed per reporting period for all LDV and MDV, HDV-CIE, and HDV-SIE.

(b) For LNG, the amount of fuel dispensed in gallons per compliance period for all LDV and MDV, HDV-CIE, and HDV-SIE.

(c) For CNG, L-CNG, and LNG, the carbon intensity as listed in 4 under OAR 340-253-8040.

(d) For biomethane-based CNG, LNG, and L-CNG, the carbon intensity as approved under OAR 340-253-0450 and the EPA production company identification number and facility identification number. ~~Additionally, the registered party must submit the following attestation at the time of filing the annual report:~~ In addition:

(A) If the biomethane-based volumes are being reported using a book-and-claim methodology, the registered party must submit records showing the retirement of RTCs representing the biomethane environmental attributes from that facility in M-RETS Renewable Thermal system or another approved and recognized tracking system with the quarterly report. The retirement records must show enough RTCs were retired to cover the volume of biomethane claimed as a fuel in the CFP and those certificates must be from the same biomethane production facility to which the fuel pathway code is assigned; and

(B) If biogas or biomethane is being used that is directly delivered to a vehicle and not injected into a pipeline, the registered party must provide the following attestation when it files the quarterly report for the corresponding volume of biogas or biomethane claimed.

“I certify that to the extent that the gas used in the fuel pathway or supplied as ~~transportation~~ fuel is characterized as biogas or biomethane, _____ (registered party name) owns the exclusive rights to the corresponding environmental attributes. _____ (registered party name) has not sold, transferred, or retired those environmental attributes in any program or jurisdiction other than the federal RFS. Based on diligent inquiry and review of contracts and attestations from our business partners, I certify under penalty of perjury under the laws of the State of Oregon that no other party has or will sell, transfer, or retire the environmental attributes corresponding to the biomethane for which _____ (registered party name) claims credit in the CFP program.”

(2) For electricity, any registered party must report the following as applicable under this division:

(a) The information specified for electricity in Table 5 under OAR 340-253-8010;

(b) For each public access charging facility, fleet charging facility, workplace private access charging facility, ~~or~~ multi-family dwelling, or other on-road or off-road vehicle charging, the amount of electricity dispensed in kilowatt hours to vehicles by each registered and approved FSE;

(c) For each public transit agency, the amount of electricity dispensed to or consumed by vehicles used for public transportation in kilowatt hours. The report must ~~be~~:

(A) ~~Separated by use~~ Separately report uses for light rail, streetcars, aerial trams, or electric transit buses; and

~~(B) Separated by~~ (B) For light rail, streetcars, and aerial trams, separately report electricity used in portions of their system placed in service before and after January 1, 2012;

(d) To claim a carbon intensity other than a statewide or utility-specific mix, or directly connected renewable power under the Lookup Table in OAR 340-253-8010, a registered party must:

(A) Submit documentation that qualifying RECs were retired in a recognized renewable electricity tracking system for the unique purpose of covering that specific charging at the same time as the submittal of the quarterly report; or

(B) Submit documentation at least annually that the electric vehicle chargers are covered by a Utility Renewable Electricity Product or a power purchase agreement that has been approved by DEQ for a carbon intensity. The carbon intensity assigned to the product or agreement can only be used for reporting if the electric vehicle chargers are covered by that same product or agreement for the time period which is being reported;

(e) Any entity that claims a carbon intensity using paragraph (2)(d)(A) must annually submit proof of completion of final verification or a validation statement from the Green-e Program for the RECs used to generate incremental credits. Failure to submit such proof is grounds for DEQ to invalidate any incremental credits issued to the entity under the procedures of OAR 340-253-0670; ~~and~~

(f) For entities reporting forklift charging, the amount of electricity dispensed to, or consumed by, forklifts, ~~and separately reported for each registered and approved FSE.~~ The report must ~~be separated by~~ separately report electricity used to charge forklifts built in or before model year 2015 and electricity used to charge forklifts built in model year 2016 and after; ~~and~~

(g) For entities reporting electricity dispensed into electric vehicles or mobile equipment where the vehicle or equipment is registered as an FSE, the entity must annually attest at the time of the annual report that all electric charging reported to the CFP occurred in the state of Oregon. The following attestation must be used: "I certify that all electrical charging reported by _____ (registered party name) in _____ (year) occurred within the borders of the State of Oregon."

(3) For renewable hydrocarbon diesel or gasoline co-processed at a petroleum refinery, any registered party must report the following information required under this division, as applicable:

(a) If the registered party is also the producer, then DEQ may require the registered party to report the ongoing information required under OAR 340-253-0450; ~~and~~

(b) If the registered party is not the producer, and the producer has not met its obligations under OAR 340-253-0450, then DEQ may require the registered party to report the volume of fuel under a temporary fuel pathway code or the fuel pathway code for clear gasoline or diesel, as applicable.

(4) Temperature Correction. All liquid fuel volumes reported in the ~~Oregon Fuels Reporting System~~ OFRS under this division must be adjusted to the standard temperature conditions of 60 degrees Fahrenheit (net gallons) as follows:

(a) For ethanol, using the formula: Standardized Volume = Actual volume * ((-0.0006301 * T) + 1.0378), where standardized volume refers to the volume of ethanol in gallons at 60°F, actual volume refers to the measured volume in gallons, and T refers to the actual temperature of the batch in °F; ~~and~~

(b) For Biodiesel, one of the following two methodologies must be used:

(A) Standardized Volume = Actual Volume * ((-0.00045767 * T) + 1.02746025), where Standardized Volume refers to the volume in gallons at 60°F, Actual Volume refers to the measured volume in gallons, and T refers to the actual temperature of the batch in °F; or

(B) The standardized volume in gallons of biodiesel at 60°F, as calculated using the American Petroleum Institute Refined Products Table 6B, as referenced in ASTM 1250-08;

(c) For other liquid fuels, the volume correction to standard conditions must be calculated by the methods described in the American Petroleum Institute Manual of Petroleum Measurement Standards Chapter 11 – Physical Properties Data, the ASTM Standard Guide for the Use of Petroleum Measurement Tables (ASTM D1250-08), or the API Technical Data Book, Petroleum Refining Chapter 6 – Density; and

(d) If a registered party believes the methods in (a) through (c) are inappropriate, they may request to use a different method and DEQ may approve that method if it finds that it is at least as accurate as the methods in (a) through (c).

(5) Reporting transfers of regulated fuel between parties. In all reports under this division, all transfers of ownership of a regulated fuel above the rack and sales to below the rack by a position holder must be reported as documented in the product transfer documents. Transfers of ownership of a regulated fuel may be reported below the rack.

(6) All reporting of fuels transferred in and out of commingled storage under this division must comply with the following:

(a) For reporting liquid fuels that are being transferred in and out of a commingled storage tank or that are commingled in production or in transport, the reporting entity may mass balance transfers out of that commingled tank or system by fuel pathway code based on the gallons input into that tank or system in the current or prior quarter. Liquid gallons reported under a specific fuel pathway code may only be reported as transferred out of commingled storage if they were put into a tank two or more quarters prior if the reporting entity demonstrates to DEQ that the tank has not fully turned over by the quarter it is reporting the volume being transferred out; and

(b) For biomethane injected into a common carrier pipeline, the biomethane may only be reported as being fueled into vehicles if it was injected in the current or prior quarter.

(7) Reporting Exempt Gallons. When a registered party is reporting that it claiming an exemption for fuel sold gallons of fuel to exempt fuel users as defined in OAR 340-253-0250, that registered party must designate in the transaction description field of the Oregon Fuels Reporting System the categories of use the exempt fuel users to transaction which covers that specific category of fuel user. The registered party must report the precise volume of fuel that was delivered to that exempt fuel and the number of gallons delivered user. For blended fuels, all components of the blended fuel must be reported as exempt.

(68) Reporting “Not For Transportation” Gallons. When reporting that fuel was sold as not for transportation in the Oregon Fuels Reporting System OFRS under this division, the registered party must report in the transaction description field of the Oregon Fuels Reporting System OFRS which stationary source, or category of stationary fuel combustion, the fuel

was sold to and the number of gallons sold. For blended fuels, all components must be reported as not being used for transportation.

~~(7) Reporting Position Holder Transactions.~~

(9) All reports of position holder transactions under this division must comply with the following:

- (a) Registered parties that are position holders must report fuel sold below the rack~~;~~
- (b) Registered parties that are position holders that sell fuel to entities not registered in the CFP may aggregate and report those sales in a single transaction using the “Undefined” business partner descriptor~~;~~ and
- (c) Registered parties that are position holders that sell fuel below the rack for export must identify each recipient of such fuel that is registered in the CFP.

(810) Reporting Below the Rack Exports. Purchasers of fuel from a position holder that is directly exported without modification must report such fuel, in all applicable reports under this division, using the “Purchase below the rack for export” transaction category. Such purchasers must also report a transaction for the same gallons using an “Export out of Oregon distribution system” transaction.

(911) Annual reporting of utility credit revenue. ~~Starting in 2022,~~ All electric utilities that receive base or incremental credits must annually report the following items to DEQ no later than April 30th. Failure to file such a report will result in the backstop aggregator or the incremental aggregator receiving credits for that utility until the utility files any past-due reports. Each utility must report the following information, for the prior calendar year:

- (a) Total revenue from the sale of base and incremental credits attributable to residential vehicle charging, if applicable in the prior year;
- (b) For entities whose revenue or expenditures exceed \$250,000 in a given year, the percentages that result when dividing the utility’s CFP-related administrative costs, including but not limited to submitting reports, selling credits, and to administer any programs that were funded by CFP revenue from the utility’s sale of incremental credits, including but not limited to project management and development and management of contracts to operate such programs by the amount of revenue reported under subsection (a);
- (c) A description of the programs that were funded by CFP revenue the utility received from its sale of base credits and the amount spent in each category in the prior year; and
- (d) A description of the programs that were funded by CFP revenue from incremental credits, the amount spent in each category in the prior year, a description of the class of individuals or listing of organizations that benefited from the programs, and any other data elements that DEQ informs each utility receiving incremental credits that it will require following

consultations with the Equity Advisory Committee created under OAR 340-253-0330(912)(j).

(12) Hydrogen reporting. Hydrogen reported using a lookup table value that includes biomethane as a feedstock must, in all applicable reports under this division, show that the biomethane or biogas is directly supplied to a hydrogen production facility or supplied via a common carrier pipeline through a book and claim methodology in order to claim biomethane-based hydrogen. If the biomethane is supplied by a book and claim methodology, retirement records for that biomethane must be provided from M-RETS Renewable Thermal Tracking system or another DEQ approved renewable thermal tracking system.

(13) Reporting blends of biodiesel, renewable diesel, and fossil diesel. In all applicable reports under this division, when blended, a mixture of biodiesel, renewable diesel, or fossil diesel must be reported according to its actual percentage mix as precisely as it is known by the reporting party. For example, if 100 gallons of a fuel that is labeled as containing 99% of one component and 1% of the other, then the volumes should be reported as 99 gallons of the first and 1 gallon of the second.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-0650

Annual Compliance Reports

(1) Annual compliance reports.

(a) Except as provided in subsection (b), regulated parties, credit generators, and aggregators must use the ~~Oregon Fuels Reporting System~~OFRS to submit an annual compliance report to DEQ not later than April 30 for the previous compliance period ~~ending on December 31 of the previous year~~.

(b) Small importers of finished fuels may submit a supplemental annual report using ~~the Oregon Fuels Reporting System, not~~OFRS no later than April 30 for the previous compliance period ~~ending on December 31 of the previous year~~.

(2) General reporting requirements for annual compliance reports. Regulated parties, credit generators, and aggregators must submit annual compliance reports that meet, at minimum, the general and specific requirements for quarterly ~~progress~~ reports and include the following information:

- (a) The total credits and deficits generated by the regulated party, credit generator, or aggregator in the current compliance period, calculated in the ~~Oregon Fuels Reporting System~~OFRS as provided in the equations in OAR 340-253-1020;
 - (b) Any credits carried over from the previous compliance period;
 - (c) Any deficits carried over from the previous compliance period;
 - (d) The total credits acquired from other regulated parties, credit generators, and aggregators;
 - (e) The total credits sold or transferred; and
 - (f) The total credits retired within the ~~Oregon Fuels Reporting System~~OFRS to meet the compliance obligation.
- (3) ~~Registered parties must complete~~ all pending credit transfers ~~must be completed~~ prior to submittal of the annual compliance report: required under section (1).
- (4) Correcting a previously submitted report. A ~~regulated~~registered party, ~~credit generator, or aggregator~~ may ask DEQ to re-open a previously submitted quarterly ~~progress~~ or annual compliance report for corrective edits and re-submittal: as provided in subsections (a) through (e).
- (a) The requestor must submit an “Unlock Report Request Form” a request to unlock the report, including a correction request letter within the Oregon Fuels Reporting System. The requestor is required to provide justification for the report corrections and must indicate OFRS indicating the specific corrections to be made to and providing a justification for making the corrections.
- (b) If DEQ approves a request made under subsection (a), then DEQ will notify the registered party and unlock the report. Each submitted request is subject to allow the registered party to DEQ approval make the corrections. DEQ approval of a corrected request to correct a report does not preclude DEQ enforcement based on misreporting. The registered party may only make the specific corrections detailed in the approved correction request letter while the report has been reopened. If the registered party discovers that there are additional corrections that should be made, it must make a separate request to DEQ through OFRS after submitting the initial corrections requested. The request must detail the additional corrections and have that request approved prior to making the additional corrections to their reporting.
- (c) If a registered party is approved to make corrections to a quarterly report for which the annual compliance deadline has already passed and the corrections result in reduced credits or increased deficits for the registered party, it shall have until the next annual compliance report deadline or 30 calendar days, whichever is earlier, to resubmit the affected annual compliance report or reports.

(d) When a registered party has resubmitted a corrected annual compliance report, the registered party must return to compliance with the clean fuel standards by simultaneously retiring additional credits, if necessary.

(e) The registered party that needs to resubmit a corrected annual compliance report may request permission from DEQ to carryback credits for the affected annual compliance report or reports. If a credit clearance market is being held that year, the request can only be made if the credit clearance market for that compliance year is already complete.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

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DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0670

Authority to Suspend, Revoke, or Modify

(1) If DEQ determines that any basis for invalidation set forth in section (2) below has occurred, in addition to taking any other authorized enforcement action, DEQ may take any of the actions described in subsections (a) through (d). For the purposes of this section an approved carbon intensity refers ~~both~~ to carbon intensities, adjusted carbon intensities and values approved by DEQ under ~~OAR 340-253-0450 and under OAR 340-253-0400(4).~~, 340-253-0450, 340-253-0460, or 340-253-0470, as applicable. DEQ may:

(a) Suspend, restrict, modify, or revoke an account in the ~~Oregon Fuels Reporting System~~OFRS, or take ~~one~~ combination of two or more such actions;

(b) Modify or delete an approved carbon intensity;

(c) Restrict, suspend, or invalidate credits; and

(d) Recalculate the deficits in a regulated party's ~~Oregon Fuels Reporting System account~~OFRS account or assign deficits as an administrative mechanism for requiring the replacement of invalid credits if the invalid credits cannot be directly canceled.

(2) DEQ may take any of the actions described in section (1) based on any of the following:

(a) Any of the information used to generate or support the approved carbon intensity or other value was incorrect, including if material information was omitted or the process changed following the submission of the carbon intensity application;

(b) Any material information submitted in connection with the approved carbon intensity, other value, or a credit transaction was incorrect;

(c) Fuel reported under a given fuel pathway was produced or transported in a manner that varies in any way from the methods set forth in any corresponding fuel pathway application documents submitted under OAR 340-253-0400 and OAR 340-253-0450 such that the variance would meet the threshold to be material information, or the fuel pathway holder had violated a fuel pathway condition imposed by DEQ during the approval process;

(d) Fuel transaction data or other data reported into the ~~Oregon Fuels Reporting System~~OFRS and used to calculate credits and deficits was incorrect or omitted material information;

(e) Credits or deficits were generated or transferred in violation of any provision of this division or in violation of other laws, statutes, or regulations;

(f) A party obligated to provide records under this division refused to provide such records or failed to do so within the required timeframe in OAR 340-253-0600~~(4)~~;

(g) Failure to submit a verification statement when it is required under OAR chapter 340, division ~~272~~; ~~or~~

(h) An adverse verification statement submitted under OAR chapter 340, division ~~272~~; or

(i) Failure to submit a Green-e certification for RECs used to claim a carbon intensity other than the statewide or a utility-specific mix under OAR 340-253-0470(5).

(3) Providing Notice of an Initial Determination. If DEQ determines that any basis for invalidation under section (1) has occurred, then:

(a) Upon making an initial determination that a credit calculation, deficit calculation, or an approved carbon intensity may be subject to an action described in section (1), DEQ will notify all potentially affected parties~~;~~;

(b) The notice required under subsection (a) shall state the reason for the initial determination and may also include a specific request from any party for information relevant to any of the bases described in section ~~(2)~~;

(c) Within 20 calendar days of the issuance of ~~the~~ notice~~, under subsection (a)~~, the affected parties ~~shall~~must make records and personnel available to DEQ as it conducts its investigation~~;~~ and

(d) Any party receiving ~~the~~ notice under subsection (a) may submit any information it believes is relevant to the investigation and that it wants DEQ to consider in its evaluation, not later than 20 calendar days after the issuance of the notice or by a later deadline approved by DEQ in writing.

(4) Interim Account Suspension. Once a notice has been issued under section (3), DEQ may immediately take one or both of the following actions:

(a) Deactivate an approved carbon intensity in the AFP; or

(b) Suspend an account in the ~~Oregon Fuels Reporting System~~OFRS. In cases where a discrete number of credits are being investigated, DEQ may place an administrative hold on a specific number of credits rather than suspending an entire account.

(5) Final Determination. Within 50 calendar days after making an initial determination under sections (2) and (3) above, the DEQ shall make a final determination based on the available information, as provided in subsections (a) through (c).

(a) The final determination ~~should~~will include:

(A) Whether any of the bases for invalidation in section (2) exist;

(B) Identification of the affected parties; and

(C) What actions in section (1) DEQ will impose and how many credits, deficits, or approved carbon intensities are affected. If the final determination invalidates credits or deficit calculations, the corresponding credits and deficits will be added or subtracted from the appropriate accounts in the ~~Oregon Fuels Reporting System~~OFRS.

(b) The affected parties may contest the final determination by providing DEQ with a written request for a hearing within 20 calendar days of receipt of the final determination.

(c) The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR chapter 340, division 11. ~~Any action taken in subsection (a) DEQ's determination under section (5) will remain in place pending the outcome of until a final order is issued in the contested case, and no party may use or rely upon an account or any credits, deficits or carbon intensities at issue in the contested case-~~ until such resolution.

(6) Responsibility for invalidated credits or miscalculated deficits. Any party that generated, previously held, or holds invalidated credits or whose account reflects an invalid deficit calculation is responsible for returning its account to compliance without regard to its fault or role with respect to the invalidation of the credits or miscalculation of deficits.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-0680

Separate Violations

(1) Each illegitimate credit generated constitutes a separate violation of this division.

(2) Each deficit that a registered party does not retire a credit against under OAR 340-253-1030 to demonstrate compliance with any of the clean fuel standards in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010 constitutes a separate violation of this division unless that registered party participates in the Credit Clearance Market as required under OAR 340-253-1040.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

340-253-1000

Credit and Deficit Basics

(1) Carbon intensities.

(a) Except as provided in subsections (b), ~~(c)~~, (c), or (d), when calculating carbon intensities, ~~regulated~~registered parties, ~~credit generators, and aggregators~~ must use athe carbon intensity approved by DEQ under OAR 340-253-0450 for a given fuel.

(b) If a ~~regulated~~fuel pathway holder, which may be a registered party, ~~credit generator, or aggregator~~ has an approved provisional carbon intensity approved under OAR 340-253-0450, the regulated party, credit generator, or aggregator for a fuel, the registered parties reporting that fuel must use the DEQ-approved provisional carbon intensity.

(c) If a ~~regulated party, credit generator, or aggregator~~fuel pathway holder or a registered party has an approved temporary carbon intensity approved under OAR 340-253-0450 for a fuel, the ~~regulated party, credit generator, or aggregator reporting that fuel~~ must use the temporary carbon intensity for the period which it has been approved, unless DEQ has subsequently approved a permanent carbon intensity for that fuel.

(d) If a registered party purchases a blended finished fuel and the seller does not provide carbon intensity information, then the registered party must:

(A) Use the applicable substitute fuel pathway code in Table 8 under OAR 340-253-8010 or a fuel pathway code that has been otherwise approved and posted by DEQ under OAR 340-253-0450(11) if the fuel is exported, not used for transportation, or used in an exempt fuel use; and

(B) Report the volume using the applicable Table 8 fuel pathway code, or a fuel pathway code that has been otherwise approved and posted by DEQ under OAR 340-253-0450(11), for the fossil fuel and the applicable substitute fuel pathway code for the biofuel or biofuels if the finished fuel blend is not listed.

(2) Fuel quantities. ~~Regulated parties, credit generators, and aggregators must express fuel quantities in the unit of fuel for each fuel. Registered parties must express fuel quantities in the unit for each fuel according to the temperature correction requirements in OAR 340-253-0640(4) for liquid fuels, or according to accurate metering for all other fuels when they are dispensed into the vehicle or other qualifying equipment. If the fuel cannot be accurately metered at the point of dispensation, DEQ may approve an alternative methodology and all registered parties reporting in that circumstance must use that methodology.~~

(3) Compliance period. The annual compliance period under this division is January 1 through December 31 of each year, ~~except:~~

~~(a) The initial compliance period is January 1, 2016, through December 31, 2017; and~~

~~(b) The initial compliance period for large importers of finished fuels is January 1, 2016 through December 31, 2018.~~

(4) Metric tons of CO2 equivalent. ~~Regulated~~In all reporting and transactions under this division, registered parties, ~~credit generators, and aggregators~~ must express credits and deficits to the nearest whole metric ton of carbon dioxide equivalent.

(5) Deficit ~~and credit~~ generation. Under this division:

~~(a) Credit generation. A clean fuel credit is generated when fuel is produced, imported, or dispensed for use in Oregon, as applicable, and the carbon intensity of the fuel approved for use under OAR 340-253-0400 through -0470 is less than the clean fuel standard for gasoline and gasoline substitutes in Table 1 under OAR 340-253-8010, for diesel fuel and diesel substitutes in Table 2 under 340-253-8010, or for alternative jet fuel in Table 3 under 340-253-8010. Credits are generated when a valid and accurate quarterly report is submitted in the Oregon Fuels Reporting System.~~

~~(b) Deficit generation. A clean fuel deficit is generated when fuel~~(a) Deficits are generated at the time that a valid and accurate quarterly report is submitted in the OFRS;

(b) Deficits are generated for fuel that is produced, imported, or dispensed for use in Oregon, as applicable, and the carbon intensity of the fuel, as approved for use under OAR 340-253-0400 through -0470, is more than the clean fuel standard for gasoline and gasoline substitutes in Table 1 under OAR 340-253-8010 or for diesel fuel and diesel substitutes in Table 2 under 340-253-8010. ~~Deficits are generated when a valid and accurate quarterly report is submitted in the Oregon Fuels Reporting System., as applicable;~~

(c) Each deficit is a separate denomination of the regulatory obligations of this program on the registered party; and

(d) Deficits may be generated by any registered party as a result of its reporting or assigned to a registered party by DEQ under OAR 340-253-0670.

(6) Credit generation. Under this division:

(a) Credits are generated at the time that a valid and accurate quarterly report is submitted in the OFRS;

(b) Credits are a regulatory instrument and do not constitute personal property, instruments, securities or any other form of property; and

(c) No credits may be generated or claimed for any transactions or activities occurring in a quarter for which the quarterly reporting deadline has passed, unless the credits are being generated for residential charging of electric vehicles or for claiming incremental credits by a utility or the incremental aggregator.

(67) Mandatory retirement of credits. All registered parties must comply with the clean fuels standards by retiring credits against any deficits they hold when filing the annual report at the end of a compliance period. ~~a. Any registered party that possesses credits deficits on its annual report~~ must retire a sufficient number of credits such that:

(a) Enough credits are retired to completely meet the registered party's compliance obligation as denominated in deficits for that compliance period, or

(b) If the total number of the registered party's credits is less than the total number of the regulated party's deficits, the registered party must retire all of its credits.

(7c) Credit Retirement Hierarchy. The Oregon Fuels Reporting System OFRS will use the following default hierarchy to retire credits for the purposes of meeting a compliance obligation, first retiring credits under subsection (a), next retiring credits under subsection (b), and last retiring credits under subsection (c):

(a) Credits acquired or generated in a previous compliance period will be retired prior to credits generated or acquired in the current compliance period;

(b) Credits with an earlier completed transfer "recorded date" ~~before~~ will be retired prior to credits with a later completed transfer "recorded date;" and

(c) Credits generated in an earlier quarter ~~before~~ will be retired prior to credits generated in a later quarter.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1005

Transacting Credits

(1) General.

~~(a) Credits are a regulatory instrument and do not constitute personal property, instruments, securities or any other form of property.~~

~~(b) Regulated parties, credit generators, and aggregators may:~~

~~(a) Registered parties may:~~

(A) Retain credits without expiration within the CFP in compliance with this division; and

(B) Acquire or transfer credits from or to other ~~regulated parties, credit generators, and aggregators that are registered under OAR 340-253-0500~~ registered parties.

~~(e) Regulated~~ (b) Registered parties, ~~credit generators, and aggregators~~ may not:

(A) ~~Use~~ Retire or transfer credits that have not been generated in compliance with this division; or

(B) ~~Borrow~~ Retire or ~~use~~ transfer anticipated credits from future projected or planned carbon intensity reductions, other than advance credits awarded under OAR 340-253-1100.

(2) Credit transfers between registered parties.

~~(a) "Credit seller," as used in this rule, means a registered party that wishes to sell or transfer credits.~~

~~(b) "Credit buyer," as used in this rule, means a registered party that wishes to acquire credits.~~

~~(e)(a)~~ A credit seller and a credit buyer may enter into an agreement to transfer credits; and

~~(d)~~ A credit seller may only transfer credits up to the number of credits in the credit seller's ~~Oregon Fuels Reporting System~~ OFRS account on the date of the transfer.

(3) Credit seller requirements. When registered parties wish to transfer credits, the credit seller must initiate an online “Credit Transfer Form” provided in the ~~Oregon Fuels Reporting System~~OFRS and must include the following:

- (a) The date on which the credit buyer and credit seller reached their agreement;
- (b) The names and FEINs of the credit seller and credit buyer;
- (c) The first and last names and contact information of the persons who performed the transaction on behalf of the credit seller and credit buyer;
- (d) The number of credits proposed to be transferred; and
- (e) The price or equivalent value of the consideration (in USU.S. dollars) to be paid per credit proposed for transfer, excluding any fees. If no clear dollar value can be easily arrived at for the transfer, a price of zero must be entered and ~~a qualitative description of the transaction’s valuation must be entered in the seller’s notes field.~~the seller must include:

(A) A copy of the contract that includes the terms of the trade; or

(B) A qualitative description of the transaction’s valuation. If the seller provides a qualitative description, the seller must also provide additional specific information as required by DEQ on the credit transfer form and any additional information that describes the contract upon written request by DEQ.

(4) Credit buyer requirements. Within 10 calendar days of receiving the “Credit Transfer Form” from the credit seller in the ~~Oregon Fuels Reporting System~~OFRS, the credit buyer must confirm the accuracy of the information therein and may accept the credit transfer by signing and dating the form using the ~~Oregon Fuels Reporting System~~OFRS.

(5) If the credit buyer and credit seller have not fulfilled the requirements of sections (3) and (4) within 2010 calendar days of the seller initiating the credit transfer in the OFRS, the transaction will be voided. If a transaction has been voided, the credit buyer and credit seller may initiate a new credit transfer in the OFRS.

(6) Aggregator requirements. An aggregator may only act as a credit seller or credit buyer if that aggregator:

(a) Has an approved and active registration under OAR 340-253-0500;

(b) Has an account in the ~~Oregon Fuels Reporting System~~OFRS; and

(c) Has an approved Aggregator Designation Form from a regulated party or credit generator for whom the aggregator is acting in any given transaction.

(7) Illegitimate credits.

(a) A registered party must report accurately when it submits information into the ~~Oregon Fuels Reporting System (OFRS)~~. If inaccurate information is submitted that results in the generation of one or more credits when such an assertion is inconsistent with the requirements of ~~OAR 340 253 1000 through 340 253 1020~~this division, or a party's submission otherwise causes credits to be generated in violation of the rules of this division, those credits are illegitimate and invalid. If DEQ determines that one or more credits that a party has generated are illegitimate credits, then:

(A) If the registered party that generated the illegitimate credits still holds them in its account, DEQ will cancel those credits;

(B) If the registered party that generated the illegitimate credits has retired those credits to meet its own compliance requirement or if it has transferred them to another party, the party that generated the illegitimate credits must retire ~~an approved~~a legitimate credit to replace each illegitimate credit; and

(C) The party that generated the illegitimate credits is also subject to enforcement for the violation, as deemed appropriate in DEQ's discretion.

(b) A registered party that has acquired one or more illegitimate credits, but was not the party that generated the illegitimate credits:

(A) When the initial generator of the illegitimate credits has not retired ~~approved~~legitimate credits in place of the illegitimate credits and DEQ determines that that initial generator is unlikely to be able to do so, then the party that has acquired such credits may have those credits canceled by DEQ if the party still holds the credits in its account, or if the party has used such illegitimate credits to meet its own compliance requirement, then DEQ may require the party to retire ~~an approved~~a legitimate credit to replace each such illegitimate credit that it retired to meet its compliance obligation; and

(B) May be subject to enforcement at DEQ's discretion, unless DEQ determines that the party from whom the credits were acquired engaged in false, fraudulent, or deceptive trading practices.

(8) Prohibited credit transfers. A credit transfer involving, related to, in service of, or associated with any of the following is prohibited:

(a) Fraud, or an attempt to defraud or deceive using any device, scheme or artifice;

(b) Either party employed any unconscionable tactic in connection with the transfer;

(c) Any false report, record, or untrue statement of material fact or omission of a material fact related to the transfer or conditions that would relate to the price of the credits being transferred. A fact is material if it is reasonably likely to influence a decision by another party or by the agency;

- (d) Where the intended effect of the activity is to lessen competition or tend to create a monopoly, or to injure, destroy or prevent competition;
- (e) A conspiracy in restraint of trade or commerce; or
- (f) An attempt to monopolize, or combine or conspire with any other person or persons to monopolize.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

- DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
- DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
- DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
- DEQ 17-2017, renumbered from 340-253-1050, filed 11/06/2017, effective 11/06/2017
- DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
- DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

340-253-1010

Fuels to Include in Credit and Deficit Calculation

- (1) Fuels included. Credits and deficits must be calculated for all regulated fuels and clean fuels, except that:
 - (a) Credits may be generated only for B100 that complies with an oxidation stability induction period of not less than 8 hours as determined by the test method described in the European standard EN 15751;
 - (b) B100 that does not comply with subsection (a) can still be imported into Oregon and must be reported, but cannot generate credits for the CFP.
- (2) Fuels exempted. Except as provided in sections (3), (4), and (5), credits and deficits may not be calculated for fuels exempted under OAR 340-253-0250. Exempt fuel volumes must be claimed by the end of the regular reporting period for a given quarter, otherwise DEQ will deem the fuel to have been voluntarily included under section (3).
- (3) Voluntary inclusion. A ~~regulated~~registered party, ~~credit generator, or aggregator~~ may choose to include in its credits and deficits calculations fuel that is exempt under OAR 340-253-0250(1) and fuel that is sold to an exempt fuel user in Oregon under 340-253-0250(2), provided that the credit and deficit calculation includes all fuels listed on the same invoice. Voluntarily included fuels cannot be claimed as exempt once the regular reporting period for that quarter has closed.
- (4) When fuels are exported from Oregon:

(a) Any bulk quantity of fuel that is exported must be reported by the person who holds title to the fuel when it is exported or the position holder if the party exporting the fuel is not registered under this program;

(b) If the exporter purchased the fuel with the compliance obligation, the exported fuels will not generate deficits or credits;

(c) If credits or deficits were generated and separated from the fuel through a transfer without obligation, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits detached from the fuel; and

(d) If the fuel was imported in one quarter and exported in another quarter, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits, respectively, associated with the fuel when it was imported in the prior quarter.

(5) Alternative jet fuel. Alternative jet fuel may be reported by the producer or importer of the fuel and any registered parties that hold title to it, so long as it can be demonstrated that the fuel is loaded into airplanes/aircraft in Oregon. If a gallon of alternative jet fuel that has been reported to the Clean Fuels Program/CFP as imported or produced is later exported, lost, or otherwise not used for transportation it must be reported as such.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1020

Calculating Credits and Deficits

(1) Except as provided in sections (2) and (3), credit and deficit generation must be calculated for all fuels included in OAR 340-253-1010:

(a) Using credit and deficit basics as directed in OAR 340-253-1000;

(b) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 under OAR 340-253-8010;

(c) Calculating the adjusted energy in megajoules by multiplying the energy in megajoules from section (2) by the energy economy ratio of the fuel listed in Table 7 under OAR 340-253-8010 or as approved by DEQ under OAR 340-253-0460, as applicable;

(d) Calculating the carbon intensity difference by subtracting the fuel's carbon intensity as approved under OAR 340-253-0400 through -0470, adjusted for the fuel application's energy economy ratio as listed in Table 7 under OAR 340-253-8010 or as approved under OAR 340-253-0460 as applicable, from the clean fuel standard for gasoline or gasoline substitutes listed in Table 1 under OAR 340-253-8010 or diesel fuel and diesel substitutes listed in Table 2 under OAR 340-253-8010, or alternative jet fuel listed in table 3 under OAR 340-253-8010, as applicable;

(e) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in megajoules in section (3) by the carbon intensity difference in section (4);

(f) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent calculated in section (5) by 1,000,000; and

(g) Determining under OAR 340-253-1000(5) whether credits or deficits are generated.

(2) Calculating credits for electricity used to power fixed guideway vehicles on track placed in service prior to 2012 and forklifts from model year 2015 and earlier, ~~credit and deficit~~. Credit generation must be calculated by:

(a) Using credit and deficit basics as directed in OAR 340-253-1000;

(b) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 under OAR 340-253-8010;

(c) Calculating the carbon intensity difference by subtracting the fuel's carbon intensity as approved under OAR 340-253-0400 through -0470, adjusted for the fuel application's energy economy ratio listed in Table 7 under OAR 340-253-8010 as applicable, from the clean fuel standard for gasoline or gasoline substitutes listed in Table 1 under OAR 340-253-8010 or diesel fuel and diesel substitutes listed in Table 2 under OAR 340-253-8010, as applicable;

(d) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in megajoules in section (3) by the carbon intensity difference in section (4);

(e) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent calculated in section (5) by 1,000,000; and

(f) Determining under OAR 340-253-1000(5) whether credits or deficits are generated.

(3) Calculating credits for electricity used in residential charging of electric vehicles; ~~credit~~ calculations must be based on the total electricity dispensed (in kilowatt hours) to vehicles, measured by:

(a) The use of direct metering (either sub-metering or separate metering) to measure the electricity directly dispensed to all vehicles at each residence; or

(b) For residences where direct metering has not been installed, DEQ will calculate the total electricity dispensed as a transportation fuel based on analysis of the total number of BEVs and PHEVs in a utility's service territory based on Oregon Department of Motor Vehicles records. DEQ will perform this analysis at least twice a year and issue credits based on it. DEQ will select one of the following methods for estimating the amount of electricity charged based on its analysis of which is more accurate and feasible at the time it is performing the analysis:

(A) An average amount of electricity consumed by BEVs and PHEVs at residential chargers, based on regional or national data; or

(B) An analysis of the average electric vehicles miles traveled by vehicle type or make and model, which compares the total amount of estimated charging for those electric vehicle miles travelled with the total reported charging in those territories in order to determine the amount of unreported charging that can be attributed to residential charging. The analysis may be done on a utility territory specific or statewide basis.

(c) If DEQ determines after the issuance of residential electric vehicle credits that the estimate under (b) contained a significant error that led to one or more credits being incorrectly generated, the error will be corrected by withholding an equal number of credits to the erroneous amount from the next generation of residential electric vehicle credits.

(d) A credit generator or aggregator may propose an alternative method, subject to the approval of DEQ upon its determination that the alternative method is more accurate than either of the methods described in subsection (b).

(e) Credits generated under this subsection will be calculated by DEQ under section 1 of this rule using the estimated amount of electricity under subsection (3)(b) and issued at least twice per year into the ~~Oregon Fuels Reporting System~~OFRS account of the utility, ~~its designated aggregator,~~ or the backstop aggregator within three months of the close of that year.

~~(f) Registered parties eligible to generate credits for the 2018 year also will generate credits for 2016 and 2017 residential electric vehicle charging.~~

(4) Calculating Incremental Credits. In calculating incremental credits for actions that lower the carbon intensity of electricity, the credit calculations must be performed based on section (1) of this rule, except that the carbon intensity difference is calculated based on the carbon intensity of the renewable power and the carbon intensity used to calculate the base credits for that electric vehicle or charging equipment, and consistent with following requirements, as applicable:

(a) Incremental credits for non-residential charging are generated upon the retirement of RECs that qualify under OAR 340-253-0470(5) by the credit generator, its aggregator, or the incremental aggregator, or by another entity on their behalf. For credit generators and their aggregators, RECs must be retired prior to or at the same time as the submittal as the

quarterly report where the charging is being reported and REC retirement records must be submitted with the quarterly report as supplemental documentation. RECs may be retired by another entity on behalf of the credit generator or aggregator for their electric vehicle charging so long as it is clearly documented, and that documentation is submitted with the quarterly report.

(b) For incremental credits generated using a Utility Renewable Electricity Product or Power Purchase Agreement, evidence that the chargers were covered by such a product must be submitted at least annually along with a quarterly report. Upon request by DEQ, any entity using a Power Purchase Agreement or a Utility Renewable Electricity Product must produce evidence that the charging equipment was covered by that agreement or product for all time periods when the entity was claiming incremental credits.

(c) For the incremental aggregator, incremental credits are generated when it retires RECs on behalf of non-residential electric vehicle charging.

(d) Incremental credits for residential charging are generated by a utility or its aggregator when RECs are retired on behalf of that charging, or when a utility demonstrates to DEQ that EVs are being charged by customers enrolled in its Utility Renewable Electricity Products.

(5) Additional credits.

(a) Except as provided in subsection (b), starting in 2023, fuel pathway holders that are registered parties may request additional credits from the prior year if their fuel facility has:

(A) Completed verification under OAR 340-253-0700 and OAR chapter 340, division 271; and

(B) The verified operational carbon intensity value for a given fuel pathway is more than 1gCO₂e/MJ lower than the certified carbon intensity value for that year.

(b) Subsection (a) does not apply to lookup table, temporary, or provisional carbon intensities.

(c) DEQ will determine the number of additional credits to award in response to a request under subsection (a) by:

(A) Calculating the difference between the certified and verified operational carbon intensities;

(B) Multiplying the difference calculated under paragraph (A) by the total obligated volume for the year; and

(C) DEQ may adjust the obligated volume for a given year for this calculation if it is aware that a volume of the fuel under a given fuel pathway code was imported or produced in the

fourth quarter of a year and exported or otherwise removed from the obligated fuel pool in the first quarter of the following year.

(d) DEQ will deposit the additional credits determined under subsection (c) into the fuel pathway holder's account.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1030

Demonstrating Compliance

(1) Compliance demonstration. Each ~~regulated~~registered party must meet its compliance obligation for the compliance period by demonstrating through submission of its annual compliance report that it possessed and has retired a number of credits from its account that is equal to its compliance obligation calculated under section (2).

(2) Calculation of compliance obligation. A ~~regulated~~registered party's compliance obligation is the sum of deficits generated in the compliance period plus deficits carried over from the prior compliance period, represented in the following equation:

$$\text{Compliance Obligation} = \text{Deficits Generated} + \text{Deficits Carried Over}$$

(3) Calculation of credit balance.

(a) Definitions. For the purpose of this section:

(A) Deficits Generated are the total deficits generated by the ~~regulated~~registered party for the current compliance period;

(B) Deficits Carried Over are the total deficits carried over by the ~~regulated~~registered party from the previous compliance period;

(C) Credits Generated are the total credits generated by the ~~regulated~~registered party in the current compliance period;

(D) Credits Acquired are the total credits acquired by the ~~regulated~~registered party in the current compliance period from other ~~regulated~~registered parties, ~~credit generators, and aggregators~~, including carryback credits;

(E) Credits Carried Over are the total credits carried over by the ~~regulated~~registered party from the previous compliance period;

(F) Credits Retired are the total credits retired by the ~~regulated~~registered party within the ~~CFP Online System~~OFRS for the current compliance period;

(G) Credits Sold are the total credits sold by, or otherwise transferred from, the ~~regulated~~registered party in the current compliance period to other ~~regulated~~registered parties, ~~credit generators, and aggregators~~; and

(H) Credits on Hold are the total credits placed on hold due to enforcement or an administrative action. While on hold, these credits cannot be used for meeting the ~~regulated~~registered party's compliance obligation.

(b) A ~~regulated~~registered party's credit balance is calculated using the following equation:

$$\text{Credit Balance} = (\text{Credits Gen} + \text{Credits Acquired} + \text{Credits Carried Over}) - (\text{Credits Retired} + \text{Credits Sold} + \text{Credits on Hold})$$

(4) Small deficits. At the end of a compliance period, a ~~regulated~~registered party that has a net deficit balance may carry forward a small deficit to the next compliance period without penalty. A small deficit exists if the amount of credits the ~~regulated~~registered party needs to meet its compliance obligation is 5 percent or less than the total amount of deficits the ~~regulated~~registered party generated for the compliance period.

(5) Extended credit acquisition period. A ~~regulated~~registered party may acquire carryback credits between January 1st and ~~March 31st~~April 30th to be used for meeting its compliance obligation for the prior compliance period. A ~~regulated~~registered party **must** complete all carryback credit transfers in the ~~CFP Online System~~OFRS prior to submitting their annual report, but no later than April 30, in order for them to be valid for meeting the compliance obligation for that annual report's compliance period.

~~(6) Extended compliance period for large importers of finished fuels. A large importer of finished fuels can choose to carry over deficits accrued in 2016 and 2017 to 2018 when compliance with the aggregate deficit balance must be met.~~

~~(7) Regulated~~(6) Registered parties who do not demonstrate compliance under section (1) and whose deficit is not small as defined in section (4) may demonstrate compliance through participation in the Credit Clearance Market under OAR 340-253-1040.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1040

Credit Clearance Market

(1) If a ~~regulated~~registered party did not retire sufficient credits to meet its compliance obligation under OAR 340-253-1030(1) - (6), exclusive of any deficits carried forward to the next compliance period under OAR 340-253-1030(4), it must enter and purchase its pro-rata share of credits in the credit clearance market under section (5).

(a) The credit clearance market is separate from the normal year-round market opportunities for parties to engage in credit transactions.

(b) DEQ will consider a ~~regulated~~registered party in compliance with OAR 340-243-1030 if it acquires its pro-rata obligation in the credit clearance market and retires that number of credits within 30 calendar days of the end of the credit clearance market.

(2) The maximum price for the credit clearance market will be:

(a) \$200 per credit for the markets held upon the submission of the annual reports for 2017.

(b) For markets held upon submission of annual reports in 2018 and thereafter DEQ shall adjust the maximum price for the credit clearance market annually for inflation at the end of each January using the inflation rate as provided by the last twelve months of data from the US Bureau of Labor Statistics West Region Consumer Price Index for All Urban Consumers for All Items. The formula for that adjustment is as follows: maximum price = [Last year's maximum price] * (1 + [CPI-U West]). DEQ will publish the new maximum price on its webpage each year.

(3) Acquisition of credits in the credit clearance market. The credit clearance market will operate from June 1 to July 31.

(a) ~~Regulated~~Registered parties subject to section (1) must acquire their pro-rata share of the credits in the credit clearance market calculated in section (5).

(b) A ~~regulated~~registered party may only use credits acquired in the credit clearance market to retire them against its unmet compliance obligation from the prior year.

(c) To qualify for compliance through the credit clearance market, the ~~regulated~~registered party in question must have:

(A) Retired all credits in its possession; and

(B) Have an unmet compliance obligation for the prior year that has been reported to DEQ through submission of its annual report in the ~~CFP Online System~~OFRS.

(4) Selling credits in the clearance market.

(a) On the first Monday in April each year, DEQ shall issue a call to all eligible registered parties in the ~~CFP Online System~~OFRS to pledge credits into the credit clearance market, or will issue a notification that it will not hold a credit clearance market that year. Registered parties are eligible to sell credits in the clearance market if they will have excess credits upon the submission of their annual report. Parties wanting to pledge credits into the credit clearance market will notify DEQ by April 30. DEQ will announce if a clearance market will occur by May 15.

(b) In order to participate in the credit clearance market, sellers must:

(A) Agree that they will sell their credits for no higher than the maximum price as published by DEQ for that year;

(B) Agree to withhold any pledged credits from sale in any transaction outside of the credit clearance market until the end of the credit clearance market on July 31, or if no clearance market is held in a given year, then on the date which DEQ announces it will not be held;

(C) Not reject an offer to purchase the credits at the maximum price for that year as published by DEQ, unless the seller has already sold or agreed to sell those pledged credits to another regulated party participating in the credit clearance market; and

(D) Agree to replace any credits that the seller pledges into the clearance market if those credits are later found to be invalid by DEQ due to fraud or non-compliance by the generator of the credit, unless the buyer of the credits was a party to that fraud or non-compliance.

(5) Operation of the credit clearance market. Prior to June 1, DEQ will inform each ~~regulated~~registered party that failed to meet its annual compliance obligation under OAR 340-253-1030 of its pro-rata share of the credits pledged into the credit clearance market.

(a) Calculation of pro-rata shares.

(A) Each ~~regulated~~registered party's pro-rata share of the credits pledged into the credit clearance market will be calculated by the following formula:

~~Regulated~~Registered Party A's pro-rata share =

(A's total deficit / All parties' total deficits) X (the lesser of [pledged credits] or [All parties' total deficits])

(i) “Total deficit” refers to the ~~regulated~~registered party’s total obligation for the prior compliance year that has not been met under OAR 340-253-1030;

(ii) “All parties’ total deficit” refers to the sum of all of the unmet compliance obligations for ~~regulated~~registered parties in the credit clearance market; and

(iii) “Pledged credits” refers to the sum of all credits pledged for sale into the credit clearance market.

(B) If there is at least one large importer of finished fuels participating in the credit clearance market, DEQ will determine the pro-rata share of the available credits in two phases.

(i) The first phase will begin with all of the credits pledged into the credit clearance market and the deficits from large importers of finished fuels in place of “all parties’ total deficit” in (5)(a)(A)(ii).

(ii) The second phase will begin with the remainder of the pledged credits into the credit clearance market in place of “pledged credits” in (5)(a)(A)(iii) and the deficits from all other ~~regulated~~registered parties in place of “all parties’ total deficit” in (5)(a)(A)(ii).

(iii) The calculation for each phase will be done as in paragraph (A).

(b) On or before June 1, DEQ will post the name of each ~~registered~~registered party that is participating in the credit clearance market as a buyer, and the name of each ~~registered~~registered party that is participating as a seller in the market and the number of credits they have pledged into the market.

(c) Following the close of the credit clearance market, each ~~regulated~~registered party that was required to purchase credits in the credit clearance market must submit an amended annual compliance report in the ~~CFP Online System~~OFRS by August 31 which shows the acquisition and retirement of its pro-rata share of credits purchased in the credit clearance market, and any remaining unmet deficits.

(6) If a ~~regulated~~registered party has unmet deficits upon the submission of the amended annual report, DEQ will increase the ~~regulated~~registered party’s number of unmet deficits by five percent and the total unmet deficits will be carried over into the next compliance period for that regulated party.

(7) If the same ~~regulated~~registered party has been required to participate in two consecutive credit clearance markets and carries over deficits under section (6) in both markets, DEQ will conduct a root cause analysis into the inability of that ~~regulated~~registered party to retire the remaining deficits.

(a) If multiple ~~regulated~~registered parties are subject to this section in a single year, DEQ may produce a single root cause analysis for those ~~regulated~~registered parties if it determines

the same general set of causes contributed to those parties' inability to retire those deficits. DEQ will also analyze whether there were specific circumstances for the individual parties.

(b) Based on the results of the root cause analysis, DEQ may issue a deferral under OAR 340-253-2000(6)(c)(A) through (C) or craft a remedy that addresses the root cause or causes. The remedy cannot:

(A) Require a ~~regulated~~registered party to purchase credits for an amount that exceeds the maximum price for credits in the most recent credit clearance market; or

(B) Compel a registered party to sell credits.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-1055

Public Disclosure

(1) List of DEQ-approved registered parties. DEQ will maintain a current list of DEQ-approved registered parties and will make that list publicly available on its website. The list will include, at a minimum, the name of the party and whether the registered party is an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, a producer, a credit generator, or an aggregator.

(2) Monthly credit trading activity report. DEQ must post on its webpage, by no later than the last day of the month immediately following the month for which the calculation is completed, a credit trading activity report that:

(a) Summarizes the aggregate credit transfer information for the:

(A) Most recent month,

(B) Previous three months,

(C) Previous three quarters, and

(D) Previous compliance periods;

(b) Includes, at a minimum

(A) The total number of credits transferred,

(B) The number of transfers,

(C) The number of parties making transfers, and

(D) The formula used by DEQ to calculate the volume-weighted average price of that month's transfers, exclusive of transactions that fall two standard deviations outside of the mean credit price for the month or that are transferred without a price;

(c) Is based on the information submitted into the ~~CFP Online System~~OFRS; and

(d) Presents aggregated information on all fuel transacted within the state and does not disclose individual parties' transactions.

(3) Quarterly data summary. DEQ must post on its webpage at least quarterly:

(a) An aggregate data summary of credit and deficit generation for the most recent quarter and all prior quarters; and

(b) Information on the contribution of credit generation by different fuel types.

(4) ~~Clean Fuels Program~~CFP Annual Report. DEQ must post on its webpage by April 15th of each year, the following information from the previous year:

(a) The average cost or cost-savings per gallon of gasoline, per gallon of diesel, or any other fuel types, and the formulas used to calculate such costs or cost-savings; and

(b) The total greenhouse gas emissions reductions.

(5) Utility Reports. DEQ will post the utility reports it receives under OAR 340-253-0640(9) to its website.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021

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DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-1100

Advance Crediting

(1) General Provisions.

(a) ~~Advance Credits are used to advance the state's transportation electrification goals.~~

~~(b)~~ All advance credits must represent actual reductions of greenhouse gas emissions against the clean fuel standards. ~~and~~

(~~eb~~) Vehicles must be registered in the State of Oregon to be eligible to earn ~~advanced~~advance credits.

(2) Eligibility to generate Advance Credits.

(a) The following entities may apply for advance credits:

(A) Public Transit Agencies;

(B) Political subdivisions of the State of Oregon;

(C) Tribes;

(D) School Districts; ~~and~~

(E) Companies under contract to provide services to a political subdivision of the State of Oregon or an Oregon School District ~~may apply~~ if the political subdivision endorses the application, and the vehicles covered by the application are intended to provide contracted services to the public.; and

(F) Owners of electric charging equipment that is part of a project that receives funds from the National Electric Vehicle Infrastructure (NEVI) formula program under the Bipartisan Infrastructure Law (Paragraph 2 of Title VIII of Division J of Public Law 117-58).

(b) The entities identified in subsection (a) may apply to earn advance credits for the purchase and use of the following vehicle types:

(A) Zero emission medium and heavy duty vehicles; and

(B) Zero emission light-duty vehicles if they are part of an organization's plan to fully ~~electrify~~convert its light-duty vehicle fleet to zero-emission vehicles within a 15-year time period.

(c) The entities identified in subsection (a) may apply to earn advance credits for the purchase, installation and use of the following fueling infrastructure types:

(A) Direct current (DC) fast charging equipment; and

(B) Hydrogen fueling equipment, provided that the planned source or sources of the hydrogen achieve a CI rating of 117gCO₂e/MJ or below.

(3) Applications for Advance Credits. All of the following requirements apply to applications for advance credits:

(a) Applications for advance crediting will be accepted by DEQ at least once per year from entities eligible to apply under section (2). DEQ will notify stakeholders when applications

will be accepted and will provide application materials and guidance about how it will process and consider applications.

(b) Applicants must supply the following information to DEQ:

(A) A letter describing the activities or purchases that they want to receive advance crediting for, including the number of vehicles, charging equipment, and estimated timeframes for when those vehicles and equipment will be put into useful service;

(B) A detailed estimate of the potential credit generation that will result from the ~~electric~~zero emissions vehicles and ~~fueling or~~ charging equipment ~~that they want to receive advance crediting for. In the case of electric vehicles, that detailed~~will purchase, install and use, as authorized under section (2). The estimate must ~~at least include the number of miles each vehicle will travel within Oregon annually and an estimated amount of charging for each vehicle;~~

~~(C)~~ In the case of zero-emission vehicles, an estimate of the number of miles each vehicle will travel within Oregon annually and the estimated amount of electricity or hydrogen needed for each vehicle;

~~(ii)~~ If the covered ~~electric~~zero-emission vehicles will mainly use existing charging ~~or fueling~~ equipment, ~~details on~~the ownership of that charging ~~or fueling~~ equipment, and how the applicant will ensure that another entity will not generate credits, ~~and will not attempt to~~ ~~general credits~~, from that vehicle until it has exited the payback period;

~~(D)~~ Information on ~~(iii)~~ In the case of electric vehicles, where the ~~electric~~ vehicles will be charged, if they will be charged using grid or renewable electricity, and, if applicable, the utility-specific CI for where the charging equipment will be located;

~~(E)~~ A proposed number of credits to be advanced for each vehicle; and

~~(F)~~ An attestation that the applicant will remain the owner or lessee of the vehicle or charging equipment until the vehicle has paid back the advanced credits, or that, if the vehicle is sold prior to the end of the payback period, that the applicant will buy and retire credits against the remaining unearned amount.

~~(e)~~(iv) In the case of hydrogen vehicles or fueling equipment, information on the CI(s) and supplier(s) of the hydrogen. including the contract(s) with their hydrogen supplier(s). If the applicant will be supplying their own hydrogen, then it must submit its plans for the hydrogen production system or systems if it does not already have an approved fuel pathway code;

~~(v)~~ If the applicant is a company under contract to provide school bus services to an Oregon School District, it must also provide:

(~~AI~~) A contract with the Oregon School District that the school buses will be serving that shows they will be the provider of school bus services to that district for at least three years following their purchase or lease of the school buses covered by the Advance Crediting Agreement; and

(~~BI~~) A letter from the school district that is endorsing their application for advance crediting;

(~~di~~) If the applicant is a company under a multi-year contract with a political subdivision of the State of Oregon, it must also provide:

(~~AI~~) A contract with the political subdivision showing how the electric vehicles will be used and that they will be used in state for at least three years following their purchase or lease; and

(~~BI~~) A letter endorsing the application from the political subdivision;

~~(vii) A proposed number of credits to be advanced for each vehicle or installed charger; and~~

~~(viii) An attestation that the applicant will remain the owner or lessee of the vehicle or equipment until they have paid back the advanced credits, or that, if the vehicle or equipment is sold prior to the end of the payback period, that the applicant will buy and retire credits against the remaining unpaid amount.~~

(~~c~~) In considering applications under this rule, DEQ will prioritize applications where the vehicles or charging equipment will reduce emissions in vulnerable communities disproportionately impacted by climate change, air toxics, and criteria air pollution.

(~~d~~) DEQ may request additional documentation from an applicant prior to making a decision on ~~thean~~ application submitted under this section. If the applicant does not provide the requested documentation, then DEQ may deny the application without prejudice.

(4) Approval of Advance Credits. If DEQ determines that an application for advance credits meets the requirements of sections (2) and (~~3~~;) and is in the best interest of the program, then DEQ will negotiate an agreement with the applicant to issue advance credits consistent with this ~~rule~~division, and based on all of the following considerations and requirements:

(a) A clear and objective milestone for issuing advance credits that represents when the vehicles and equipment covered by the application are placed into useful service;

(b) The number of credits being advanced in total or per vehicle;

(c) The length of the payback period, which must be one year longer than the number of years of credits that will be advanced;

(d) An attestation from the applicant that it understands that the advanced credits must represent real reductions and that if the activity covered by the agreement does not generate sufficient credits within the payback period that it is responsible for retiring a sufficient number of credits to make up the difference. The attestation must also include a statement that the applicant understands that it is responsible for making up the difference in credits if it sells or relocates covered vehicles outside of Oregon; and

(e) An attestation from the applicant that it will ensure that actual credits are not generated from charging equipment serving these vehicles until the credits have been paid back.

(5) Issuance of Advance Credits. If DEQ approves an application and has executed an agreement with the applicant under section (4), then:

(a) DEQ will issue advance credits to the applicant only after the vehicles or equipment are placed into useful service as agreed to under section (4) of this rule;

(b) Credits will only be issued to the applicant named in the agreement; and

(c) DEQ may advance no more than six years of credits for any single vehicle or piece of infrastructure.

(6) Payback Period. Advanced credits issued under this rule are subject to the following requirements:

(a) The payback period for a vehicle or charging equipment will be specified in the agreement between DEQ and the applicant, except that the payback period may not exceed nine years. The payback period must be at least one year longer than the number of years of credits advanced to the applicant-;

(b) In the event that the number of advanced credits was not realized during the payback period, the recipient is responsible for acquiring and retiring sufficient credits to ensure the environmental integrity of the program-; and

(c) If a vehicle or charging equipment is sold to another entity prior to the close of the payback period, the applicant is responsible for purchasing and retiring credits against the volume of advanced credits that has not yet been covered by actual credit generation.

(7) Reporting Requirements. An applicant that has received advance credits under this rule must:

(a) File quarterly reports to DEQ showing the amount of charging going into the individual electric vehicles covered by the agreement; and

(b) May not generate additional credits for such charging until the advanced credits are paid back. DEQ and the applicant will monitor the amount of charging or fueling and credits that

would have been generated to determine when an equal number of credits has been generated to the number of credits advanced.

(8) Overall limitation on advance credits. ~~DEQ may not issue more advance credits in any one calendar year than an amount equal to five percent of the number of deficits generated in the prior compliance year.~~ DEQ will process applications, negotiate and issue advance credits on a first-come, first served basis, and will stop working on any pending applications when it has issued advance credits equal to five percent of the number of deficits generated in the prior compliance year.

Statutory/Other Authority: ORS 468.020, ORS 468A.266, ORS 468A.268, ORS 468A.277 & ORS 468A.265 through 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, adopt filed 03/26/2021, effective 03/26/2021

340-253-8010

Tables

(1) Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

(2) Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

(3) Table 3 — Oregon Clean Fuel Standard for Alternative Jet Fuel

(4) Table 4 — Oregon Carbon Intensity Lookup Table

(5) Table 5 - Summary Checklist of Quarterly ~~Progress~~ and Annual Compliance Reporting Requirements

(6) Table 6 - Oregon Energy Densities of Fuels

(7) Table 7 - Oregon Energy Economy Ratio Values

(8) Table 8 – Oregon Substitute Fuel Pathway Codes

(9) Table 9 – Oregon Temporary Fuel Pathway Codes

(10) Table 10 – Indirect Land-Use Change Values

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 8-2016, f. & cert. ef. 8-18-16
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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15




OAR 340-253-8010

Table 1

Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO ₂ e per MJ)	Percent Reduction
2015	None (Gasoline Baseline is 98.62 for 2016-2017, 98.64 for 2018, and 98.06 for 2019 and beyond)	
2016*	98.37	0.25 percent
2017	98.13	0.50 percent
2018	97.66	1.00 percent
2019	96.59	1.50 percent
2020	95.61	2.50 percent
2021	94.63	3.50 percent
2022	93.15	5.00 percent
2023	91.68	6.50 percent
2024	90.21	8.00 percent
2025 and beyond	88.25	10.00 percent
<u>2026</u>	<u>86.29</u>	<u>12.00 percent</u>
<u>2027</u>	<u>84.33</u>	<u>14.00 percent</u>
<u>2028</u>	<u>82.37</u>	<u>16.00 percent</u>
<u>2029</u>	<u>80.41</u>	<u>18.00 percent</u>
<u>2030</u>	<u>78.45</u>	<u>20.00 percent</u>
<u>2031</u>	<u>75.11</u>	<u>23.40 percent</u>
<u>2032</u>	<u>71.78</u>	<u>26.80 percent</u>
<u>2033</u>	<u>68.45</u>	<u>30.20 percent</u>
<u>2034</u>	<u>65.11</u>	<u>33.60 percent</u>

 <p>State of Oregon Department of Environmental Quality</p>	OAR 340-253-8010 Table 1 Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes	
<u>2035 and beyond</u>	<u>61.78</u>	<u>37.00 percent</u>
*Initial compliance period is a two-year period for 2016 and 2017.		



OAR 340-253-8010 Table 2

Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO ₂ e per MJ)	Percent Reduction
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond)	
2016*	99.39	0.25 percent
2017	99.14	0.50 percent
2018	98.61	1.00 percent
2019	97.26	1.50 percent
2020	96.27	2.50 percent
2021	95.29	3.50 percent
2022	93.81	5.00 percent
2023	92.32	6.50 percent
2024	90.84	8.00 percent
2025 and beyond	88.87	10.00 percent
<u>2026</u>	<u>86.89</u>	<u>12.00 percent</u>
<u>2027</u>	<u>84.92</u>	<u>14.00 percent</u>
<u>2028</u>	<u>82.94</u>	<u>16.00 percent</u>
<u>2029</u>	<u>80.97</u>	<u>18.00 percent</u>
<u>2030</u>	<u>78.99</u>	<u>20.00 percent</u>
<u>2031</u>	<u>75.63</u>	<u>23.40 percent</u>



OAR 340-253-8010 Table 2

Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

<u>2032</u>	<u>72.28</u>	<u>26.80 percent</u>
<u>2033</u>	<u>68.92</u>	<u>30.20 percent</u>
<u>2034</u>	<u>65.56</u>	<u>33.60 percent</u>
<u>2035 and beyond</u>	<u>62.21</u>	<u>37.00 percent</u>


*Initial compliance period is a two-year period for 2016 and 2017.



OAR 340-253-8010 Table 3

Oregon Clean Fuel Standard for Alternative Jet Fuel

Calendar Year	Oregon Clean Fuel Standard (gCO ₂ e per MJ)
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond. The fossil jet baseline is 90.97.)
2019	90.80
2020	90.80
2021	90.80
2022	90.80
2023	90.80
2024	90.80
<u>2025</u>	<u>88.87</u>
<u>2026</u>	<u>86.89</u>
<u>2027</u>	<u>84.92</u>
<u>2028</u>	<u>82.94</u>
<u>2029</u>	<u>80.97</u>
<u>2030</u>	<u>78.99</u>
<u>2031</u>	<u>75.63</u>
<u>2032</u>	<u>72.28</u>
<u>2033</u>	<u>68.92</u>
<u>2034</u>	<u>65.56</u>

 <p style="text-align: center;">OAR 340-253-8010 Table 3 Oregon Clean Fuel Standard for Alternative Jet Fuel</p>	
<p>2025<u>2035</u> and beyond</p>	<p>88.8762.21</p>



OAR 340-253-8010
Table 4
Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO ₂ e/MJ)
			Total Lifecycle Emissions
Gasoline	ORGAS001	Clear gasoline - based on a weighted average of gasoline supplied to Oregon	100.14
	ORGAS002	Imported blended gasoline (E10) – 90% clear gasoline & 10% corn ethanol based on Midwest average. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.06
Diesel	ORULSD001	Clear diesel, based on a weighted average of diesel fuel supplied to Oregon	100.74
	ORULSD002	Imported blended diesel (B5) – 95% clear diesel & 5% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.74
	ORULSD003	Imported blended diesel (B20) – 80% clear diesel & 20% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	92.68
Compressed Natural Gas	ORCNG001	North American NG delivered via pipeline; compressed in OR	79.98
Liquefied Natural Gas	ORLNG001	North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency	86.88
Liquefied Petroleum Gas	ORLPG001	Liquefied petroleum gas	80.88
Electricity	ORELEC100	Solar power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).	0



OAR 340-253-8010

Table 4

Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO ₂ e/MJ)
			Total Lifecycle Emissions
	ORELEC101	Wind power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).	0
	ORELEC200	Renewable power deemed to have a carbon intensity of zero under OAR 340-253-0470 and meeting the provisions of (5).	0
Hydrogen	ORHYF	Compressed H ₂ produced in Oregon from central steam methane reformation of North American fossil-based NG	120.68
	ORHYFL	Liquefied H ₂ produced in Oregon from central steam methane reformation of North American fossil-based NG	157.29
	ORHYB	Compressed H ₂ produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	116.76
	ORHYBL	Liquefied H ₂ produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	149.70
	ORHYEG	Compressed H ₂ produced in Oregon from electrolysis using Oregon average grid electricity	205.38
	ORHYEB	Compressed H ₂ produced in Oregon from electrolysis using BPA average grid electricity	31.65
	ORHYER	Compressed H ₂ produced in Oregon from electrolysis using solar- or wind-generated electricity	13.11



OAR 340-253-8010

Table 5

Summary Checklist of Quarterly ~~Progress~~ and Annual Compliance Reporting Requirements

Parameters to Report	Gasoline & Diesel Fuel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
Company or organization name	x	x	x	x	x
Reporting period	x	x	x	x	x
Fuel pathway code	x	x	x	x	x
Transaction type	x	x	x	x	x
Transaction date	x	x	x	x	x
Business Partner	x	x	x	x	x
Production Company ID and Facility ID	n/a	x	n/a	n/a	x
Physical transport mode code	x	x	x	x	x
Aggregation	x	x	x	x	x
Application / EER	x	x	x	x	x
Amount of each fuel used as gasoline replacement	x	x	x	x	x
Amount of each fuel used as diesel fuel replacement	x	x	x	x	x
*Credits/deficits generated per quarter (MT)	x	x	x	x	x
For Annual Compliance Reporting (in addition to the items above)					
*Credits and Deficits generated per year (MT)	x	x	x	x	x




OAR 340-253-8010

Table 5

Summary Checklist of Quarterly ~~Progress~~ and Annual Compliance Reporting Requirements

Parameters to Report	Gasoline & Diesel Fuel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
*Credits/deficits carried over from the previous year (MT), if any	X	X	X	X	X
*Credits acquired from another party (MT), if any	X	X	X	X	X
*Credits sold to another party (MT), if any	X	X	X	X	X
*Credits retired within LCFS (MT) to meet compliance obligation, if any	X	X	X	X	X

 OAR 340-253-8010 Table 6 Oregon Energy Densities of Fuels	
Fuel (unit)	MJ/unit
Gasoline (gallon)	122.48 (MJ/gallon)
Diesel fuel (gallon)	134.48 (MJ/gallon)
Compressed natural gas (therm)	105.5 (MJ/therms)
Electricity (kilowatt hour)	3.60 (MJ/kilowatt hour)
Denatured ethanol (gallon)	81.51 (MJ/gallon)
Clear biodiesel (gallon)	126.13 (MJ/gallon)
Liquefied natural gas (gallon)	78.83 (MJ/gallon)
Hydrogen (kilogram)	120.00 (MJ/kilogram)
Liquefied petroleum gas (gallon)	89.63 (MJ/gallon)
Renewable hydrocarbon diesel (gallon)	129.65 (MJ/gallon)
Undenatured anhydrous ethanol (gallon)	80.53 (MJ/gallon)
Alternative Jet Fuel (gallon)	126.37 (MJ/gallon)
Renewable naphtha (gallon)	117.66 (MJ/gallon)



OAR 340-253-8010 Table 7

Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	EER Value Relative to Gasoline	Fuel/Vehicle Combination	EER Value Relative to Diesel	Fuel/Vehicle Combination	EER Value Relative to conventional jet
Gasoline (including E10) or any other gasoline-ethanol blend	1	Diesel fuel (including B5) or any other blend of diesel and biodiesel or renewable hydrocarbon diesel	1	Alternative Jet Fuel	1
CNG Internal Combustion Engine Vehicle (ICEV)	1	CNG, LNG, or LPG (Spark-Ignition Engines)	0.9	- - -	
Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	3.4	CNG, LNG, or LPG (Compression-Ignition Engines)	1		
Electricity/On-Road Electric Motorcycle	4.4	Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	5		
Propane/Propane Forklift	0.9	Electricity/Battery Electric or Plug-in Hybrid Transit Bus	5		
Hydrogen/Fuel Cell Vehicle	2.5	Electricity/Fixed Guideway Light Rail	3.3		
<u>Electricity/Ground Support Equipment</u>	3.2	Electricity/Fixed Guideway Streetcar	2.1		



OAR 340-253-8010 Table 7


Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	EER Value Relative to Gasoline	Fuel/Vehicle Combination	EER Value Relative to Diesel	Fuel/Vehicle Combination	EER Value Relative to conventional jet
---		Electricity/Fixed Guideway Aerial Tram	2.6		
		Electricity/Electric Forklift	3.8		
		Electricity/Electric TRU (eTRU)	3.4		
		Hydrogen/Fuel Cell Vehicle	1.9		
		Hydrogen/Fuel Cell Forklift	2.1		
		Electricity/Cargo Handling Equipment	2.7		
		Electricity/Ocean Going Vessels	2.6		



OAR 340-253-8010
Table 8
Oregon Substitute Fuel Pathway Codes

Fuel	Fuel Pathway code	CI (gCO ₂ e/MJ)
Substitute CI for Ethanol. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ETH0116	40
Substitute CI for Biodiesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	BIOD0116	15
Substitute CI for Renewable Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	RNWD0116	15
Substitute CI for E10 Gasoline. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORGAS0116	For 2019: 96.59 For 2020 and beyond: 96.00
Substitute CI for B5 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORULSD01165	For 2019: 97.26 For 2020 and beyond: 96.71

 OAR 340-253-8010 Table 8 Oregon Substitute Fuel Pathway Codes		
Fuel	Fuel Pathway code	CI (gCO₂e/MJ)
Substitute CI for B20 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORULSD011620	84.45



OAR 340-253-8010

Table 9

Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO ₂ e/MJ)
Ethanol	Corn	Grid electricity, natural gas, and/or renewables	ORETH100T	77.8
	Sorghum	Grid electricity, natural gas, and/or renewables	ORETH101T	95
	Sugarcane and Molasses	Bagasse and straw only, no grid electricity	ORETH102T	55
	Any starch or sugar feedstock	Any	ORETH103T	100.14
	Corn Stover, Wheat Straw, or Sugarcane Straw	As specified in OR-Greet 2.0	ORETH104T	50
Biodiesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORBIOD200T	45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORBIOD201T	65
	Any feedstock	Any	ORBIOD202T	100.74
Renewable Diesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORRNWD300T	45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORRNWD301T	65
	Any feedstock	Any	ORRNWD302T	100.74
Biomethane CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORCNG500T	70



OAR 340-253-8010

Table 9


Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO ₂ e/MJ)
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORCNG501T	45
Biomethane LNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLNG501T	85
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLNG502T	60
Biomethane L-CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLCNG502T	90
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLCNG503T	65
Biomethane CNG, LNG, L-CNG	Dairy and Swine Manure	Grid electricity, natural gas, and/or parasitic load	ORLCNG504T	-150
Renewable LPG	Fats, Oils, and Grease residues	Grid electricity, natural gas, and/or renewables	ORRNWP400T	45
	Any feedstock derived from plant oils (excluding palm and palm derivatives)	Grid electricity, natural gas, and/or renewables	ORRNWP401T	65
Electricity	Coal, Natural Gas, Hydroelectric Dams, Wind	Oregon average electricity mix	ORELEC600T	135.00



OAR 340-253-8010
Table 9
Oregon Temporary Fuel Pathway Codes
for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO ₂ e/MJ)
	Mills Windmills, etc.			
Any Gasoline Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSG800T	100.14
Any Diesel Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSD801T	100.74

 OAR 340-253-8010	
Table 10	
Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels	
Feedstock	ILUC Value (gCO₂e/MJ)
Corn Ethanol	7.60
Sorghum Ethanol	19.40
Sugarcane Ethanol	11.80
Soybean Biodiesel or Renewable Diesel	29.10
Canola Biodiesel or Renewable Diesel	14.50
Palm Biodiesel or Renewable Diesel	71.40



State of Oregon Department of Environmental Quality

Draft Rules – Edits Incorporated

Clean Fuels Program Expansion 2022

Division 12

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0054

Air Quality Classification of Violations

(1) **Class I:**

(a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;

(b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit that includes permit conditions required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;

(c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;

(d) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from DEQ;

(e) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;

(f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;

(g) Exceeding a Plant Site Emission Limit (PSEL);

(h) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;

(i) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance

Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

(j) Exceeding a hazardous air pollutant emission limitation;

(k) Failing to comply with an Emergency Action Plan;

(l) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established under New Source Review/Prevention of Significant Deterioration (NSR/PSD);

(m) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;

(n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;

(o) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;

(p) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit or with an emission limitation or a performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;

(q) Causing emissions that are a hazard to public safety;

(r) Violating a work practice requirement for asbestos abatement projects;

(s) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;

(t) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;

(u) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;

- (v) Failing to hire a licensed contractor to conduct an asbestos abatement project;
- (w) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);
- (x) Failing to install certified vapor recovery equipment;
- (y) Delivering for sale a noncompliant vehicle by a vehicle manufacturer in violation of Oregon Low Emission and Zero Emission Vehicle rules set forth in OAR 340 division 257;
- (z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;
- (aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements, or to meet credit retirement and/or deficit requirements, under OAR 340 division 257;
- (bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;
- (cc) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (dd) Violating any of the clean fuel standards set forth in OAR 340-253-0100(6) and in Tables 1 and 2 of OAR 340-253-8010;
- (ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);
- (ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a registered party's true compliance obligation in deficits under such program;
- (gg) Misstating material information or providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450, OAR 340-253-0460, or OAR 340-253-0470, or when submitting an application for advance credits under OAR 340-253-1100;
- (hh) Failing to timely submit a complete and accurate annual compliance report under OAR 340-253-0650;
- (ii) Failing to timely submit a complete and accurate emissions data report under OAR 340-215-0044 and OAR 340-215-0046;

- (jj) Submitting a verification statement to DEQ prepared by a person not approved by DEQ under OAR 340-272-0220 to perform verification services;
- (kk) Failing to timely submit a verification statement that meets the verification requirements under OAR 340-272-0100 and OAR 340-272-0495;
- (ll) Failing to submit a revised application or report to DEQ according to OAR 340-272-0435;
- (mm) Failing to complete re-verification according to OAR 340-272-0350(2);
- (nn) Failing to timely submit a Methane Generation Rate Report or Instantaneous Surface Monitoring Report according to OAR 340-239-0100;
- (oo) Failing to timely submit a Design Plan or Amended Design Plan in accordance with OAR 340-239-0110(1);
- (pp) Failing to timely install and operate a landfill gas collection and control system according to OAR 340-239-0110(1);
- (qq) Failing to operate a landfill gas collection and control system or conduct performance testing of a landfill gas control device according to the requirements in OAR 340-239-0110(2);
- (rr) Failing to conduct landfill wellhead sampling under OAR 340-239-0110(3);
- (ss) Failing to comply with a landfill compliance standard in OAR 340-239-0200;
- (tt) Failing to conduct monitoring or remonitoring in accordance with OAR 340-239-0600 that results in a failure to demonstrate compliance with a landfill compliance standard in OAR 340-239-0200 or the 200 ppmv threshold in OAR 340-239-0100(6)(b) or OAR 340-239-0400(2)(c);
- (uu) Failure to take corrective actions in accordance with OAR 340-239-0600(1);
- (vv) Failing to comply with a landfill gas collection and control system permanent shutdown and removal requirement in OAR 340-239-0400(1);
- (ww) Delivering for sale a new noncompliant on highway heavy duty engine, truck or trailer in violation of rules set forth under OAR 340 division 261;
- (xx) Failing to notify DEQ of changes in ownership or operational control or changes to related entities under OAR 340-271-0120;
- (yy) Owning or operating a covered entity, identified in OAR 340-271-0110, after a submittal deadline under OAR 340-271-0150(1)(a) or OAR 340-271-0330(1)(b) without

having submitted a complete application for a Climate Protection Program permit or Climate Protection Program permit addendum required under OAR 340-271-0150;

(zz) Emitting covered emissions from a covered entity, as identified in OAR 340-271-0110, that is a new source, as defined in OAR 340-271-0020, without having been issued a BAER order under OAR 340-271-0320 and a permit issued under OAR 340-271-0150(3)(c);

(aaa) Failing to submit a BAER assessment or an updated BAER assessment according to OAR 340-271-0310;

(bbb) Failing to comply with a BAER order issued under OAR 340-271-0320.

(ccc) Failing to comply with a condition in a permit, Climate Protection Program permit, or Climate Protection Program permit addendum issued according to OAR 340-271-0150 that requires the reduction of greenhouse gas emissions;

(ddd) Failing to demonstrate compliance according to OAR 340-271-0450;

(eee) Failing to comply with the requirements for trading of compliance instruments under OAR 340-271-0500 or 340-271-0510;

(fff) Submitting false or inaccurate information on any application or submittal required under OAR chapter 340, division 271;

(ggg) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4); or

(hhh) Failing by a fuel producer to inform DEQ if its operational carbon intensity exceeds its certified carbon intensity as described in OAR 340-253-0450(9)(e)(D) when credits generated from those certified carbon intensity values generated illegitimate credits as described in OAR 340-253-1005(7). .

(2) Class II:

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP attachment, or registration without first obtaining such permit or registration, unless otherwise classified;

(b) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;

(c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

- (e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;
- (f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;
- (g) Failing to timely submit a certification, report, or plan as required by rule, permit or permit attachment, unless otherwise classified;
- (h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;
- (i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;
- (j) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;
- (k) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).
- (l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;
- (m) Failing to provide timely, accurate or complete notification of an asbestos abatement project;
- (n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;
- (o) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620;
- (p) Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;
- (q) Failing to receive Green-e certification for Renewable Energy Certificates used to generate incremental credits when required by OAR 340-253-0470;
- (r) Failing to register as an aggregator or submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c);
- (s) Failing to keep complete and accurate records under OAR 340-253-0600;

(t) Failing to ensure that a registered party has the exclusive right to the environmental attributes that it has claimed for biomethane, biogas, or renewable electricity either directly as a fuel or indirectly as a feedstock under OAR chapter 340, division 253 by either the registered party, the fuel producer, and/or fuel pathway holder;

(u) Failing to timely submit a complete and accurate quarterly report under OAR 340-253-0630;

(v) Violating any requirement under OAR chapter 340, division 272, unless otherwise classified;

(w) Violating any requirement under OAR chapter 340, division 239, unless otherwise classified;

(x) Failing to comply with the reporting notification or warranty requirements for new engines, trucks, and trailers set forth in OAR chapter 340, division 261;

(y) Violating any requirement under the Climate Protection Program, OAR chapter 340, division 271, unless otherwise classified;

(z) Violating any condition in a permit, Climate Protection Program permit, or Climate Protection Program permit addendum issued according to OAR 340-271-0150, unless otherwise classified;

(aa) Failing to notify DEQ of a change of ownership or control of a registered party under OAR chapter 340, division 253; or

(3) Class III:

(a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;

(b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;

(c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;

(e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project;

(f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR Chapter 340, division 257;

(g) Making changes to a submitted quarterly or annual report under OAR Chapter 340, division 253 without DEQ approval under OAR 340-253-0650(4); or

(h) Failing to upload transactions to a quarterly report by the 45-day deadline under OAR 340-253-0630.

[Note: Tables and Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.045

Statutes/Other Implemented: ORS 468.020 & 468A.025

History:

DEQ 27-2021, amend filed 12/16/2021, effective 12/16/2021
DEQ 17-2021, amend filed 11/17/2021, effective 11/17/2021
DEQ 16-2021, amend filed 10/04/2021, effective 10/04/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0050, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 21-1994, f. & cert. ef. 10-14-94
DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 2-1992, f. & cert. ef. 1-30-92
DEQ 31-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89
DEQ 22-1988, f. & cert. ef. 9-14-88
DEQ 22-1984, f. & ef. 11-8-84
DEQ 5-1980, f. & ef. 1-28-80
DEQ 78, f. 9-6-74, ef. 9-25-74

340-012-0135

Selected Magnitude Categories

(1) Magnitudes for selected Air Quality violations will be determined as follows:

(a) Opacity limit violations:

(A) Major — Opacity measurements or readings of 20 percent opacity or more over the applicable limit, or an opacity violation by a federal major source as defined in OAR 340-200-0020;

(B) Moderate — Opacity measurements or readings greater than 10 percent opacity and less than 20 percent opacity over the applicable limit; or

(C) Minor — Opacity measurements or readings of 10 percent opacity or less over the applicable limit.

(b) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit: Major — if a Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) analysis shows that additional controls or offsets are or were needed, otherwise apply OAR 340-012-0130.

(c) Exceeding an emission limit established under New Source Review/Prevention of Significant Deterioration (NSR/PSD): Major — if exceeded the emission limit by more than 50 percent of the limit, otherwise apply OAR 340-012-0130.

(d) Exceeding an emission limit established under federal National Emission Standards for Hazardous Air Pollutants (NESHAPs): Major — if exceeded the Maximum Achievable Control Technology (MACT) standard emission limit for a directly-measured hazardous air pollutant (HAP), otherwise apply OAR 340-012-0130.

(e) Exceeding a cancer or noncancer risk limit that is equivalent to a Risk Action Level or a Source Risk Limit if the limit is a Risk Action Level established under OAR 340-245-0005 through 340-245-8050: Major, otherwise apply OAR 340-012-0130.

(f) Air contaminant emission limit violations for selected air pollutants: Magnitude determinations under this subsection will be made based upon significant emission rate (SER) amounts listed in OAR 340-200-0020.

(A) Major:

(i) Exceeding the annual emission limit as established by permit, rule or order by more than the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by more than the applicable short-term SER.

(B) Moderate:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the annual SER; or

(ii) Exceeding the short-term (less than one-year) emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the applicable short-term SER.

(C) Minor:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount less than 50 percent of the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount less than 50 percent of the applicable short-term SER.

(g) Violations of Emergency Action Plans: Major — Major magnitude in all cases.

(h) Violations of on road motor vehicle refinishing rules contained in OAR 340-242-0620: Minor — Refinishing 10 or fewer on road motor vehicles per year.

(i) Asbestos violations — These selected magnitudes apply unless the violation does not cause the potential for human exposure to asbestos fibers:

(A) Major — More than 260 linear feet or more than 160 square feet of asbestos-containing material or asbestos-containing waste material;

(B) Moderate — From 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet of asbestos-containing material or asbestos-containing waste material; or

(C) Minor — Less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material.

(D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(j) Open burning violations:

(A) Major — Initiating or allowing the initiation of open burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;

(B) Moderate — Initiating or allowing the initiation of open burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or

if DEQ lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned; or

(C) Minor — Initiating or allowing the initiation of open burning of less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires.

(D) The selected magnitude may be increased one level if DEQ finds that one or more of the following are true, or decreased one level if DEQ finds that none of the following are true:

(i) The burning took place in an open burning control area;

(ii) The burning took place in an area where open burning is prohibited;

(iii) The burning took place in a non-attainment or maintenance area for PM10 or PM2.5; or

(iv) The burning took place on a day when all open burning was prohibited due to meteorological conditions.

(k) Oregon Low Emission Vehicle Non-Methane Gas (NMOG) or Green House Gas (GHG) fleet average emission limit violations:

(A) Major — Exceeding the limit by more than 10 percent; or

(B) Moderate — Exceeding the limit by 10 percent or less.

(l) Oregon Clean Fuels Program violations:

(A) Violating the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010: Major

(B) Failing to register under OAR 340-253-0100(1) and (4): Major;

(C) Failing to timely submit a complete and accurate annual compliance report or quarterly report under OAR chapter 340, division 253: Major;

(D) Generating an illegitimate credit under OAR chapter 340, division 253: Major;

(E) Committing any action related to a credit transfer that is prohibited under OAR 340-253-1005(8): Major.

(m) Failing to timely submit a complete and accurate emissions data report under the Oregon Greenhouse Gas Reporting Program, OAR chapter 340, division 215, where the untimely, incomplete or inaccurate reporting impacts applicability or any compliance obligation under the Climate Protection Program, OAR chapter 340, division 271: Major.

(n) Oregon Climate Protection Program violations:

(A) Failing to demonstrate compliance according to OAR 340-271-0450: Major.

(B) Failing to comply with a BAER order issued under OAR 340-271-0320: Major

(C) Failing to comply with a condition in a permit, Climate Protection Program permit, or Climate Protection Program permit addendum issued according to OAR 340-271-0150 that requires the reduction of greenhouse gas emissions: Major.

(D) Failing to obtain a BAER order under OAR 340-271-0320 or a permit issued under OAR 340-271-0150(3)(c), for a covered entity, as identified in OAR 340-271-0110, that is a new source, as defined in OAR 340-271-0020: Major.

(2) Magnitudes for selected Water Quality violations will be determined as follows:

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

(i) The dilution (D) of the spill or technology based effluent limitation exceedance was less than two, when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the incident;

(ii) The receiving stream flow at the time of the water quality based effluent limitation (WQBEL) exceedance was at or below the flow used to calculate the WQBEL; or

(iii) The resulting water quality from the spill or discharge was as follows:

(I) For discharges of toxic pollutants: CS/D was more than CA_{acute} , where CS is the concentration of the discharge, D is the dilution of the discharge as determined under (2)(a)(A)(i), and CA_{acute} is the concentration for acute toxicity (as defined by the applicable water quality standard);

(II) For spills or discharges affecting temperature, when the discharge temperature is at or above 32 degrees centigrade after two seconds from the outfall; or

(III) For BOD5 discharges: $(BOD5)/D$ is more than 10, where BOD5 is the concentration of the five-day Biochemical Oxygen Demand of the discharge and D is the dilution of the discharge as determined under (2)(a)(A)(i).

(B) Moderate:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was two or more but less than 10 when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR

is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the discharge; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was greater than, but less than twice, the flow used to calculate the WQBEL.

(C) Minor:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was 10 or more when calculated as follows: $D = ((QR/4) + QI) / QI$, where QR is the receiving stream flow and QI is the quantity or discharge rate of the incident; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was twice the flow or more of the flow used to calculate the WQBEL.

(b) Violating numeric water quality standards:

(A) Major:

(i) Increased the concentration of any pollutant except for toxics, dissolved oxygen, pH, and turbidity, by 25 percent or more of the standard;

(ii) Decreased the dissolved oxygen concentration by two or more milligrams per liter below the standard;

(iii) Increased the toxic pollutant concentration by any amount over the acute standard or by 100 percent or more of the chronic standard;

(iv) Increased or decreased pH by one or more pH units from the standard; or

(v) Increased turbidity by 50 or more nephelometric turbidity units (NTU) over background.

(B) Moderate:

(i) Increased the concentration of any pollutant except for toxics, pH, and turbidity by more than 10 percent but less than 25 percent of the standard;

(ii) Decreased dissolved oxygen concentration by one or more, but less than two, milligrams per liter below the standard;

(iii) Increased the concentration of toxic pollutants by more than 10 percent but less than 100 percent of the chronic standard;

(iv) Increased or decreased pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard; or

(v) Increased turbidity by more than 20 but less than 50 NTU over background.

(C) Minor:

(i) Increased the concentration of any pollutant, except for toxics, pH, and turbidity, by 10 percent or less of the standard;

(ii) Decreased the dissolved oxygen concentration by less than one milligram per liter below the standard;

(iii) Increased the concentration of toxic pollutants by 10 percent or less of the chronic standard;

(iv) Increased or decreased pH by 0.5 pH unit or less from the standard; or

(v) Increased turbidity by 20 NTU or less over background.

(c) The selected magnitude under (2)(a) or (b) may be increased one or more levels if the violation:

(A) Occurred in a water body that is water quality limited (listed on the most current 303(d) list) and the discharge is the same pollutant for which the water body is listed;

(B) Depressed oxygen levels or increased turbidity and/or sedimentation in a stream in which salmonids may be rearing or spawning as indicated by the beneficial use maps available at OAR 340-041-0101 through 0340;

(C) Violated a bacteria standard either in shellfish growing waters or during the period from June 1 through September 30; or

(D) Resulted in a documented fish or wildlife kill.

(3) Magnitudes for selected Solid Waste violations will be determined as follows:

(a) Operating a solid waste disposal facility without a permit or disposing of solid waste at an unpermitted site:

(A) Major — The volume of material disposed of exceeds 400 cubic yards;

(B) Moderate — The volume of material disposed of is greater than or equal to 40 cubic yards and less than or equal to 400 cubic yards; or

(C) Minor — The volume of materials disposed of is less than 40 cubic yards.

(D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.

(b) Failing to accurately report the amount of solid waste disposed:

(A) Major — The amount of solid waste is underreported by 15 percent or more of the amount received;

(B) Moderate — The amount of solid waste is underreported by 5 percent or more, but less than 15 percent, of the amount received; or

(C) Minor — The amount of solid waste is underreported by less than 5 percent of the amount received.

(4) Magnitudes for selected Hazardous Waste violations will be determined as follows:

(a) Failure to make a hazardous waste determination;

(A) Major — Failure to make the determination on five or more waste streams;

(B) Moderate — Failure to make the determination on three or four waste streams; or

(C) Minor — Failure to make the determination on one or two waste streams.

(b) Hazardous Waste treatment, storage and disposal violations of OAR 340-012-0068(1)(b), (c), (h), (k), (l), (m), (p), (q) and (r):

(A) Major:

(i) Treatment, storage, or disposal of more than 55 gallons or 330 pounds of hazardous waste; or

(ii) Treatment, storage, or disposal of at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Treatment, storage, or disposal of 55 gallons or 330 pounds or less of hazardous waste; or

(ii) Treatment, storage, or disposal of less than one quart or 2.2 pounds of acutely hazardous waste.

(c) Hazardous waste management violations classified in OAR 340-012-0068(1)(d), (e) (f), (g), (i), (j), (n), (s) and (2)(a), (b), (d), (e), (h), (i), (k), (m), (n), (o), (p), (r) and (s):

(A) Major:

(i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Hazardous waste management violations involving more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving less than one quart or 2.2 pounds of acutely hazardous waste.

(C) Minor:

(i) Hazardous waste management violations involving 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste.

(5) Magnitudes for selected Used Oil violations (OAR 340-012-0072) will be determined as follows:

(a) Used Oil violations set forth in OAR 340-012-0072(1)(f), (h), (i), (j); and (2)(a) through (h):

(A) Major — Used oil management violations involving more than 1,000 gallons or 7,000 pounds of used oil or used oil mixtures;

(B) Moderate — Used oil management violations involving more than 250 gallons or 1,750 pounds, up to and including 1,000 gallons or 7,000 pounds of used oil or used oil mixture; or

(C) Minor — Used oil management violations involving 250 gallons or 1,750 pounds or less of used oil or used oil mixtures.

(b) Used Oil spill or disposal violations set forth in OAR 340-012-0072(1)(a) through (e), (g) and (k).

(A) Major — A spill or disposal involving more than 420 gallons or 2,940 pounds of used oil or used oil mixtures;

(B) Moderate — A spill or disposal involving more than 42 gallons or 294 pounds, up to and including 420 gallons or 2,940 pounds of used oil or used oil mixtures; or

(C) Minor — A spill or disposal of used oil involving 42 gallons or 294 pounds or less of used oil or used oil mixtures.

[NOTE: Tables & Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.065 & 468A.045

Statutes/Other Implemented: ORS 468.090 - 468.140 & 468A.060

History:

DEQ 27-2021, amend filed 12/16/2021, effective 12/16/2021

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 1-2014, f. & cert. ef. 1-6-14

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06

Renumbered from 340-012-0090, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

DEQ 1-2003, f. & cert. ef. 1-31-03

DEQ 19-1998, f. & cert. ef. 10-12-98

DEQ 4-1994, f. & cert. ef. 3-14-94

DEQ 21-1992, f. & cert. ef. 8-11-92

340-012-0140

Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) \$12,000 Penalty Matrix:

(a) The \$12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act, unless otherwise classified.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission and Zero Emission Vehicle rules (OAR 340-257) by a vehicle manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

(ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.

(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.

(F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.

(I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.

(J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.

(K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(M) Any violation of a hazardous waste statute, rule, permit or related order by:

(i) A person that is a large quantity generator or hazardous waste transporter.

(ii) A person that has or should have a treatment, storage or disposal facility permit.

(N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a solid waste disposal permit.

(ii) A city with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as an importer of blendstocks,

(S) Any violation classified under OAR 340-012-0054 (1) (dd), (ee), (ff), or (gg).

(T) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions greater than or equal to 25,000 metric tons per year or by a person that has not reported greenhouse gas emissions to DEQ during the past five years, or by a person for which DEQ has insufficient information to accurately estimate emissions.

(U) Any violation of the Third Party Verification rules under OAR Chapter 340, division 272.

(V) Any violation of the Landfill Gas Emissions rules under OAR chapter 340, division 239 by a person required to comply with OAR 340-239-0110 through OAR 340-239-0800.

(W) Any violation of the rules for Emission Standards for New Heavy-Duty Trucks under OAR chapter 340 division 261 by engine, truck or trailer manufacturers and dealers.

(X) Any violation of the Climate Protection Program rules under OAR chapter 340, division 271.

(b) The base penalty values for the \$12,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$12,000;

(ii) Moderate — \$6,000;

(iii) Minor — \$3,000.

(B) Class II:

(i) Major — \$6,000;

(ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

(C) Class III: \$1,000.

(3) \$8,000 Penalty Matrix:

(a) The \$8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix, unless otherwise classified.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

- (ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.
- (iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.
- (iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.
- (v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.
- (F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.
- (G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.
- (H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.
- (I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:
 - (i) A person that has or should have a waste tire permit; or
 - (ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.
- (J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.
- (K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.
- (L) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 unless the violation is otherwise classified in this rule.
- (M) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 metric tons per year.

(N) Any violation of the Landfill Gas Emissions rules under OAR chapter 340, division 239 by a person that owns or operates a landfill with over 200,000 tons waste in place and is not required to comply with OAR 340-239-0110 through OAR 340-239-0800.

(O) Any violation of a hazardous waste pharmaceutical statute, rule, permit or related order committed by a person that is a reverse distributor.

(b) The base penalty values for the \$8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

(a) The \$3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person not listed under another penalty matrix.

(C) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

(v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.

(vi) A person that has or should have a WPCF individual stormwater UIC system permit.

(vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.

(G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.

(I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.

(J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.

(K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a very small quantity generator, unless listed under another penalty matrix.

(L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.

(M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.

(N) Any violation of rigid pesticide container disposal requirements by a very small quantity generator of hazardous waste.

(O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.

(P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.

(Q) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 5,000 metric tons per year.

(b) The base penalty values for the \$3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

(a) The \$1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.

(H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.

(I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.

(J) Any violation of a statute, rule or order relating to the opportunity to recycle.

(K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.

(L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.

(M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.

(b) The base penalty values for the \$1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$1,000;

(ii) Moderate — \$500;

(iii) Minor — \$250.

(B) Class II:

(i) Major — \$500;

(ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

Statutory/Other Authority: ORS 468.020 & 468.090 - 468.140

Statutes/Other Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035

History:

DEQ 27-2021, amend filed 12/16/2021, effective 12/16/2021

DEQ 20-2021, amend filed 11/18/2021, effective 01/01/2022

DEQ 17-2021, amend filed 11/17/2021, effective 11/17/2021

DEQ 16-2021, amend filed 10/04/2021, effective 10/04/2021

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 1-2014, f. & cert. ef. 1-6-14

DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06

Renumbered from 340-012-0042, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 19-1998, f. & cert. ef. 10-12-98

DEQ 9-1996, f. & cert. ef. 7-10-96

DEQ 4-1994, f. & cert. ef. 3-14-94

DEQ 21-1992, f. & cert. ef. 8-11-92

DEQ 33-1990, f. & cert. ef. 8-15-90

DEQ 15-1990, f. & cert. ef. 3-30-90

DEQ 4-1989, f. & cert. ef. 3-14-89

Division 253
OREGON CLEAN FUELS PROGRAM

340-253-0000

Overview

(1) Context. The Oregon Legislature has found that climate change poses a serious threat to the economic well-being, public health, natural resources, and environment of Oregon. Section 1, chapter 907, Oregon Laws 2007. The Oregon Clean Fuels Program will reduce Oregon's contribution to the global levels of greenhouse gas emissions and the impacts of those emissions in Oregon in concert with other greenhouse gas reduction policies and actions by local governments, other states, and the federal government.

(2) Purpose. The purpose of the Oregon Clean Fuels Program is to reduce the amount of lifecycle greenhouse gas emissions per unit of energy by a minimum of 10 percent below 2010 levels by 2025, 20 percent by 2030, and 37 percent by 2035. This reduction goal

applies to the average of all transportation fuels used in Oregon, not to individual fuels. A fuel user does not violate the standard by possessing fuel that has higher carbon content than the clean fuel standard allows.

(3) Background. The 2009 Oregon Legislature adopted House Bill 2186 enacted as chapter 754 of Oregon Laws 2009. The law authorizes the Environmental Quality Commission to adopt low carbon fuel standards for gasoline, diesel fuel and fuels used as substitutes for gasoline or diesel fuel. Sections 6 to 9 of chapter 754, Oregon Laws 2009 is printed as a note following ORS 468A.270 in the 2011 Edition. The 2015 Oregon Legislature amended those provisions when it adopted Senate Bill 324 (chapter 4, Oregon Laws 2015), which was codified in ORS 468A.265 through 468A.277. ORS 468A.265 through 468A.277 were further amended by the 2017 Oregon Legislature in House Bill 2017. OAR chapter 340, division 253 implements that law.

(4) LRAPA. Notwithstanding Lane Regional Air Pollution Agency authorization in OAR 340-200-0010(3), DEQ administers this division in all areas of the State of Oregon.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0040

Definitions

The definitions in OAR 340-200-0020, 340-272-0020, 340-257-0030, and this rule apply to this division. If the same term is defined in this rule and in another listed rule, the definition in this rule applies to this division. If a term that is not defined in this rule is defined in more than one of the other rules referenced in the preceding sentence, then the definition that applies shall be the definition in OAR 340-272-0020, if any, or else the definition in OAR 340-257-0030 will apply.

(1) “Above the rack” means sales of transportation fuel at pipeline origin points, pipeline batches in transit, barge loads in transit, and at terminal tanks before the transportation fuel has been loaded into trucks.

(2) “Advance Credits” refers to credits advanced under OAR 340-253-1100 for actions that will result in real reductions of the carbon intensity of Oregon’s transportation fuels.

(3) “Aggregation indicator” means an identifier for reported transactions that are a result of an aggregation or summing of more than one transaction of the same type with, where applicable, the same business partner. An entry of “True” indicates that multiple transactions

have been aggregated and are reported with a single transaction number. An entry of “False” indicates that the record reports a single fuel transaction.

(4) “Aggregator” or “Credit aggregator” means a person who registers to participate in the Clean Fuels Program, described in OAR 340-253-0100(3), on behalf of one or more credit generators to facilitate credit generation and trade credits.

(5) “Aggregator designation form” means a DEQ-approved document that specifies that a credit generator has designated an aggregator to act on its behalf.

(6) “Alternative Fuel Portal” or “AFP” means the portion of the Oregon Fuels Reporting System where fuel producers can register their production facilities and submit fuel pathway code applications and physical pathway demonstrations.

(7) “Alternative Jet Fuel” means a fuel, made from petroleum or non-petroleum sources, which can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure. The fuel must have a lower carbon intensity than the applicable annual standard under Table 3 under OAR 340-253-8010. This includes alternative jet fuel derived from co-processed feedstocks at a conventional petroleum refinery.

(8) “Application” means the type of vehicle where the fuel is consumed, shown as either LDV/MDV or HDV.

(9) “B5” means diesel fuel containing 5 percent biodiesel.

(10) “Backstop aggregator” means a qualified entity approved by DEQ under OAR 340-253-0330 to aggregate credits for electricity used as a transportation fuel, when those credits would not otherwise be generated.

(11) “Battery electric vehicle” or “BEV” means any vehicle that operates solely by use of a battery or battery pack, or that is powered primarily through the use of an electric battery or battery pack but uses a flywheel or capacitor that stores energy produced by the electric motor or through regenerative braking to assist in vehicle operation.

(12) “Base Credits” refers to electricity credits that are generated by the carbon reduction between the gasoline or diesel standard and the carbon intensity of grid or utility electricity.

(13) “Below the rack” means sales of clear or blended gasoline or diesel fuel where the fuel is being sold as a finished fuel for use in a motor vehicle.

(14) “Bill of lading” means a document issued that lists goods being shipped and specifies the terms of their transport.

(15) “Bio-based” means a fuel produced from non-petroleum, biogenic renewable resources.

(16) “Biodiesel” means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, not including palm oil, designated as B100 and complying with ASTM D6751.

(17) “Biodiesel Blend” means a fuel comprised of a blend of biodiesel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend.

(18) “Biogas” means gas, consisting primarily of methane and carbon dioxide, produced by the anaerobic decomposition of organic matter. Biogas cannot be directly injected into natural gas pipelines or combusted in most natural gas-fueled vehicles unless first upgraded to biomethane.

(19) “Biomethane” or “Renewable Natural Gas” means refined biogas, or another synthetic stream of methane from renewable resources, that has been upgraded to a near-pure methane content product. Biomethane can be directly injected into natural gas pipelines or combusted in natural gas-fueled vehicles.

(20) “Blendstock” means a fuel component that is either used alone or is blended with one or more other components to produce a finished fuel used in a motor vehicle. A blendstock that is used directly as a transportation fuel in a vehicle is considered a finished fuel.

(21) “Bulk system” means a fuel distribution system consisting of refineries, pipelines, vessels and terminals. Fuel storage and blending facilities that are not fed by pipeline or vessel are considered outside the bulk transfer system.

(22) “Business partner” refers to the second party that participates in a specific transaction involving the regulated party. This can either be the buyer or seller of fuel, whichever applies to the specific transaction.

(23) “Buy/Sell Board” means a section of the Oregon Fuels Reporting System where registered parties can post that they are interested in buying or selling credits.

(24) “Book and Claim” refers to the accounting methodology where the environmental attributes of an energy source are detached from the physical molecules or electricity when they are commingled into a common transportation and distribution system for that form of energy. The detached attributes are then assigned by the owner to the same form and amount of energy when it is used. For the purposes of this division, the common transportation and distribution system must be connected to Oregon.

(25) “Carbon intensity” or “CI” means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO_{2e}/MJ).

(26) “Carryback credit” means a credit that was generated during or before the prior compliance period that a regulated party acquires between January 1st and April 30th of the current compliance period to meet its compliance obligation for the prior compliance period.

(27) “Clean fuel” means a fuel whose carbon intensity is lower than the applicable clean fuel standard, which:

(a) For gasoline and gasoline substitutes and alternatives, is listed in Table 1 under OAR 340-253-8010;

(b) For diesel and diesel substitutes and alternatives, is listed in Table 2 under OAR 340-253-8010; or

(c) For alternative jet fuel, is listed in Table 3 under OAR 340-253-8010.

(28) “Clean fuel standard” or “Low carbon fuel standard” means the annual average carbon intensity a regulated party must comply with, as listed in Table 1 under OAR 340-253-8010 for gasoline and gasoline substitutes and in Table 2 under 340-253-8010 for diesel fuel and diesel substitutes.

(29) “Clear diesel” means a light middle or middle distillate grade diesel fuel derived from crude oil that has not been blended with a renewable fuel.

(30) “Clear gasoline” means gasoline derived from crude oil that has not been blended with a renewable fuel.

(31) “Compliance period” means each calendar year during which regulated parties must demonstrate compliance.

(32) “Compressed natural gas” or “CNG” means natural gas stored inside a pressure vessel at a pressure greater than the ambient atmospheric pressure outside of the vessel.

(33) “Co-processing” means the processing and refining of renewable or alternative low-carbon feedstocks intermingled with crude oil and its derivatives at petroleum refineries.

(34) “Credit” means a unit of measure generated when a fuel with a carbon intensity that is less than the applicable clean fuel standard is produced, imported, or dispensed for use in Oregon, such that one credit is equal to one metric ton of carbon dioxide equivalent not emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

(35) “Credit buyer” means a registered party that acquires credits from another registered party.

(36) “Credit facilitator” means a person in the Oregon Fuels Reporting System that a regulated party designates to initiate and complete credit transfers on behalf of the regulated party.

(37) “Credit generator” means a person eligible to generate credits by providing clean fuels for use in Oregon and who voluntarily registers to participate in the Clean Fuels Program, described in OAR 340-253-0100(2), and specified by fuel type under OAR 340-253-0320 through 340-253-0340.

(38) “Credit seller” means a registered party that sells or transfers credits to another registered party.

(39) “Crude oil” means any naturally occurring flammable mixture of hydrocarbons found in geologic formations.

(40) “Deferral” means a delay or change in the applicability of a scheduled applicable clean fuel standard for a period of time, accomplished pursuant to an order issued under OAR 340-253-2000 or -2100, or under ORS 468A.273 and 468A.274.

(41) “Deficit” means a unit of measure generated when a fuel with a carbon intensity that is more than the applicable clean fuel standard is produced, imported, or dispensed for use in Oregon, such that one deficit is equal to one metric ton of carbon dioxide equivalent emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

(42) "Denatured Fuel Ethanol" or “Ethanol” means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. Before it is blended with gasoline, the denatured fuel ethanol is first made unfit for drinking by the addition of substances approved by the Alcohol and Tobacco Tax and Trade Bureau.

(43) "Diesel fuel" or “diesel” means either:

(a) A light middle distillate or middle distillate fuel suitable for compression ignition engines blended with not more than 5 volume percent biodiesel and conforming to the specifications of ASTM D975 or;

(b) A light middle distillate or middle distillate fuel blended with at least 5 and not more than 20 volume percent biodiesel suitable for compression ignition engines conforming to the specifications of ASTM D7467.

(44) “Diesel substitute” means a liquid fuel, other than diesel fuel, suitable for use as a compression-ignition piston engine fuel.

(45) “Duty-cycle testing” means a test procedure used for emissions and vehicle efficiency testing.

(46) “E10” means gasoline containing 10 volume percent fuel ethanol.

(47) “Energy economy ratio” or “EER” means the dimensionless value that represents:

(a) The efficiency of a fuel as used in a powertrain as compared to a reference fuel; or

(b) The efficiency of a fuel per passenger mile, for fixed guideway applications.

(48) “Electric Cargo Handling Equipment” or “eCHE” means any off-road, self-propelled vehicle or equipment, other than yard trucks, used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. This equipment uses electric batteries to store propulsion and functional energy and only has electric motors. Equipment includes, but is not limited to, rubber-tired gantry cranes, top handlers, side handlers, reach stackers, loaders, aerial lifts, excavators, tractors, and dozers.

(49) “Electric Transport Refrigeration Units” or “eTRUs” means refrigeration systems powered by electricity designed to refrigerate or heat perishable products that are transported in various containers, including, but not limited to, semi-trailers, truck vans, shipping containers, and rail cars.

(50) “Electric Ground Support Equipment” or “eGSE” means self-propelled vehicles used off-road at airports to support general aviation activities that use electric batteries for propulsion and functional energy and only has electric motors. For the purpose of this division, that includes, but is not limited to, pushbacks, belt loaders, and baggage tractors.

(51) “Electric Forklift” or “eForklift” means a Class I, II, or III powered industrial truck as defined by the US Occupational Safety and Health Administration in the December 1, 1998 Powered Industrial Truck Operator Training final rule notice.

(52) “Electric Service Supplier” has the same definition as in OAR 860-038-005.

(53) “Emergency period” is the period of time in which an Emergency Action under OAR 340-253-2000 is in effect.

(54) “Environmental Justice Community” means communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including but not limited to seniors, youth and persons with disabilities.

(55) “Export” means to have ownership title to transportation fuel from locations within Oregon, at the time it is delivered to locations outside Oregon by any means of transport, other than in the fuel tank of a motor vehicle for the purpose of propelling the motor vehicle.

(56) “Feedstock transfer document” means a document, or combination of documents, that demonstrates the delivery of specified source feedstocks from the point of origin to the fuel production facility as required under OAR 340-253-0400(6).

(57) “Finished fuel” means a transportation fuel that can legally be used directly in a motor vehicle without requiring additional chemical or physical processing.

(58) “Fixed guideway” means a public transportation facility using and occupying a separate right-of-way for the exclusive use of public transportation using rail, a fixed catenary system, or an aerial tramway.

(59) “Fossil” means any naturally occurring flammable mixture of hydrocarbons found in geologic formations such as rock or strata. When used as an adjective preceding a type of fuel (e.g., “fossil gasoline,” or “fossil LNG”), it means the subset of that type of fuel that is derived from a fossil source.

(60) “Fuel pathway” means a detailed description of all stages of fuel production and use for a fuel, including feedstock generation or extraction, distribution, and combustion of the fuel by the consumer. The fuel pathway is used to calculate the carbon intensity of each fuel.

(61) “Fuel pathway code” or “FPC” means the identifier used in the Oregon Fuels Reporting System that applies to a specific fuel pathway as approved or issued under OAR 340-253-0400 through 0470.

(62) “Fuel pathway holder” means the entity that has received a certified fuel pathway code from DEQ, including those that are recertifications of a CARB-approved fuel pathway under the process in OAR 340-253-0450.

(63) “Fuel production facility” means the facility at which a regulated or opt-in fuel is produced. With respect to biomethane, a fuel production facility means the facility at which the fuel is upgraded, purified, or processed to meet the standards for injection to a natural gas common carrier pipeline or for use in natural gas vehicles.

(64) “Fuel supply equipment” or “FSE” means equipment registered in the Oregon Fuels Reporting System that dispenses alternative fuel into vehicles, including but not limited to electric vehicle chargers, hydrogen fueling stations, and natural gas fueling equipment.

(65) “Gasoline” means a fuel suitable for spark ignition engines and conforming to the specifications of ASTM D4814.

(66) “Gasoline substitute” means a liquid fuel, other than gasoline, suitable for use as a spark-ignition engine fuel.

(67) “Green-e” or “Green-e Program” means the certification program run by the Center for Resource Solutions.

(68) “Heavy duty vehicle” or “HDV” means any motor vehicle rated at more than 10,000 pounds gross vehicle weight.

(69) “Illegitimate credits” means credits that were not generated in compliance with this division, as described in OAR 340-253-1005(7).

(70) “Import” means to have ownership title to transportation fuel at the time it is brought into Oregon from outside the state by any means of transport other than in the fuel tank of a motor vehicle for the purpose of propelling that motor vehicle.

(71) “Importer” means:

(a) With respect to any liquid fuel, the person who imports the fuel; or

(b) With respect to any biomethane, the person who owns the biomethane when it is either physically transported into Oregon or injected into a pipeline located outside of Oregon and contractually delivered for use in Oregon through a book and claim accounting methodology.

(72) “Incremental aggregator” means a qualified entity approved by DEQ under OAR 340-253-0330(10) to earn incremental credits, when those credits would not otherwise be claimed.

(73) “Incremental credit” means a credit that is generated by an action to further lower the carbon intensity of electricity from that of the statewide mix or a utility-specific mix. Incremental credits are calculated from the difference between the carbon intensity of the grid electricity and the carbon intensity of renewable electricity.

(74) “Indirect land use change” means the average lifecycle greenhouse gas emissions caused by an increase in land area used to grow crops that is caused by increased use of crop-based transportation fuels and expressed as grams of carbon dioxide equivalent per megajoule of energy provided (gCO₂e/MJ). Indirect land use change values are listed in Table 10 under OAR 340-253-8010.

(a) Indirect land use change for fuel made from corn feedstocks is calculated using the protocol developed by the Argonne National Laboratory.

(b) Indirect land use change for fuel made from sugarcane, sorghum, soybean, canola and palm feedstocks is calculated using the protocol developed by the California Air Resources Board.

(75) “Invoice” means the receipt or other record of a sale transaction, specifying the price and terms of sale, that describes an itemized list of goods shipped.

(76) “Large importer of finished fuels” means any person who imports into Oregon more than 500,000 gallons of finished fuels in a given calendar year.

(77) “Light-duty vehicle” or “LDV” means any motor vehicle rated at 8,500 pounds gross vehicle weight or less.

(78) “Lifecycle greenhouse gas emissions” are:

(a) The aggregated quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions, such as significant emissions from changes in land use associated with the fuels;

(b) Measured over the full fuel lifecycle, including all stages of fuel production, from feedstock generation or extraction, production, distribution, and combustion of the fuel by the consumer; and

(c) Stated in terms of mass values for all greenhouse gases as adjusted to CO₂e to account for the relative global warming potential of each gas.

(79) “Liquefied compressed natural gas” or “L-CNG” means natural gas that has been liquefied and transported to a dispensing station where it was then re-gasified and compressed to a pressure greater than ambient pressure.

(80) “Liquefied natural gas” or “LNG” means natural gas that has been liquefied.

(81) “Liquefied petroleum gas” or “propane” or “LPG” means a petroleum product composed predominantly of any of the hydrocarbons, or mixture thereof; propane, propylene, butanes and butylenes maintained in the liquid state.

(82) “Material information” means:

(a) Information that would result in a change of the carbon intensity of a fuel, expressed in a gCO₂e/MJ basis to two decimal places; or

(b) Information that would result in a change by any whole integer of the number of credits or deficits generated under OAR 340-253-1000 through OAR 340-253-1030.

(83) “Medium duty vehicle” or “MDV” means any motor vehicle rated between 8,501 pounds and 10,000 pounds gross vehicle weight.

(84) “Motor vehicle” means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is self-propelled.

(85) “M-RETS Renewable Thermal” means the electronic tracking and trading system for North American biomethane and other renewable thermal attributes run by the M-RETS organization. The attributes are serialized and issued as renewable thermal certificates. For the purposes of this division, only the biomethane or renewable natural gas certificates generated by this system are recognized as legitimate.

(86) "Multi-family housing" means a structure or facility established primarily to provide housing that provides four or more living units, and where the individual parking spaces that an electric vehicle charger serves, and the charging equipment itself, are not deeded to or owned by a single resident.

(87) "Natural gas" means a mixture of gaseous hydrocarbons and other compounds with at least 80 percent methane by volume.

(88) "Natural gas common carrier pipeline" means a natural gas pipeline that offers natural gas transportation services to any third party under a standard set of terms. For the purpose of this division, any common carrier pipeline used for book and claim must be part of a larger network directly or indirectly connected to Oregon.

(89) "Oregon Fuels Reporting System" means the interactive, secured, web-based, electronic data tracking, reporting and compliance system that DEQ develops, manages and operates to support the Clean Fuels Program.

(90) "Oregon Fuels Reporting System reporting deadlines" means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

(91) "OR-GREET" means the Greenhouse gases, Regulated Emissions, and Energy in Transportation (GREET) model developed by Argonne National Laboratory that DEQ modifies and maintains for use in the Oregon Clean Fuels Program. The most current version is OR-GREET 3.0. DEQ has made available a copy of OR-GREET 3.0 on its website (<https://www.oregon.gov/deq/ghgp/cfp/Pages/Clean-Fuel-Pathways.aspx>). As used in this rule, OR-GREET refers to both the full model and the fuel-specific simplified calculators that the program has adopted.

(92) "Ocean-Going Vessel" or "OGV" means a commercial, government, or military watercraft meeting any one or more of the following criteria:

(A) A vessel greater than or equal to 400 feet in length overall;

(B) A vessel greater than or equal to 10,000 gross tons pursuant to the convention measurement (international system); or

(C) A vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

(93) "Physical Transport Mode" means the applicable combination of actual fuel delivery methods, such as truck routes, rail lines, pipelines and any other fuel distribution methods through which the regulated party reasonably expects the fuel to be transported under contract from the entity that generated or produced the fuel to any intermediate entities and ending in Oregon.

(94) “Plug-In Hybrid Electric Vehicle” or “PHEV” means a hybrid vehicle with the capability to charge a battery from an off-vehicle electric energy source that cannot be connected or coupled to the vehicle in any manner while the vehicle is being driven.

(95) “Position holder” means any person that has an ownership interest in a specific amount of fuel in the inventory of a terminal operator. This does not include inventory held outside of a terminal, retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

(96) “Power Purchase Agreement” means a written agreement between an electricity service supplier and a customer that specifies the source or sources of electricity that will supply the customer.

(97) “Producer” means:

(a) With respect to any liquid fuel and renewable propane, the person who makes the fuel; or

(b) With respect to any biomethane, the person who refines, treats or otherwise processes biogas into biomethane.

(98) “Product transfer document” or “PTD” means a document, or combination of documents, that authenticates the transfer of ownership of fuel between parties and must include all information identified in OAR 340-253-0600(2). A PTD may include bills of lading, invoices, contracts, meter tickets, rail inventory sheets or RFS product transfer documents.

(99) “Public transportation” means regular, continuing shared passenger-transport services along set routes which are available for use by the general public.

(100) “Public transit agency” means an entity that operates a public transportation system.

(101) “Registered party” means a regulated party, credit generator, aggregator, or an out-of-state fuel producer that has a DEQ-approved registration under OAR 340-253-0500(1) to participate in the Clean Fuels Program.

(102) “Regulated fuel” means a transportation fuel identified under OAR 340-253-0200(2) and (3).

(103) “Regulated party” means a person responsible for compliance with requirements listed under OAR 340-253-0100(1).

(104) “Related entity” means any direct parent company, direct subsidiary, or a company with common ownership or control.

(105) “Renewable hydrocarbon diesel” or “renewable diesel” means a diesel fuel that is produced from non-fossil renewable resources but is not a monoalkylester and which is

registered as a motor vehicle fuel or fuel additive under Title 40, part 79 of the Code of Federal Regulations. This includes the renewable portion of a diesel fuel derived from co-processing biomass with a petroleum feedstock.

(106) "Renewable hydrocarbon diesel blend" or "renewable diesel blend" means a fuel comprised of a blend of renewable hydrocarbon diesel with petroleum or fossil-based diesel fuel or biodiesel, designated RXX. In the abbreviation RXX, the XX represents the volume percentage of renewable hydrocarbon diesel fuel in the blend.

(107) "Renewable gasoline" means a spark ignition engine fuel that substitutes for fossil gasoline and that is produced from non-fossil renewable resources.

(108) "Renewable propane" means liquefied petroleum gas (LPG, also known as propane) that is produced from non-fossil renewable resources.

(109) "Renewable naphtha" means naphtha that is produced from non-fossil renewable resources.

(110) "Small importer of finished fuels" means any person who imports into Oregon 500,000 gallons or less of finished fuels in a given calendar year, including the aggregate total of finished fuels imported by persons that are related, or share common ownership or control.

(111) "Specified source feedstocks" are feedstocks for fuel pathways that require chain of custody evidence to be eligible for a reduced CI associated with the use of a waste, residue, by-product, or similar material under the fuel pathway certification process under OAR 340-253-0400(6).

(112) "Substitute fuel pathway code" means a fuel pathway code that is used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use when the seller of a fuel does not pass along the credits or deficits to the buyer and the buyer does not have accurate information on the carbon intensity of the fuel or its blendstocks.

(113) "Tier 1 calculator", "Simplified calculator" or "OR-GREET 3.0 Tier 1 calculator" means the tools used to calculate lifecycle emissions for commonly produced fuels, including the instruction manuals on how to use the calculators. DEQ will make available copies of these simplified calculators and the instruction manual on its website (<https://www.oregon.gov/deq/Pages/index.aspx>). The simplified calculators used in the program are:

- (a) Tier 1 Simplified Calculator for Starch and Corn Fiber Ethanol;
- (b) Tier 1 Simplified CI Calculator for Sugarcane-derived Ethanol;
- (c) Tier 1 Simplified CI Calculator for Biodiesel and Renewable Diesel;

- (d) Tier 1 Simplified CI Calculator for LNG and L-CNG from North American Natural Gas;
- (e) Tier 1 Simplified CI Calculator for Biomethane from North American Landfills;
- (f) Tier 1 Simplified CI Calculator for Biomethane from Anaerobic Digestion of Wastewater Sludge;
- (g) Tier 1 Simplified CI Calculator for Biomethane from Food, Green and Other Organic Wastes;
- (h) Tier 1 Simplified CI Calculator for Biomethane from AD of Dairy and Swine Manure;
and
- (i) Tier 1 Simplified CI Calculator for Biomethane to Electricity from Anaerobic Digestion of Dairy and Swine Manure.

(114) “Tier 2 calculator” or “OR-GREET 3.0 model” means the tool used to calculate lifecycle emissions for next-generation fuels, including the instruction manual on how to use the calculator. Next-generation fuels include, but are not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first-generation fuels produced using innovative production processes. DEQ will make available a copy of the Tier 2 calculator on [its website](https://www.oregon.gov/deq/Pages/index.aspx) (<https://www.oregon.gov/deq/Pages/index.aspx>).

(115) “Transaction date” means the title transfer date as shown on the PTD.

(116) “Transaction quantity” means the amount of fuel reported in a transaction.

(117) “Transaction type” means the nature of the fuel transaction as defined below:

- (a) “Produced in Oregon” means the transportation fuel was produced at a facility in Oregon;
- (b) “Import within the bulk system” means the transportation fuel was imported into Oregon and placed into the bulk system;
- (c) “Import outside the bulk system” means the transportation fuel was imported into Oregon and delivered outside the bulk system;
- (d) “Purchased with obligation” means the transportation fuel was purchased with the compliance obligation passing to the purchaser;
- (e) “Purchased without obligation” means the transportation fuel was purchased with the compliance obligation retained by the seller;
- (f) “Sold with obligation” means the transportation fuel was sold with the compliance obligation passing to the purchaser;

(g) "Sold without obligation" means the transportation fuel was sold with the compliance obligation retained by the seller;

(h) "Position holder sale without obligation" means the transportation fuel was sold below the rack without a transfer of the compliance obligation;

(i) "Position holder sale with obligation" means the transportation fuel was sold below the rack with a transfer of the compliance obligation;

(j) "Position holder sale for export" means the transportation fuel was sold below the rack to an entity who exported the fuel;

(k) "Purchase below the rack for export" means the transportation fuel was purchased below the rack and exported;

(l) "Export" means a transportation fuel that was reported under the Clean Fuels Program but was later moved from a location inside of Oregon to a location outside of Oregon;

(m) "Loss of inventory" means the fuel exited the Oregon fuel pool due to volume loss, such as through evaporation or due to different temperatures or pressurization, or the fuel was transferred to a new fuel pathway code;

(n) "Gain of inventory" means the fuel entered the Oregon fuel pool due to a volume gain, such as through different temperatures or pressurization, or the fuel was transferred from a different fuel pathway code;

(o) "Not used for transportation" means a transportation fuel that was used in an application unrelated to the movement of goods or people, such as process heat at an industrial facility, home or commercial building heating, or electric power generation;

(p) "EV charging" means providing electricity to recharge EVs including BEVs and PHEVs;

(q) "LPGV fueling" means the dispensing of liquefied petroleum gas at a fueling station designed for fueling liquefied petroleum gas vehicles;

(r) "NGV fueling" means the dispensing of natural gas at a fueling station designed for fueling natural gas vehicles;

(s) "Exempt fuel use - Aircraft", "Exempt fuel use - Racing Activity Vehicles (ORS 801.404)", "Exempt fuel use - Military tactical and support Vehicle and equipment", "Exempt fuel use - Locomotive", "Exempt fuel use - Watercraft", "Exempt fuel use - Farm vehicles, tractors, implements of husbandry", "Exempt fuel use - Motor trucks primary used to transport logs", "Exempt fuel use - Off-highway construction vehicles which must meet OAR 340-253-0250(2)(a)(J)" means that the fuel was delivered or sold into the category of vehicles or fuel users that are exempt under OAR 340-253-0250. Each of these categories is further defined as follows:

- (A) “Aircraft” has the same definition as in ORS 836.005;
- (B) “Racing Activity Vehicles” has the same definitions in ORS 801.404;
- (C) “Military tactical and support vehicle and equipment” means a motor vehicle or equipment designed to be operated in combat or to directly support combat, combat service support, tactical, or relief operations that is owned by the United States Department of Defense, the Oregon Military Department, or another United States military service;
- (D) “Railroad Locomotive” means a locomotive operated on and by a railroad as defined in ORS 824.020(2);
- (E) “Watercraft” means a vehicle designed for exclusive operation in water;
- (F) “Farm Vehicles” means motor vehicles registered as farm vehicles under the provisions of ORS 805.300;
- (G) “Tractors” means Farm Tractors as defined in ORS 801.265;
- (H) “Implements of Husbandry” has the same definition as in ORS 801.310;
- (I) “Motor trucks primary used to transport logs” means motor trucks, as defined in ORS 801.355, used primarily to transport logs; and
- (J) “Off-highway construction vehicles” means motor vehicles that are not designed primarily to transport persons or property, that are operated on highways only incidentally and that are used primarily for construction work;
- (t) “Importing production for import gallons inside of the bulk system” means reporting the import into Oregon of fuel from outside of Oregon into the bulk system; and
- (u) “Importing production for import gallons outside of the bulk system” means reporting the import into Oregon of fuel from outside of Oregon outside of the bulk system.
- (118) “Transportation fuel” means gasoline, diesel, any other flammable or combustible gas or liquid, and electricity that can be used as a fuel for the operation of a motor vehicle. Transportation fuel does not mean unrefined petroleum products.
- (119) “Unit of fuel” means fuel quantities expressed to the largest whole unit of measure, with any remainder expressed in decimal fractions of the largest whole unit.
- (120) “Unit of measure” means either:
- (a) The International System of Units defined in NIST Special Publication 811 (2008) commonly called the metric system;

(b) US Customer Units defined in terms of their metric conversion factors in NIST Special Publications 811 (2008); or

(c) Commodity Specific Units defined in either:

(A) The NIST Handbook 130 (2015), Method of Sale Regulation; or

(B) OAR chapter 603, division 027.

(121) “Unspecified source of electricity” or “unspecified source” means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity. Such electricity will be assigned an emissions factor of 0.428 metric tons per megawatt-hour.

(122) “Utility Renewable Electricity Product” means a product where a utility customer has elected to purchase renewable electricity through a product that retires renewable energy credits (RECs) or represents a bundled purchase of renewable electricity and its RECs.

[NOTE: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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340-253-0060

Acronyms

The following acronyms apply to this division:

(1) “AFP” means Alternative Fuel Portal.

(2) “ASTM” means ASTM International (formerly American Society for Testing and Materials).

(3) “BEV” means battery electric vehicle.

- (4) “CARB” means the California Air Resources Board.
- (5) “CA-GREET” means the California Air Resources Board adopted version of GREET.
- (6) “CFP” means the Clean Fuels Program established under OAR chapter 340, division 253.
- (7) “CI” means carbon intensity.
- (8) “CNG” means compressed natural gas.
- (9) “CO_{2e}” means carbon dioxide equivalents.
- (10) “DEQ” means Oregon Department of Environmental Quality.
- (11) “eCHE” means electric cargo handling equipment.
- (12) “EER” means energy economy ratio.
- (13) “EN” means a European Standard adopted by one of the three European Standardization Organizations.
- (14) “eOGV” means electric ocean-going vessels.
- (15) “EQC” means Oregon Environmental Quality Commission.
- (16) “eTRU” means electric transport refrigeration unit.
- (17) “EV” means electric vehicle.
- (18) “FEIN” means federal employer identification number.
- (19) “FFV” means flex fuel vehicle.
- (20) “FPC” means fuel pathway code.
- (21) “FSE” means fuel supply equipment.
- (22) “gCO_{2e}/MJ” means grams of carbon dioxide equivalent per megajoule of energy.
- (23) “HDV” means heavy-duty vehicle.
- (24) “HDV-CIE” means a heavy-duty vehicle compression ignition engine.
- (25) “HDV-SIE” means a heavy-duty vehicle spark ignition engine.
- (26) “L-CNG” means liquefied-compressed natural gas.

- (27) “LDV” means light-duty vehicle.
- (28) “LNG” means liquefied natural gas.
- (29) “LPG” means liquefied petroleum gas.
- (30) “LPGV” means liquefied petroleum gas vehicle.
- (31) “MDV” means medium-duty vehicle.
- (32) “mmBtu” means million British Thermal Units.
- (33) “NERC” means the North American Electric Reliability Corporation.
- (34) “NGV” means natural gas vehicle.
- (35) “OFRS” means the Oregon Fuels Reporting System, the electronic reporting, trading, and compliance platform for the Clean Fuels Program and the Greenhouse Gas Reporting Program.
- (36) “PHEV” means partial hybrid electric vehicle.
- (37) “PTD” means product transfer document.
- (38) “REC” means Renewable Energy Certificate.
- (39) “RTC” means Renewable Thermal Certificate.
- (40) “RFS” means the Renewable Fuel Standard implemented by the US Environmental Protection Agency.
- (41) “scf” means standard cubic foot.
- (42) “ULSD” means ultra-low sulfur diesel.
- (43) “WREGIS” means the Western Renewable Energy Generation Information System run by the Western Electricity Coordinating Council.
- (44) “WECC” means the Western Electricity Coordinating Council.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

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340-253-0100

Oregon Clean Fuels Program Applicability and Requirements

(1) Regulated parties.

(a) All persons that produce in Oregon, or import into Oregon, any regulated fuel, other than fuels that become regulated fuels under OAR 340-253-0200(2)(g), must comply with the rules in this division;

(b) For any fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g):

(A) The owner of the compressor or fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle must comply with the rules in this division; and

(B) For fossil LPG dispensed for use in a forklift, the forklift fleet owner or operator must comply with the rules in this division;

(c) The regulated parties for regulated fuels are designated under OAR 340-253-0310 and must comply with sections (4) through (8) below;

(d) An out-of-state producer of ethanol, biodiesel, renewable diesel, alternative jet fuel, renewable natural gas, or renewable propane that is not an importer is not required to participate in the program. Any out-of-state producer that is not an importer who chooses voluntarily to participate in the program in order to initially generate credits from the volumes of their fuel that is imported into Oregon must comply with sections (4), (5), (7), (8), and (9) below;

(e) Small importers of finished fuels are exempt from sections (6) and (7) below; and

(f) Regulated parties must comply with OAR chapter 340, division 215.

(2) Credit generators.

(a) The following rules designate persons eligible to generate credits for each of the following fuel types:

(A) OAR 340-253-0320 for compressed natural gas, liquefied natural gas, liquefied compressed natural gas, and liquefied petroleum gas, as provided in that rule;

(B) OAR 340-253-0330 for electricity;

(C) OAR 340-253-0340 for hydrogen fuel or a hydrogen blend; and

(D) OAR 340-253-0350 for alternative jet fuel.

(b) Any person eligible to be a credit generator, and that is not a regulated party, is not required to participate in the program. Any person who chooses voluntarily to participate in the program in order to generate credits must comply with sections (4), (5), (7), (8), and (9) below.

(3) Aggregators.

(a) Aggregators must comply with this section and sections (4), (5), (7), and (8) below.

(b) A registered party may designate an aggregator to act on its behalf to facilitate credit generation and trade credits by submitting an Aggregator Designation Form. Aggregators may only register for the CFP once they have a complete and valid Aggregator Designation Form. Aggregators may only submit their own registration form to the CFP after a registered party has designated them as their aggregator through a complete and valid Aggregator Designation Form. When designated, the aggregator takes on the privileges and requirements of this division for the credit generator that has designated them.

(c) This section does not apply to the Backstop Aggregator or Incremental Aggregators designated under OAR 340-253-0330(7). A registered party may also serve as an aggregator for others. When serving as an aggregator for another party, the aggregator and the designating party are both responsible for notifying DEQ when the aggregator's authorization to act on behalf of a credit generator or regulated party has been withdrawn. Aggregator designations may only take effect at the start of the next full calendar quarter after DEQ receives such notice. Aggregator withdrawals may only take effect at the end of the currently open reporting period when DEQ receives such notice.

(4) Registration.

(a) A regulated party must update their organization's registration in OFRS for each fuel type on or before the date upon which that party begins producing the fuel in Oregon or importing the fuel into Oregon. If they are not registered, they must submit their program registration under OAR 340-253-0500 prior to producing the fuel in Oregon or importing the fuel into Oregon.

(b) A credit generator must submit a complete registration application to DEQ under OAR 340-253-0500 for each fuel type before it may generate credits for fuel produced, imported, or dispensed for use in Oregon. DEQ will not recognize credits allegedly generated by any person that does not have an approved, accurate and current registration.

(c) An aggregator must submit a complete registration application to DEQ under OAR 340-253-0500 and an Aggregator Designation Form each time it enters into a new contract with a regulated party, a credit generator, or another aggregator to facilitate credit generation or trade credits. Any violations by the aggregator may result in enforcement against both the aggregator and the party it was designated to act on behalf of.

(5) Records. Registered parties must develop and retain all records required by this division.

(6) Clean fuel standards. Each registered party must comply with the following standards for all transportation fuel it produces in Oregon or imports into Oregon in each compliance period. Each registered party may demonstrate compliance in each compliance period either by producing or importing fuel that in the aggregate meets the standard or by obtaining sufficient credits to offset the deficits it has incurred for such fuel produced or imported into Oregon.

(a) Table 1 under OAR 340-253-8010 establishes the Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes; and

(b) Table 2 under OAR 340-253-8010 establishes the Oregon Clean Fuel Standard for Diesel and Diesel Substitutes.

(7) Quarterly report. Each registered party must submit quarterly reports under OAR 340-253-0630, unless they are exempt under OAR 340-253-0250 (1)(b) or they are a credit generator solely registered for residential charging of electric vehicles.

(8) Annual report. Each registered party must submit an annual report under OAR 340-253-0650.

(9) Voluntary participation. The voluntary participation in the program by any person shall conclusively establish that person's consent to be subject to the jurisdiction of the State of Oregon, its courts, and the administrative authority of DEQ to implement this program. If a person does not consent to such jurisdiction, then the person may not participate in the program.

(10) Change of Ownership or Control. If a registered party undergoes a change of ownership or operational control, the following requirements apply:

(a) Notification by previous owner. The previous owner or operator must notify DEQ in writing within 30 days of the ownership or operational control change and provide the following information:

(A) Name of the previous owner or operator;

(B) Name of the new owner or operator;

(C) Date of the ownership or operational control change;

(D) Name of previous account representatives pursuant to OAR 340-253-0500 for the affected entity's account in OFRS; and

(E) What the planned disposition of net credits in the previous owner's OFRS account and/or the certified fuel pathways associated with the previous owner's AFP account will be;

(b) Notification by new owner. The new owner or operator must notify DEQ in writing within 30 days of the ownership or operational control change, including the following information:

(A) Name of the previous owner or operator;

(B) Name of the new owner or operator;

(C) Date of ownership or operator change; and

(D) Name of new account representatives pursuant to OAR 340-253-0500 for the affected entity's account in OFRS;

(c) The previous owner or operator remains the owner or operator of record until complete notices under both subsections (a) and (b) have been submitted;

(d) Responsibilities for reporting. A single report must be submitted for an entire reporting period. Reported data must not be split or subdivided for a reporting period, based on ownership. Both the owner or operator of record at the time of a deadline specified in this division and the actual owner or operator at such time are responsible for complying with the reporting requirements of this division, if a required report is not submitted; and

(e) Responsibility for net deficits. The new owner or operator is responsible for demonstrating compliance when filing the annual report under OAR 340-253-0650.

(11) Withdrawal from the program or company dissolution. If a registered party no longer wants to participate in the program or is dissolved, the following requirements apply:

(a) The registered party must submit a letter detailing the company name(s) and any CFP ID numbers associated with the company or companies;

(b) If the registered party is registered as a large importer of finished fuels, it must:

(A) Show through one full calendar year of reporting that it imported into Oregon 500,000 gallons or less of finished fuels; and

(B) File an annual report for the last year of its registration. If the company will not be reporting to either the CFP or GHG Reporting Program going forward, it will be deactivated in the OFRS once the appropriate letter and filing has been submitted;

(c) Responsibility of Credits. If a party dissolves or otherwise ceases to exist without notifying DEQ pursuant to this rule, then DEQ will assign to the Incremental Aggregator any net credits in the party's account;

(d) Responsibility of Deficits. Prior to dissolution or deregistration, a registered party is responsible for retiring credits equal to any net deficits in its OFRS account and fulfill account closure requirements; and

(e) A registered party leaving the program must complete and file all required quarterly reports and an annual report for the year in which it leaves the program.

(13) Bankruptcy. Deficits constitute regulatory obligations under Oregon law.

(14) Inactivity. If a registered party does not have any fuel transactions reported in a calendar year, the party will:

(a) Be deregistered from the program;

(b) Have its account in OFRS deactivated within 30 days of deregistering;

(c) Be able to re-register and have its account reactivated after having qualifying fuel transactions in Oregon; and

(d) Give up any credits remaining in its OFRS account to the Incremental Aggregator.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0200

Regulated and Clean Fuels

(1) Applicability. In-state producers, out-of-state producers that have voluntarily registered under 340-253-0100(c)(1), and importers of transportation fuels listed in this rule, unless the fuel is exempt under OAR 340-253-0250, are subject to this division.

(2) Regulated fuels include:

- (a) Gasoline;
- (b) Diesel;
- (c) Ethanol;
- (d) Biodiesel;
- (e) Renewable hydrocarbon diesel;
- (f) Any blends or constituents of the above fuels;
- (g) Fuels listed in section (2), beginning in the year specified and thereafter; and
- (h) Any other liquid or non-liquid transportation fuel not listed in section (4).

(3) Transition from clean fuels to regulated fuels. As the Clean Fuel Standards decrease, the following fossil fuels that were clean fuels in the initial years of the program will begin generating deficits and become regulated fuels in the year specified and thereafter:

- (a) Fossil CNG in 2026;
- (b) Fossil L-CNG in 2022;
- (c) Fossil LNG in 2022;
- (d) Fossil LPG in 2029;

(4) Clean fuels include:

- (a) Bio-based CNG;
- (b) Bio-based L-CNG;
- (c) Bio-based LNG;
- (d) Electricity;
- (e) Fossil CNG prior to 2026;
- (f) Fossil L-CNG prior to 2022;
- (g) Fossil LNG prior to 2022;
- (h) Hydrogen or a hydrogen blend;

(i) Fossil LPG prior to 2029;

(j) Renewable LPG, and

(k) Alternative jet fuel.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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340-253-0250

Exemptions

(1) Exempt fuels. The following fuels are exempt from the list of regulated fuels under OAR 340-253-0200(2):

(a) Fuels used in small volumes. A single type of transportation fuel supplied for use in Oregon if the producer or importer documents that all providers supply an aggregate volume of less than 360,000 gallons of liquid fuel per year; and

(b) Small volume fuel producer. A transportation fuel under OAR 340-253-0200(2) supplied for use in Oregon if the producer documents that:

(A) The producer has an annual production volume of less than 10,000 gallons of liquid fuel per year;

(B) The producer uses the entire volume of fuel produced in motor vehicles used by the producer directly and has an annual production volume of less than 50,000 gallons of liquid fuel; or

(C) The producer is a research, development or demonstration facility.

(2) Exempt fuel uses.

(a) Transportation fuels supplied for use in any of the following motor vehicles are exempt from regulation, subject to subsections (b) and (c):

(A) Aircraft;

(B) Racing activity vehicles defined in ORS 801.404;

- (C) Military tactical vehicles and tactical support equipment;
- (D) Locomotives;
- (E) Watercraft;
- (F) Motor vehicles registered as farm vehicles as provided in ORS 805.300;
- (G) Farm tractors defined in ORS 801.265;
- (H) Implements of husbandry defined in ORS 801.310;
- (I) Motor trucks defined in ORS 801.355 if used primarily to transport logs; and
- (J) Motor vehicles that meet all of the following conditions:
 - (i) Not designed primarily to transport persons or property;
 - (ii) Operated on highways only incidentally; and
 - (iii) Used primarily for construction work.
- (b) To claim as exempt a regulated fuel used as described in subsection (a), the regulated party must provide the following documentation that the fuel was supplied for use in a motor vehicle listed in subsection (a):
 - (A) Individual receipts or invoices for each fuel sale claimed as exempt that list the specific customer and exempt vehicle type;
 - (B) If the fuel is sold through a dedicated tank for a single customer, electronic or paper records that document that the customer's vehicle(s) being fueled are in an exempt category under subsection (a), and that the tank is not used to fuel any other vehicles; or
 - (C) Other comparable documentation approved in writing by DEQ prior to exemptions being claimed. The documentation must:
 - (i) Establish that the fuel was sold through a dedicated source to use in a type of vehicle specified in subsection (a); or
 - (ii) Be on a fuel transaction basis if the fuel is not sold through a dedicated source.
 - (c) The records described in subsection (b) must be kept by the person asserting the exemption for not fewer than five years after the year in which they occurred, and the person must provide them to DEQ upon request.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

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340-253-0310

Regulated Parties: Providers of Gasoline, Diesel, Ethanol, Biodiesel, Renewable Diesel, and Blends Thereof, and Other Regulated Fuels

(1) Regulated party.

(a) The regulated party is the producer or importer of the regulated fuel under OAR 340-253-0200(2), except for a fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g); and

(b) The regulated party for a fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g) is the owner of the compressor or fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle and, for fossil LPG dispensed for use in a forklift and that is a regulated fuel under OAR 340-253-0200(2)(g), the regulated party is the forklift fleet owner or operator.

(2) Recipient notification requirement. If a regulated party intends to transfer ownership of fuel, it is the recipient's responsibility to notify the transferor whether the recipient is a producer, a position holder, an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, or is not an importer or otherwise registered under this program. The notification does not have to be in writing.

(3) Compliance obligations.

(a) Deficits and credits associated with a given volume of regulated fuels are created when the fuels are produced in Oregon, imported into the state, or, for a fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g), when the fuel is dispensed for use in a motor vehicle or forklift.

(b) Importers and producers must report the fuel that they import and produce and must comply with this division.

(c) For a fuel that becomes a regulated fuel under OAR 340-253-0200(2)(g), the regulated party must report the fuel that it dispenses for use in a motor vehicle or forklift and must comply with this division.

(d) A regulated party may not transfer its compliance obligations under this division when it sells fuel from above the rack to a large importer of finished fuels below the rack.

(e) Except as provided in subsections (d) and (f), a registered party may voluntarily transfer its compliance obligations under this division for fuel sold to another registered party. For such a transfer to be effective, it must be clearly documented in the written product transfer document(s) at the time of the transfer.

(f) Compliance obligations may not be transferred to a small importer of finished fuels or to a fuel producer registered only to hold fuel pathways.

(g) When a compliance obligation is transferred with the regulated fuel under subsection (e):

(A) The recipient acquires the deficits and credits associated with the fuel and must comply with all the applicable requirements of this division.

(B) The transferor is no longer responsible for the credits and deficits for the transferred fuel.

(4) Fuel produced by an out-of-state producer that is voluntarily registered under OAR 340-253-0100(1)(c) is not eligible to generate credits or deficits unless and until it is imported into Oregon for use in the state.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0320

Credit Generators: Providers of Compressed Natural Gas, Liquefied Natural Gas, Liquefied Compressed Natural Gas, and Liquefied Petroleum Gas

(1) Applicability.

(a) Except as provided in subsection (b), this rule applies to providers of compressed natural gas, liquefied natural gas, liquefied compressed natural gas, and liquefied petroleum gas for use as a transportation fuel in Oregon; and

(b) This rule does not apply to providers of fuels listed in OAR 340-253-0200(3), beginning in the year specified in that rule and thereafter.

(2) Compressed natural gas. For CNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil CNG. For fuel that is solely fossil CNG, the person that is eligible to generate credits is the owner of the compressor at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based CNG. For fuel that is solely bio-based CNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil CNG and bio-based CNG. For fuel that is a blend of fossil CNG and bio-based CNG, the generated credits will be split between the persons eligible to generate credits or the regulated party under subsections (a) and (b) to give each credits based on the actual amount of each fuel in the blend.

(3) Liquefied natural gas. For LNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil LNG. For fuel that is solely fossil LNG, the person that is eligible to generate credits is the owner of the fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based LNG. For fuel that is solely bio-based LNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil LNG and bio-based LNG. For fuel that is a blend of fossil LNG and bio-based LNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of each fuel in the blend.

(4) Liquefied compressed natural gas. For L-CNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil L-CNG. For fuel that is solely fossil L-CNG, the person that is eligible to generate credits is the owner of the compressor at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based L-CNG. For fuel that is solely bio-based L-CNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil L-CNG and bio-based L-CNG. For fuel that is a blend of fossil L-CNG and bio-based L-CNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of each fuel in the blend.

(5) Liquefied petroleum gas. For LPG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil LPG.

(i) For fossil LPG that is dispensed for use in a motor vehicle, the person that is eligible to generate credits is the owner of the fueling equipment at the facility.

(ii) For fossil LPG that is dispensed for use in a forklift, the person that is eligible to generate credits is the forklift fleet owner or operator. The fleet owner or operator may also designate an aggregator.

(b) Renewable LPG. The producer or importer of the renewable LPG is eligible to generate credits.

(c) Blend of fossil and renewable LPG. For fuel that is a blend of fossil and renewable LPG, the generated credits will be split between the person eligible to generate credits under subsections (a) and (b) based on the actual amounts of each fuel in the blend.

(6) Responsibilities to generate credits. Any person specified in sections (2) through (5) may generate credits by complying with the registration, recordkeeping, reporting, and attestation requirements of this division.

(7) For bio-based or renewable fuels under this rule, the ability to generate credits for the fuel may be transferred along with the fuel to another recipient of the fuel in the state so long as it is documented in a written contract.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

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DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0330

Credit Generators: Providers of Electricity

(1) Applicability. This rule applies to providers of electricity used as a transportation fuel.

(2) For residential charging. For electricity used to charge an electric vehicle at a residence, subsections (a) and (b) determine the person who is eligible to generate credits.

(a) Electric Utility. In order to generate credits for the following year, an electric utility must notify DEQ by October 1 of the current year whether it will generate credits. The utility must have an active registration approved by DEQ under OAR 340-253-0500. Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to DEQ.

(b) Backstop and Incremental Aggregators. If an electric utility does not register or designate an aggregator under subsection (a), then backstop and incremental aggregators are eligible to claim any credits that the utility could have generated for the following year, as provided in sections (10) and (11), as applicable. The backstop aggregator may claim any base credits and the incremental aggregator may claim any incremental credits.

(3) For non-residential charging. For electricity used to charge an electric vehicle at non-residential locations, such as in a public space, for a fleet, at a workplace, or at multi-family housing sites, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) The owner of the electric-charging equipment may generate the credits. If the owner of charging equipment is not registered and that charging equipment is part of an electric vehicle supply equipment network, then the network service provider may register until and unless the owner registers.

(b) Electric Utility. If the owner of the electric-charging equipment does not generate the credits, then an electric utility or an aggregator designated to act on the utility's behalf is eligible to generate the credits. The utility or its aggregator must have an active registration approved by DEQ under OAR 340-253-0500. Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to DEQ.

(c) Backstop and Incremental Aggregators. If an electric utility does not elect to generate the credits elect to generate the credits, then the backstop and incremental aggregators are eligible to claim any credits that the utility could have generated for the following year, as provided in sections (10) and (11), as applicable. The backstop aggregator may claim any base credits and the incremental aggregator may claim any incremental credits.

(4) Public Transit. For electricity used to power fixed guideway vehicles such as light rail systems, streetcars, aerial trams, or transit buses, a transit agency may generate the credits. The transit agency must have an active registration approved by DEQ under OAR 340-253-0500.

(5) Electric Forklifts. For electricity used to power forklifts, the forklift owner may generate the credits. If the forklift is being operated by a person other than the owner, the owner may generate the credits if they have detailed data that enables them to accurately report the electricity used to operate the forklift as required by OAR 340-253-1000(2), otherwise the operator of the forklift may generate the credits.

(6) Electric Transportation Refrigeration Units. The owner of the electric transportation refrigeration unit may generate credits for electricity used in transport refrigeration units.

(7) Electric Cargo Handling Equipment. The owner of the electric-charging equipment may generate the credits.

(8) Electric Ocean-Going Vessel. The owner of the equipment that provides electrical power from the shore to the vessel is eligible to generate credits.

(9) Electric Ground Support Equipment. The owner of the charging equipment for Ground Support Equipment is eligible to generate credits.

(10) Responsibilities to generate credits. Any person specified under sections (2) through (9) may generate clean fuel credits by complying with the registration, recordkeeping and reporting requirements of this division.

(11) Backstop Aggregator. The backstop aggregator that serves as the credit generator of electricity credits that have not been claimed by an electric utility, an aggregator designated by an electric utility, or an owner or service provider of electric charging equipment under sections (2) and (3).

(a) To qualify to submit an application to be a backstop aggregator, an organization must:

(A) Be an organization exempt from federal taxation under section 501(c)(3) of the U.S. Internal Revenue Code;

(B) Complete annual independent financial audits.

(b) An entity that wishes to be the backstop aggregator must submit an application with DEQ that includes:

(A) A description of the mission of the organization and how being a backstop aggregator fits into its mission;

(B) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being a backstop aggregator;

(C) A plan describing:

(i) How the organization will promote transportation electrification statewide or in specific utility service territories, if applicable;

(ii) Any entities that the organization might partner with to implement its plan;

(iii) How the organization plans to use the revenue from the sale of credits, which may include, without limitation, programs that provide incentives to purchase electric vehicles or

install electric vehicle chargers, opportunities to educate the public about electric vehicles, and anticipated costs to administer its plan; and

(iv) The financial controls that are, or will be put, in place to segregate funds from the sale of credits from other monies controlled by the organization.

(D) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified them as qualifying as an exempt organization under 501(c)(3);

(c) Initial applications to be a backstop aggregator are due to DEQ no later than March 15, 2018, to be eligible to be the backstop aggregator beginning in 2018. If the EQC does not approve the designation of a backstop aggregator under subsection (e), then DEQ may set a new deadline for applications if it decides to undertake a new selection process.

(d) Applications will be evaluated by DEQ with the assistance of relevant experts selected by DEQ. DEQ will evaluate applications based on the likelihood that the applicant will maximize the benefits from the credits it receives to expand the use of alternative fuel vehicles and reduce greenhouse gas emissions from the transportation sector in Oregon.

(e) DEQ may recommend an organization be designated as the initial backstop aggregator to the EQC by May 31, 2018. If DEQ does not recommend an organization to be the backstop aggregator or the EQC does not approve DEQ's recommendation, then DEQ may undertake a new selection process at a later date under the same criteria in subsections (b) and (d).

(f) Following EQC approval of an organization to be the backstop aggregator, DEQ and the organization may enter into a written agreement regarding its participation in the program. A written agreement must be in place prior to the backstop aggregator registering an account in the OFRS and receiving credits for the first time. The backstop aggregator must:

(A) By March 31st of each year, submit a report that summarizes the previous year's activity including:

(i) How much revenue was generated from the credits it received;

(ii) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes; and

(iii) The results of its most recent independent financial audit.

(B) Maintain records and make them available upon request by DEQ, including records required to be maintained under OAR 340-253-0600 and, in addition, any records relating to its application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.

(g) If DEQ determines that a backstop aggregator is in violation of this division or the agreement that it enters into with DEQ to be the backstop aggregator, DEQ may rescind its designation and solicit applications to select a new backstop aggregator.

(h) If backstop aggregator wishes to terminate its agreement with DEQ, then DEQ may solicit applications to select a new backstop aggregator.

(i) After a backstop aggregator has been in place for three years, DEQ may hold a new selection process to appoint a backstop aggregator for future years. Unless DEQ has rescinded an organization as backstop aggregator under subsection (g), the current backstop aggregator may apply to be re-designated as the backstop aggregator for future years.

(12) Incremental Aggregator.

(a) For non-residential charging, incremental credits may be claimed by the eligible credit generator identified in sections (3)-(9) of this rule.

(b) For residential charging, the following entities may claim incremental credits:

(A) An electric utility claiming base credits for the same vehicles under subsection (2)(a) or its designated aggregator if it notifies DEQ by June 15 or December 15 that it wishes to begin generating incremental credits starting with the charging covered by the next period of residential electric vehicle charging. A utility's election remains in place until it informs DEQ otherwise; or

(B) Incremental Aggregator. The incremental aggregator that serves as the credit generator of incremental electricity credits that have not been claimed by an electric utility, an aggregator designated by an electric utility, or the eligible credit generator under sections (3)-(8). The incremental aggregator will be selected as provided in subsection (c).

(c) Selection of the incremental aggregator.

(A) To qualify to submit an application to be the incremental aggregator, an organization must:

(i) Be an organization exempt from federal taxation under section 501(c)(3) of the U.S. Internal Revenue Code; and

(ii) Complete annual independent financial audits.

(B) An entity that wishes to be the incremental aggregator must submit an application with DEQ that includes:

(i) A description of the mission of the organization and how being the incremental aggregator fits into its mission;

(ii) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being the incremental aggregator;

(iii) How the organization plans to promote transportation electrification statewide in an equitable manner and conduct programs on a statewide basis;

(iv) The financial controls that are, or will be put, in place to segregate funds from the sale of credits from other monies controlled by the organization; and

(v) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified them as qualifying as an exempt organization under 501(c)(3).

(C) Initial applications to be the incremental aggregator are due to DEQ no later than December 31, 2022, to be eligible to be selected by the EQC to be the incremental aggregator beginning with 2020 residential EV crediting. If the EQC does not approve the designation of an incremental aggregator under subsection (11)(e), then DEQ may set a new deadline for applications if it decides to undertake a new selection process.

(D) Applications to be the incremental aggregator will be evaluated by DEQ in partnership with the equity advisory committee selected under subsection (11)(j). DEQ will evaluate applications based on the likelihood that the applicant will use the revenue from the credits it receives to advance transportation electrification statewide with a focus on actions that will help vulnerable populations and communities impacted by air pollution and climate change.

(E) Based on DEQ's review of applications to be the incremental aggregator, DEQ may recommend that an applicant organization be designated as the initial incremental aggregator to the EQC by August 15, 2021. If DEQ does not recommend an organization to be the incremental aggregator or the EQC does not approve DEQ's recommendation, then DEQ may undertake a new selection process at a later date under the same process and criteria in paragraphs (11)(c)(A) through (D).

(F) Following EQC approval of an organization to be the incremental aggregator, DEQ and the organization may enter into a written agreement regarding the selected organization's participation in the program. In addition to the requirements described in paragraph (11)(c)(K), a written agreement must be in place prior to the incremental aggregator receiving credits for the first time. The incremental aggregator must:

(i) By March 31st of each year, submit a report that summarizes the previous year's activity including:

(I) How much revenue was generated from the credits it received;

(II) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes; and

(III) The results of its most recent independent financial audit; and

(ii) Maintain records and make them available to DEQ upon request by DEQ, including records required to be maintained under OAR 340-253-0600 and, in addition, any records relating to its application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.

(G) If DEQ determines that an incremental aggregator is in violation of this division or the agreement that it enters into with DEQ to be the incremental aggregator, DEQ may rescind its designation and solicit applications to select a new incremental aggregator.

(H) If the incremental aggregator wishes to terminate its agreement with DEQ, then DEQ may solicit applications to select a new incremental aggregator.

(I) After an incremental aggregator has been in place for three years, DEQ may hold a new selection process to appoint an incremental aggregator for future years. Unless DEQ has rescinded an organization as incremental aggregator under paragraph (11)(c)(G), the current backstop aggregator may apply to be re-designated as the incremental aggregator for future years.

(J) Equity advisory committee. DEQ will appoint and convene an advisory committee to help the agency design projects and programs for the incremental aggregator to implement that prioritize the revenue for transportation electrification projects that equitably distribute benefits and address the needs and interests of impacted communities that are the most vulnerable to the adverse effects of transportation air pollution and climate change. The committee will also advise DEQ in its review of reports on utility spending, and:

(i) The committee will advise DEQ in:

(I) The selection of the incremental aggregator;

(II) Establishing criteria that will be used to set priorities to be carried out by the incremental aggregator;

(III) Developing the annual work plan for the incremental aggregator;

(IV) Identifying areas of need that should be prioritized by utility projects and programs paid for by revenue from CFP incremental credit sales in order to ensure equitable outcomes and benefits;

(V) Reviewing the utility reports submitted under OAR 340-253-0640(9); and

(VI) Reviewing the performance of the incremental aggregator;

(ii) DEQ will solicit applications for residents of the state of Oregon to be appointed to the equity advisory committee. DEQ will seek representatives with the following interests and areas of expertise as well as representatives from the following communities:

(I) Transportation and transportation electrification; and

(II) Environmental Justice Communities

(iii) DEQ will solicit applications to serve on the equity advisory committee in May 2021 and may select the committee from those applicants. Committee members may serve terms of three years and DEQ may annually solicit applications and make additional selections to serve on the committee.

(K) The incremental aggregator must consult with DEQ and the equity advisory committee to propose an annual workplan to guide its spending for the next year, subject to approval by DEQ. DEQ will not award credits to the incremental aggregator unless DEQ has approved such workplan and the incremental aggregator has followed such workplan. The incremental aggregator and DEQ may mutually agree to modify the annual workplan at any time, after consultation with the equity advisory committee. Projects to be undertaken by the incremental aggregator may include:

(i) Electrification and battery swap programs for school or transit buses;

(ii) Electrification of drayage trucks;

(iii) Investment in public EV charging infrastructure and EV charging infrastructure in multi-family residences;

(iv) Investment in electric mobility solutions, such as EV sharing and ride-hailing programs;

(v) Multilingual marketing, education, and outreach designed to increase awareness and adoption of EVs and clean mobility options that includes information about their benefits to individuals, the environment, and human health;

(vi) Additional rebates and incentives for low-income individuals beyond existing local, federal and state rebates and incentives, for:

(I) Purchasing or leasing new or previously owned EVs;

(II) Installing EV charging infrastructure in residences and related electrical work;

(III) Promoting the use of public transit and other clean mobility; and

(IV) Off-setting costs for residential or non-residential EV charging; and

(vii) Other projects that promote transportation electrification in or for Environmental Justice Communities and that are reviewed by the equity advisory committee and approved by DEQ. Individuals and organizations may submit proposals for such projects to DEQ for consideration, and the application must include:

(I) A complete description of the project, the demonstration that the project promotes transportation electrification in Environmental Justice, or that the project provides increased access to electric transportation for those communities; and

(II) Evidence that the project was developed in coordination with local environmental justice advocates, local community-based organizations, local units of government, or multiple such entities.

(13) Credit Generator transition during 2023. For all electricity fuel supply equipment and facilities that has a current registration on January 1, 2023, each registered credit generator of such equipment as of December 31, 2022, may continue to generate credits based on the use of that equipment until DEQ calls in the registration to confirm that they may continue to generate credits under this rule. DEQ will call in the registrations in batches and will not act on another party's request to become the registered credit generator for such currently-registered fuel supply equipment and facilities until that current registration is called in for review.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0340

Credit Generators: Providers of Hydrogen Fuel or a Hydrogen Blend

(1) Applicability. This rule applies to providers of hydrogen fuel and a hydrogen blend for use as a transportation fuel in Oregon.

(2) Credit generation. For a hydrogen fuel or a hydrogen blend, the person who owns the finished hydrogen fuel where the fuel is dispensed for use into a motor vehicle is eligible to generate credits.

(3) Forklifts. For hydrogen forklifts, the forklift fleet operator is the credit generator eligible to generate credits. Only one entity may generate credits from each piece of equipment.

(4) Responsibilities to generate credits. Any person specified in section (2) or (3) may generate clean fuel credits by complying with this division.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0400

Carbon Intensities

(1) OR-GREET. Carbon intensities for fuels must be calculated using OR-GREET 3.0 or a model approved by DEQ. If a party wishes to use a modified or different lifecycle carbon intensity model, it must be approved by DEQ in advance of an application under OAR 340-253-0450.

(2) DEQ review of carbon intensities. Every three years, or sooner if DEQ determines that new information becomes available that warrants an earlier review, DEQ will review the carbon intensities used in the CFP and must consider, at a minimum, changes to:

(a) The sources of crude and associated factors that affect emissions such as flaring rates, extraction technologies, capture of fugitive emissions, and energy sources;

(b) The sources of natural gas and associated factors that affect emissions such as extraction technologies, capture of fugitive emissions, and energy sources;

(c) Fuel economy standards and energy economy ratios;

(d) GREET, OR-GREET, CA-GREET, GTAP, AEZ-EF or OPGEE;

(e) Methods to calculate lifecycle greenhouse gas emissions;

(f) Methods to quantify indirect land use change; and

(g) Methods to quantify other indirect effects.

(3) Statewide carbon intensities.

(a) Registered parties must use the statewide average carbon intensities listed in Table 4 under OAR 340-253-8010 for the following fuels:

(A) Clear gasoline or the gasoline blendstock of a blended gasoline fuel;

(B) Clear diesel or the diesel blendstock of a blended diesel fuel;

(C) Fossil CNG;

(D) Fossil LNG; and

(E) Fossil LPG.

(b) For electricity suppliers,

(A) The statewide average electricity carbon intensity is calculated annually under OAR 340-253-0470 and posted on the DEQ website.

(B) Registered parties may use an electricity carbon intensity different from the statewide average under subsection (b)(A) if:

(i) The utility has applied for an individual carbon intensity under OAR 340-253-0470; or

(ii) The party generates lower carbon electricity at the same location as it is dispensed into a motor vehicle consistent with the conditions of the approved fuel pathway code under OAR 340-253-0470(3).

(c) A hydrogen supplier may apply to use the applicable value in Table 4 under OAR 340-253-8010 or apply for a specific carbon intensity under OAR 340-253-0450. DEQ may require application materials as part of its review of an application to use a Table 4 value in order to determine if that value is appropriate and applicable. DEQ may not approve the use of a Table 4 value if it believes the actual operational carbon intensity of the hydrogen will exceed the Table 4 value.

(4) Carbon intensities for established fuel pathways. Except as provided in sections (3) or (5), registered parties may use a carbon intensity that:

(a) CARB has certified for use in the California Low Carbon Fuel Standard program, that has been adjusted for fuel transportation distances, indirect land use change and other comparable adjustments, and that has been reviewed and approved by DEQ as being consistent with OR-GREET 3.0; or

(b) Matches the description of a fuel pathway listed in Table 4 under OAR 340-253-8010, provided that:

(A) For Hydrogen produced using one or more of biomethane or wind or solar electricity, the producer of the hydrogen must:

(i) Demonstrate to DEQ that the value in Table 4 is appropriate for its production facility; and

(ii) Submit retirement records from an electronic tracking system recognized by DEQ such as WREGIS or M-RETS Renewable Thermal on an annual basis that the renewable electricity and biomethane attributes, as applicable, were not claimed in any other program except for the federal RFS and the greenhouse gas reporting program under OAR chapter 340, division 215. Any such claims under the federal RFS must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP, or the claim under the CFP is invalid; and

(B) To use the hydrogen electrolysis pathway using only electricity from the Bonneville Power Administration (BPA), the producer of the hydrogen must: (i) Demonstrate in its request that its electricity is sourced from a customer utility that relies entirely on BPA for all of the power it needs to meet its total load; and

(ii) Submit records annually showing that the full electric load for the electrolyzer is being met by that utility's electricity.

(5) Primary alternative fuel pathway classifications. If it is not possible to identify an applicable carbon intensity under either section (3) or (4), then the regulated party, credit generator, or aggregator has the option to develop its own fuel pathway and apply for it to be certified under 340-253-0450. Fuel pathway applications fall into one of two tiers:

(a) Tier 1. Conventionally-produced alternative fuels of a type that have been well-evaluated in the Oregon and California low carbon fuel standards. Tier 1 fuels include:

(A) Starch- and sugar-based ethanol;

(B) Biodiesel produced from conventional feedstocks such as plant oils, tallow and related animal wastes and used cooking oil;

(C) Renewable diesel produced from conventional feedstocks such as plant oils, tallow and related animal wastes and used cooking oil;

(D) Natural Gas;

(E) Biomethane from landfills; anaerobic digestion of dairy and swine manure or wastewater sludge; and food, vegetative or other organic waste.

(F) Biogas to electricity.

(b) Tier 2. All fuels not included in Tier 1 including but not limited to:

(A) Cellulosic alcohols;

(B) Biomethane from other sources;

(C) Hydrogen;

(D) Renewable hydrogen;

(E) Renewable hydrocarbons other than renewable diesel produced from conventional feedstocks;

(F) Biogenic feedstocks co-processed at a petroleum refinery

(G) Alternative Jet Fuel;

(H) Renewable propane; and

(I) Tier 1 fuels using innovative methods, including but not limited to carbon capture and sequestration or a process that cannot be accurately modeled using the simplified calculators.

(6) Specified source feedstocks. Fuels that are produced from a specified source feedstock may be eligible for a reduced carbon intensity value when applying under OAR 340-253-0450 so long as they meet all of the following requirements:

(a) Specified source feedstocks are non-primary products of commercial or industrial processes for food, fuel or other consumer products and include, but are not limited to, used cooking oil, animal fats, fish oil, yellow grease, distiller's corn oil, distiller's sorghum oil, brown grease, and other fats, oils, and greases;

(b) The specified source feedstocks are used in fuel pathways for biodiesel; renewable diesel; alternative jet fuel; co-processed refinery products; biomethane supplied using book and claim accounting and claimed as a feedstock for CNG, LNG, L-CNG; or steam-methane reformation produced hydrogen;

(c) Under OAR 340-253-0450(9)(d), any feedstock can be designated as a specified source feedstock if requested by a supplier using site-specific carbon intensity data or if it is specified in a fuel pathway approval condition; and

(d) Chain-of-custody evidence must be used to demonstrate the proper characterization and accuracy of the quantity of the specified source feedstocks going into a fuel production facility or claimed as biomethane, subject to all of the following provisions:

(A) Chain-of-custody evidence must be provided to the verifier and to DEQ upon request;

(B) Joint applicants may assume responsibility for different portions of the chain-of-custody evidence;

(C) Fuel pathway applicants using specified source feedstocks must maintain either:

(i) Delivery records that show shipments of feedstock type and quantity directly from the point of origin to the fuel production facility; or

(ii) Information from material balance or energy balance systems that control and record the assignment of input characteristics to output quantities at relevant points along the feedstock supply chain between the point of origin and the fuel production facility; and

(e) In order to maintain the fuel pathway, the fuel production and any joint applicant must meet the following requirements:

(A) Maintain records of the type and quantity of feedstock obtained from each supplier, including feedstock transaction records, feedstock transfer documents pursuant to (f), weighbridge tickets, bills of lading or other documentation for all incoming and outgoing feedstocks;

(B) Maintain records used for material balance and energy balance calculations; and

(C) Ensure DEQ staff and verifier access to audit feedstock suppliers to demonstrate proper accounting of attributes and conformance with certified CI data.

(7) The carbon intensity value certified under OAR 340-253-0450, including any margin of safety requested by the fuel producer, is the maximum carbon intensity value that a fuel can be reported in the CFP. The actual operational carbon intensity of a fuel will be calculated from the most recent production data covering 24 months of the fuel production facility's operation. Registered parties may not report fuel transactions under any certified carbon intensity unless the actual operational carbon intensity is equal to or less than the certified CI.

(8) Fuel producers labeling fuel sold in Oregon with a carbon intensity under the CFP and registered parties using those labeled carbon intensities to report in the Oregon Fuels Reporting System, must ensure that the fuel so labeled and reported will be found to have an actual operational lifecycle carbon intensity equal to or below its certified carbon intensity.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0450

Obtaining a Carbon Intensity

(1) Fuel producers can apply to obtain a carbon intensity by following the process to obtain a carbon intensity under this rule.

(2) Applicants seeking approval to use a carbon intensity that is currently approved by the CARB must provide:

(a) The application package submitted to CARB;

(b) The CARB-approved Tier 1 or Tier 2 CA-GREET 3.0 calculator, and the OR-GREET 3.0 equivalent with the fuel transportation distance and mode modified for the fuel pathway to Oregon;

(c) The CARB review report for the approved fuel pathway;

(d) Any other supporting materials relating to the fuel pathway, as requested by DEQ; and

(e) If the applicant is seeking to use a provisional fuel pathway approved by CARB, then the applicant must submit to DEQ the ongoing documentation it provides to CARB, and as required in section (6). The applicant must provide DEQ within fourteen calendar days:

(A) Any additional documentation it has submitted to CARB; and

(B) A notification of any changes to the status of its CARB-approved provisional fuel pathway.

(3) Applicants seeking to obtain a carbon intensity using either the Tier 1 or Tier 2 calculator must submit the following information:

(a) Company name and full mailing address.

(b) Company contact person's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website address.

(c) Facility name (or names if more than one facility is covered by the application).

(d) Facility address (or addresses if more than one facility is covered by the application).

(e) Facility ID for facilities covered by the RFS program.

(f) Facility geographical coordinates (for each facility covered by the application).

(g) Facility contact person's contact information including the name, title or position, phone number, mobile phone number, facsimile number, and email address.

(h) Facility nameplate production capacity in million gallons per year (for each facility covered by the application).

(i) If applicable, consultant's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website URL.

(j) Declaration whether the applicant is applying for a carbon intensity for a Tier 1 or Tier 2 fuel.

(4) In addition to the items in section (3), applicants seeking to obtain a carbon intensity for a Tier 1 fuel using one of the simplified calculators must submit the following and any other materials or information related to the fuel pathway requested by DEQ:

(a) The applicable simplified calculator with all necessary inputs completed, following the instructions in the applicable instruction manual dated September 2022 for that calculator;

(b) The most recent RFS third party engineering report, if one has been conducted for the facility.

(c) Proof that the inputs completed in the simplified calculator supplied under subsection (a) are correct in the form of:

(A) A positive verification statement from an approved verification body, provided in compliance with OAR chapter 340, division 272, stating that it has reviewed and validated all of the data used to form the inputs for the Tier 1 calculator submitted under subsection (a); or

(B) The invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, along with a summary of those invoices and receipts.

(5) In addition to the items in section (3), applicants seeking to obtain a carbon intensity for a Tier 2 fuel using the full OR-GREET 3.0 model must submit the following and any other materials or information related to the fuel pathway requested by DEQ:

(a) Proof that the Tier 2 model inputs are correct in the form of:

(A) a positive verification statement from an approved verification body, provided in compliance with OAR chapter 340, division 272, stating that it has reviewed and validated all the data used to form the inputs for the Tier 2 calculator submitted under subsection (c); or

(B) or the invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, and a summary of those invoices and receipts.

(b) The geographical coordinates of the fuel production facility;

- (c) A completed Tier 2 model;
 - (d) Process flow diagrams that depict the complete fuel production process;
 - (e) Applicable air permits issued for the facility;
 - (f) A copy of the RFS third party engineering report, if available;
 - (g) A copy of the RFS fuel producer co-products report; and
 - (h) A lifecycle analysis report that describes the fuel pathway and describes in detail the calculation of carbon intensity for the fuel. The report shall contain sufficient detail to allow staff to replicate the carbon intensity the applicant calculated. The applicant must describe all inputs to, and outputs from, the fuel production process that are part of the fuel pathway.
- (6) Applicants seeking a provisional carbon intensity. If a fuel production facility has been in full commercial production for at least 90 calendar days but less than 24 months, it can apply for a provisional carbon intensity.
- (a) The applicant shall submit operating records covering all periods of full commercial operation in accordance with sections (2) through (5).
 - (b) DEQ may approve the provisional carbon intensity under section (9).
 - (c) At any time before the plant reaches a full 24 months of full commercial production, DEQ may revise as appropriate the operational carbon intensity based on the required ongoing submittals or other information it learns.
 - (d) If, after a plant has been in full commercial production for more than 24 months of full commercial production, the facility's operational carbon intensity is higher than the provisionally certified carbon intensity, DEQ will replace the certified carbon intensity with the operational carbon intensity in the Oregon Fuels Reporting System and adjust the credit balance accordingly.
 - (e) If the facility's operational carbon intensity appears to be lower than the certified carbon intensity, DEQ will take no action. The applicant may, however, petition DEQ for a new carbon intensity that reflects the operational data. In support of such a petition, the applicant must submit a revised application packet that fully documents the requested reduction.
- (7) Applicants employing co-processing at a petroleum refinery. Applicants employing co-processing of biogenic feedstocks at a petroleum refinery must submit all information required under sections (3) and (5).
- (a) For the renewable diesel or other renewable refinery product of the fuel, the applicant must also submit:

- (A) The planned proportions of biogenic feedstocks to be processed;
 - (B) A detailed methodology for the attribution of biogenic feedstocks to the renewable products; and
 - (C) The corresponding carbon intensities from each biogenic feedstock.
- (b) The attribution methodology will be subject to approval by DEQ and may be modified at DEQ's discretion based on ongoing quarterly reporting of production data at the refinery.
 - (c) DEQ may adjust the carbon intensities applied for under this section as it determines is appropriate.
- (8) Temporary Fuel Pathway Codes for Fuels with Indeterminate Carbon Intensities. A registered party that has purchased a fuel without a carbon intensity must submit a request to DEQ for permission to use a temporary fuel pathway code found in Table 9 under OAR 340-253-8010, or a temporary fuel pathway code otherwise approved and posted by DEQ under OAR 340-253-0450(11). A fuel producer may also apply to DEQ for approval to have a temporary fuel pathway code assigned to its facility.
- (a) The request must:
 - (A) Be submitted within 45 calendar days of the end of the calendar quarter for which the applicant is seeking to use a temporary fuel pathway code; and
 - (B) Explain and document that the production facility is unknown or that the production facility is known but there is no approved fuel pathway code.
 - (b) Temporary fuel pathway codes may be used for up to two calendar quarters. If more time is needed to obtain a carbon intensity, the party that obtained the temporary fuel pathway must submit an additional request to DEQ for an extension of the authorization to use a temporary fuel pathway code.
 - (c) If DEQ grants a request to use a temporary fuel pathway code, credits and deficits may be generated subject to the quarterly reporting provisions in OAR 340-253-0630. DEQ may impose conditions on the use of a temporary fuel pathway code by an applicant in order to ensure the accuracy and proper reporting of the carbon intensity being used.
- (9) Approval process to use carbon intensities for fuels other than electricity.
- (a) For applications proposing to use CARB-approved fuel pathways, including provisional fuel pathways, DEQ will:
 - (A) Confirm that the proposed fuel pathway is consistent with OR-GREET 3.0; and
 - (B) Review the materials submitted under subsection (2).

(b) For applications proposing to use the Tier 1 or Tier 2 calculators, DEQ may approve the application if it can:

(A) Replicate the calculator outputs; and

(B) Verify the energy consumption and other inputs.

(c) If DEQ has approved or denied an application for a carbon intensity under this rule, DEQ will notify the applicant of its determination.

(d) DEQ may impose conditions in its approval of a carbon intensity under this rule. Conditions may include specific limitations, recordkeeping or reporting requirements, adherence to protocols to assure carbon reduction or sequestration claims, or operational conditions that DEQ determines should apply to assure the ongoing accuracy and proper use of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked, an enforcement action being taken by DEQ, or both.

(A) For applicants seeking a provisional fuel pathway, DEQ will specify the conditions used to establish the fuel pathway.

(i) In order to maintain an active provisional fuel pathway eligible to generate credits, the applicant must file the annual fuel pathway report and seek third-party verification if required under OAR 340-253-0700.

(ii) At any point during the 24 months following the certification of a provisional fuel pathway, DEQ may revise as appropriate the CI score for the provisional fuel pathway based on new information or a better understanding of the fuel pathway.

(iii) DEQ may remove the provisional status of the fuel pathway after the applicant provides 24 months of operational data with a positive or qualified positive verification status.

(iv) For fuel pathways that are not subject to verification, DEQ may remove the provisional status upon review of 24 months of operational data demonstrating that the fuel pathway data supports the provisional CI.

(B) For a CARB-approved fuel pathway that DEQ has approved for use in Oregon, if at any time the fuel pathway approval is revoked by CARB then:

(i) The fuel pathway holder must inform DEQ within seven calendar days of the revocation and provide DEQ with documentation related to that decision.

(ii) Upon DEQ request, the fuel pathway holder must provide to DEQ additional documentation.

(iii) DEQ may at its discretion revoke its approval of the fuel pathways for use in Oregon at any time.

(iv) If CARB modifies its approval of the fuel pathway, then the fuel pathway holder must notify DEQ of the modification not later than 14 calendar days after CARB's modification and must provide to DEQ any accompanying documentation the fuel pathway holder received from CARB.

(v) Based on the underlying facts that led to CARB's modification of the fuel pathway status, within 30 calendar days DEQ may modify its approval, take no action, or revoke its approval and will provide the fuel pathway holder with written notice of its decision.

(e) In order to receive and maintain an active fuel pathway code under this rule, the producer of any fuel must:

(A) Maintain an active registration with the AFP;

(B) Provide proof of delivery to Oregon through a physical pathway demonstration in the quarter in which the fuel is first reported in the Oregon Fuels Reporting System;

(C) Comply with the requirements of this division and OAR chapter 340, division 272. In addition to, and not in lieu of, any other remedies for violations of this division, failure to timely submit an annual fuel pathway report or a required verification statement for fuel pathways will result in the deactivation of those fuel pathways;

(D) For non-provisional fuel pathways, a fuel producer must inform DEQ within fourteen calendar days after it becomes aware that its operational carbon intensity will exceed its certified carbon intensity on one or more fuel pathways; and

(E) If a fuel pathway employs carbon capture and sequestration, the fuel pathway holder or joint applicant must submit annual reports of greenhouse gas emissions reductions, project operations, and ongoing monitoring results. Reports must include measurements of relevant parameters sufficient to ensure that the quantification and documentation of CO₂ sequestered is replicable and verifiable. DEQ may specify a protocol for measuring and reporting such information in its approval of such an application;

(f) Annual Fuel Pathway Reports. Each fuel pathway holder must submit an annual fuel pathway report into the AFP no later than March 31st of each calendar year. The annual fuel pathway report must include:

(A) The certified version of the simplified OR-GREET or full OR-GREET calculator, as applicable, updated to include the most recent two calendar years of operational data;

(B) If the fuel pathway is a recertification of a CARB-approved fuel pathway, the fuel pathway holder must comply with regulations under OAR 340-253-0450(9)(d)(B);

(C) The annual fuel pathway report for renewable electricity and hydrogen lookup table pathways, in lieu of the CI calculator, must include invoices or metering records substantiating the quantity of renewable electricity or biomethane or low-CI inputs procured

from a qualifying source. If the renewable electricity, biomethane, or other qualifying source of low-CI inputs is owned by another party, the unredacted contract by which the fuel pathway holder obtained those environmental attributes must be provided;

(D) If the fuel or fuel production process involves biomethane, biogas, or renewable electricity, the fuel producer must provide the attestation regarding environmental attributes or proof of non-generation or retirement of any RECs or RTCs as required by OAR 340-253-0640 or OAR 340-253-0470(5)(d); and

(E) For biomethane injected into a natural gas common carrier pipeline, then:

(i) The retirement records for the RTCs from M-RETS Renewable Thermal or another renewable thermal tracking system recognized by DEQ. The use of an electronic tracking system is required instead of an attestation, and the specific volume of biomethane claimed as being used as a feedstock for the fuel production process must have been injected into the pipeline in the current or prior quarter as the fuel is being produced;

(ii) If the renewable electricity, biomethane, or other qualifying source of low-CI inputs is owned by another party, the unredacted contract and unredacted invoices by which the fuel pathway holder obtained those environmental attributes must be provided; and

(iii) Biomethane can only be claimed in this manner in a fuel pathway application as the feedstock for CNG, LNG, L-CNG or hydrogen production, and cannot be claimed as an energy source for another fuel production process;

(F) Any fuel pathway holder, including a joint applicant, who is not subject to site visits by a third party verifier, whose fuel pathway involves the use of renewable or low-CI process energy, must submit invoices for that energy to the AFP. Additionally, for any renewable electricity, including and on-site or directly connected generator, that is used to reduce the carbon intensity of electricity used as a fuel or hydrogen production via electrolysis, the fuel pathway holder must upload records demonstrating that any renewable energy certificates generated were retired in WREGIS or another comparable, recognized REC tracking system for the purpose of lowering the certified CI, or for credit generation. Any offsite source of renewable electricity must meet the qualifications in OAR 340-253-0470(5).;

(G) Any temporally-variable information that was requested or required by DEQ to be included in the initial application as supplemental information, or any required data or documentation listed in the pathway's operating conditions;

(H) Any additional information requested by DEQ after its review of the annual fuel pathway report; and

(I) If the verified operational CI as calculated from the operational data covering the prior two calendar years of production is found to be lower than the certified CI, and a positive verification statement is issued for this period, the fuel pathway holder may elect to keep the original certified CI or may request to replace the certified CI with the verified operational

CI. The new certified CI will take effect for the following reporting year. The fuel pathway holder may elect to add a margin of safety to the new certified CI and must submit an attestation that the new CI can be maintained through the next reporting period with the acknowledgement that exceeding the newly certified CI in subsequent annual reports or verifications is a violation of the requirements of this division.

(g) If DEQ determines that a proposal for a carbon intensity has not met the criteria in subsection (b), DEQ will notify the applicant that the proposal is denied and identify the basis for the denial.

(h) Notwithstanding OAR 340-253-0670, DEQ may modify any approved fuel pathway CI or approval conditions upon receipt of a verification statement that shows that the verified operational CI is higher than the certified CI.

(i) Any applicant for a fuel pathway under this rule may include a margin of safety in its application which will increase its certified CI in order to account for potential process variability and to reduce the risk that it will violate this division by having its operational CI exceed its certified CI.

(10) Completeness determination process. DEQ will follow the steps described in subsections (a) through (d) to determine whether a fuel pathway application is complete.

(a) For applications calculated using the Tier 1 or Tier 2 calculator, DEQ will determine whether the proposal is complete within 1 month after receiving a registration application.

(b) If DEQ determines the proposal is complete, DEQ will notify the applicant in writing of the completeness determination.

(c) If DEQ determines the proposal is incomplete, DEQ will notify the applicant of the deficiencies. The applicant has 30 calendar days to address the deficiencies or DEQ will deny the application. Upon request, DEQ may grant an extension of up to 30 additional days.

(d) If the applicant submits supplemental information, DEQ will determine if the supplemental submittal is complete within 30 calendar days, or will notify the party and identify the continued deficiencies within that time. This process may repeat until the application is deemed complete or 180 calendar days have elapsed from the date that the applicant first submitted the registration application.

(11) Issuing additional substitute and temporary fuel pathway codes. For new fuels or new fuel blends being provided within Oregon, registered parties may request that DEQ issue additional fuel pathway codes that can be used in the same manner as those in Tables 8 or 9 (substitute or temporary fuel pathway codes) under OAR 340-253-8010. DEQ may approve such substitute or temporary fuel pathway codes if it concludes they are technically sound and supported by appropriate evidence. If any are approved, DEQ will post these additional fuel pathway codes in the Oregon Fuels Reporting System and on its public website for the Clean Fuels Program. All of the following requirements apply to such requests:

(a) Requests must be made in writing to DEQ.

(b) If DEQ concludes the proposed fuel pathway may be technically sound and supported by appropriate evidence, then it will post the proposed new substitute or temporary fuel pathway codes on its website and take comments for:

(A) 14 calendar days in the case of a substitute fuel pathway code; or

(B) 45 calendar days in the case of a temporary fuel pathway code.

(c) DEQ will consider any comments received, make any modifications, if necessary, and make a final decision on the proposed fuel pathway.

(d) If DEQ concludes the proposed fuel pathway is technically sound and supported by appropriate evidence, then DEQ may approve it and publish its final decision on its website.

(e) Any newly approved substitute or temporary fuel pathway code will be effective for use in the quarter in which it is approved.

(12) Measurement accuracy.

(a) All measurement devices that log or record data for use in a fuel pathway application must comply with the manufacturer-recommended calibration frequency and precision requirements. If manufacturer-recommendations are not provided, the measurement devices must be calibrated at least every six years.

(b) Requests to Postpone Calibration. For units and processes that operate continuously with infrequent outages, it may not be possible to meet manufacturer-recommended calibration deadlines for measurement devices as required under subsection (a). In such cases, the owner or operator may submit a written request to DEQ to postpone calibration or inspection until the next scheduled maintenance outage. Such postponements are subject to the procedures of paragraphs (A) through (C) below and must be documented in the monitoring plan required under OAR 340-253-0600.

(A) A written request for postponement must be submitted to DEQ not less than 30 calendar days before the required calibration, recalibration or inspection date. DEQ may request additional documentation to validate the operator's claim that the device meets the accuracy requirements of this section. The operator shall provide any additional documentation to DEQ within 14 calendar days of a request for documentation.

(B) The request under paragraph (B) must include:

(i) The date of the required calibration, recalibration, or inspection;

(ii) The date of the last calibration or inspection;

- (iii) The date of the most recent field accuracy assessment, if applicable;
 - (iv) The results of the most recent field accuracy assessment, if applicable, clearly indicating a pass/fail status;
 - (v) The proposed date for the next field accuracy assessment, if applicable;
 - (vi) The proposed date for calibration, recalibration, or inspection which must be during the time period of the next scheduled shutdown. If the next shutdown will not occur within three years, this must be noted and a new request must be received every three years until the shutdown occurs and the calibration, recalibration or inspection is completed;
 - (vii) A description of the meter or other device, including at a minimum the: make, model, installation date, location, parameter measured by the meter or other device, the rate of data capture by the meter or other device, description of how data from the meter or other device is used in a fuel pathway, calibration or inspection procedure, reason for delaying the calibration or inspection, proposed method to ensure that the precision requirements listed by the manufacturer are upheld, and the contact details for an individual at the fuel production facility who can answer questions about the meter or other device; and
- (C) DEQ will approve or deny the request at its discretion based on whether or not it concludes that the device's calibration is reasonably reliable.

(13) Missing Data Provisions.

(a) Meter Record, Accuracy, or Calibration Requirements Not Met. If a measurement device is not functional, not calibrated within the time period recommended by the manufacturer, or fails a field accuracy assessment, the fuel production facility operator must otherwise demonstrate to a verifier or DEQ that the reported data are accurate within +/-5 percent. The following requirements apply to such demonstration:

(A) If the operator can demonstrate to the verifier or DEQ that reported data are accurate, the data are acceptable. The entity must then provide a detailed plan describing when the measurement device will be brought into calibration. This plan is subject to approval by DEQ; and

(B) If the operator cannot demonstrate to the verifier or DEQ that reported data are accurate, the data is not acceptable and the missing data provisions in subsection (b) apply.

(b) Missing Data Provisions. If missing data exists, the entity must submit for DEQ approval an alternate method of reporting the missing data. Alternate methods shall be evaluated on a case-by-case basis for reasonableness and continuity with the rest of the dataset. DEQ may choose to require a more conservative approach to the missing data if it is concerned that the alternative method may understate actual lifecycle emissions associated with the fuel or fuels produced by the facility.

(c) Force Majeure Events. In the event of a facility shutdown or disruption drastically affecting production attributable to a force majeure event, the fuel pathway applicant or holder must notify DEQ.

(14) Biomethane applications. In addition to the other requirements of this rule, for any fuel pathway where biomethane is being injected into a natural gas common carrier pipeline to be reported in the CFP using book and claim accounting, the fuel pathway holder, fuel producer, or both must ensure that no other party can make a claim on the specific biomethane attributes that are being used in the CFP. If the biomethane is being injected into the pipe of a local distribution company, the fuel producer must have an agreement with that company along with any other purchaser of the physical gas that they will not make any claims on the biomethane reported through book and claim in this program. That agreement must be submitted at the time of the fuel pathway application or in the next annual fuel pathway report if the fuel pathway is currently certified.

(15) For non-provisional pathways, if a fuel pathway's operational CI is found to be greater than its certified CI, the fuel pathway holder is out of compliance with this division and may be subject to investigation and enforcement by DEQ.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0460

Energy Economy Ratio-Adjusted carbon intensity applications

(1) EER-adjusted CI Applications submitted under this rule are modified Tier 2 pathway applications under OAR 340-253-0450. The vehicles covered by these applications must not be currently covered by a vehicle-category specific EER.

(2) The following persons are eligible to submit an application under this rule:

(a) Vehicle owners or operators that would be eligible to generate credits for their vehicles based in Oregon, including for vehicles otherwise exempt from this program under OAR 340-253-0250, subject to section (7);

(b) Manufacturers of vehicles that would be eligible to generate credits may make a joint application with an owner or operator of their vehicles based in Oregon; and

(c) A single, joint application may be submitted on behalf of, and combining data from, any combination of multiple vehicle owners, operators, and manufacturers except that at least one of the applicants must qualify under subsection (a).

(3) Applications made under this rule must be for electric vehicles capable of full normal operation using energy from onboard batteries or fuel cells.

(4) Application requirements for an EER-adjusted CI under this rule. Applications can be made in connection with a Tier 1 or Tier 2 electricity fuel pathway application or the applicant can apply for a value that can be used in conjunction with one of the generally-available electricity fuel pathway codes. In addition to the application requirements for a Tier 2 pathway application under OAR 340-253-0450, the applicant or applicants must include:

(a) A letter of intent to request an EER-adjusted CI and why the EER values provided in OAR 340-253-8010 are inapplicable. The letter must demonstrate using data that electricity is not the majority of the fuel currently used in the particular vehicle category;

(b) A detailed description of the methodology used in its calculations, all assumptions made, and provide all data and references to calculations. The methodology used must compare the useful output from the alternative fuel-vehicle technology under consideration to comparable conventional fuel-vehicle technology;

(c) Supplemental information including records and datasets used to establish any part of the application provided under (b); and

(d) If the applicant or applicants plan to use a value in the lookup table in OAR 340-253-8010 for the carbon intensity of the fuel, or an electricity fuel pathway code issued under OAR 340-253-0470, to request an EER-adjusted CI then they do not need to provide the fuel facility-specific information required for a Tier 1 or Tier 2 fuel pathway application under OAR 340-253-0450(3)(e) through (h) and (5).

(5) Minimum data requirements to apply for an EER-adjusted CI under this rule:

(a) Any application made under this rule must include at least three months of operating data that represents typical usage for each individual vehicle included in the application, except that the application must cover at least 300 hours of operating data for each individual vehicle included in the application; and

(b) Notwithstanding subsection (a), an application from a manufacturer may provide data from duty-cycle testing. A manufacturer seeking to apply using duty-cycle testing data must consult with DEQ prior to submitting an application and receive written, advanced approval from the agency for the duration and test cycles it is including in the application in addition to or in lieu of operational data.

(6) Application review process to apply for an EER-adjusted CI under this rule:

(a) DEQ will review an application for completeness, soundness of the assumptions and comparison to the conventional fuel technology, and accuracy of the data. DEQ may deny an application without prejudice if it is incomplete. DEQ may deny any application that it believes is adequately covered by an existing EER value in OAR 340-253-8010 or that it believes does not fit the intent and purpose of the CFP;

(b) DEQ may prioritize its review of applications under this provision to those that cover a greater number of entities or that the agency believes are critical to the state's transportation electrification goals;

(c) If DEQ intends to approve an application, it first must present a review report with a proposed EER value and operating conditions to the applicant or applicants. If the applicant or applicants accept the proposed review report and EER value and operating conditions, DEQ will post the review report and application on its website for a 30-day public comment period. DEQ staff will work with the applicant to aggregate and summarize any submitted data in order to ameliorate concerns regarding trade secrets included in the application. The aggregated data must still allow external stakeholders to understand and replicate the EER value that DEQ is proposing to approve; and

(d) Based on comments received during that public comment period, DEQ may move forward with approving the application as provided in section (7), deny the application, request additional information from the applicant or applicants, or modify the review report. If DEQ modifies the review report or receives additional information that has a material bearing on the proposed EER value, it will issue the modified review report and any affected supplemental materials for another round of public comment.

(7) Based on its review of the application materials and any comments submitted upon the application under section (6), DEQ may issue an EER-adjusted CI or issue a value that it would post on its website that could be used similarly to the EER values contained in Table 7 of OAR 340-253-8010. Values issued under this rule can only be used by the applicant or applicants for that value. In its consideration of these applications, DEQ may, at its sole and complete discretion, deny applications for vehicles otherwise exempt under OAR 340-253-0250 if DEQ determines granting such an application is not in the best interests of program administration and goals.

(8) Adding Joint Applicants after a value is approved. If DEQ has issued a value under section (7) as part of an application that includes the manufacturer of the vehicle(s), owners or operators who begin to operate the same vehicle(s) covered in that application in Oregon may request to be added as a joint applicant. In order to do so they must provide the following:

(a) A letter from at least one of the applicants that qualify under either subsection (2)(a) or (2)(b);

(b) A statement by the new joint applicant that they understand and accept any and all operating conditions associated with the EER-adjusted CI; and

(c) Any current operational data by the new joint applicant, or other elements requested by DEQ.

(9) Ongoing reporting requirements.

(a) For any EER-adjusted CI approved by DEQ under section (7), the applicant for such approval must annually submit vehicle usage and energy consumption data for each individual vehicle using the value approved by DEQ to generate credits or deficits. DEQ may specify additional data elements that must be reported annually as part of its pathway conditions for an application that is approved under this rule.

(b) Notwithstanding the applicability requirements of OAR chapter 340, division 272, for any EER-adjusted CI approved by DEQ under section (7), DEQ may require third party verification of the annual fuel pathway report submitted by the applicant or joint applicants for such approval. If DEQ determines that third party verification is required, DEQ will include that as an operating condition presented to the applicant or applicants under this rule as part of its approval of the EER value.

(10) Modifications to EER values issued under this rule. Based on the ongoing reported data required under section (9) or additional applications for vehicles that DEQ determines to be in the same category, DEQ may modify any EER values issued under this provision for reporting beginning within the next full calendar quarter following its notice that the agency is modifying the value. DEQ will provide notice to the applicant(s) for such EER value prior to doing so and may request comment from them and the public prior to modifying the value.

Statutory/Other Authority: ORS 468.020, ORS 468A.266, ORS 468A.268 & ORS 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, adopt filed 03/26/2021, effective 03/26/2021

340-253-0470

Determining the Carbon Intensity of Electricity

(1) Statewide electricity mix. The carbon intensity for the statewide electricity mix will reflect the average carbon intensity of electricity served in Oregon and be calculated by using the carbon-intensity of electricity from the most recent year as submitted to DEQ under OAR chapter 340, division 215. In calculating the statewide mix DEQ will exclude the energy and emissions related to utilities that have received utility-specific carbon intensity values under section (3) of this rule for that year. No later than December 31 of each year DEQ will:

(a) Post the updated statewide electricity mix carbon intensity for the next year on the DEQ webpage;

(b) Post the updated utility-specific carbon intensities for the next year on the DEQ webpage; and

(c) Add the new fuel pathway codes to the Oregon Fuels Reporting System effective for the first quarter reporting for the next year.

(2) Retirement of major fossil-fuel generators. For the 2021 and 2022 statewide mixes and any applicable utility-specific mixes, DEQ will replace the direct emissions associated with power from the Boardman coal-fired power plant with an emissions rate of 0.428 metric tons CO₂e per megawatt-hour. For indirect emissions, DEQ will continue to use the most recent fuel mix data available.

(3) Utility-specific carbon intensity. An electric utility may apply to obtain a utility-specific carbon intensity under OAR 340-253-0400 that reflects the average carbon intensity of electricity served in that utility district.

(a) The carbon intensity will be calculated by using the carbon intensity of electricity over the most recently reported year.

(b) Once DEQ has calculated a utility-specific carbon intensity, DEQ will propose its draft carbon intensity to the utility.

(A) If the utility does not agree with DEQ's proposed carbon intensity, then it must provide DEQ with an explanation of why it believes the proposed carbon intensity is not accurate within seven calendar days of receiving DEQ's proposal. DEQ will consider whether to change its proposed carbon intensity based on the information it receives from the utility. If DEQ determines not to change its proposed carbon intensity within 30 calendar days, then the utility may choose to accept the proposed carbon intensity or use the statewide electricity mix carbon intensity.

(B) If the utility agrees with DEQ's proposed carbon intensity, then the draft carbon intensity is made final and approved.

(C) If the utility fails to submit a timely objection to the calculation, then the draft carbon intensity is made final and approved.

(c) A utility that wants to discontinue a utility-specific carbon intensity may submit a written request to DEQ by October 31 for the following year. A utility can reapply for a utility-specific carbon intensity at any time in the future.

(4) For on-site generation of electricity using renewable generation systems such as solar or wind, applicants must document that:

(a) The renewable generation system is on-site or directly connected to the electric vehicle chargers;

(b) The fuel pathway codes listed in Table 3 under OAR 340-253-8010 for solar-generated or wind-generated electricity can only be used for the portion of the electricity dispensed from the charger that is generated by that dedicated renewable energy system;

(c) Any grid electricity dispensed from the charger must be reported separately under the statewide electricity mix or utility-specific fuel pathway codes; and

(d) RECs are not generated from the renewable generation system or, if they are, then an equal number of RECs generated from that facility to the number of MWh reported from that facility must be retired in the recognized REC tracking system.

(5) Offsite renewable electricity. In order to lower the carbon intensity of electricity claimed as a fuel in the CFP, credit generators and aggregators may retire renewable electricity certificates that meet the following qualifications:

(a) RECs retired in order to claim a carbon intensity other than the statewide mix or utility-specific mix must be certified by the Green-e Program under the Green-e Renewable Energy Standard for Canada and the United States version 3.5, or by a certification system approved by DEQ as being substantially equivalent, and:

(A) Unbundled RECs being used to claim low-carbon electricity through book and claim accounting must be certified at the wholesale level; and

(B) RECs used in a power purchase agreement or Utility Renewable Electricity Product may be certified at the retail level;

(b) RECs must be generated by an electric generator that was placed into service after 2015, or in the case of biogas generators they must meet the new date requirements of the Green-e Standard;

(c) RECs must be generated from facilities located in the Western Electricity Coordinating Council; and

(d) RECs must be recorded and retired in a recognized REC tracking system, and:

(A) In addition to recognizing the WREGIS, DEQ may recognize additional REC tracking systems upon a request from a registered party; and

(B) In reviewing a request from a registered party referenced in paragraph (A), DEQ may consider whether the tracking system is comparable to WREGIS and whether it has systems in place to ensure accurate issuance and tracking of RECs.

(6) Carbon intensity of renewable electricity.

(a) The carbon intensity of solar, wind, geothermal, hydropower, and ocean power renewable electricity is deemed to be zero.

(b) For renewable electricity generated from biomass, biogas, biodiesel, and hydrogen, the generator must file a Tier 1 or Tier 2 fuel pathway application to determine the carbon intensity of its electricity.

(c) DEQ may adopt an efficiency adjustment factor for biogas to electricity pathways that include emissions reduction credits in order to maintain the program's incentive for energy efficiency.

(7) Utility Renewable Electricity Products and Power Purchase Agreements. Electric utilities and Electric Service Suppliers may apply for DEQ to assign a carbon intensity to one or more of their renewable electricity products or a specific power purchase agreement, which may then be used to generate credits from charging electric vehicles attributable to the use of such products or agreements. All of the following requirements apply to such applications:

(a) Applications made under this section must include:

(A) A letter describing the power purchase agreement or Utility Renewable Electricity Product, the existing or planned source, or sources, of electricity and environmental attributes, and the terms by which it is being offered to customers;

(B) Samples or examples of bills, invoices, contracts, or other documentation that an entity claiming renewable energy under this product could provide to DEQ to prove that their electric vehicle charging is covered by the product or agreement;

(C) In the case of a Utility Renewable Electricity Product, any filings with, and orders by, the Oregon Public Utility Commission or a local governing board that approves the product; and

(D) An estimate of the amount of electric vehicle charging attributable to customers for the product or agreement.

(b) DEQ will review applications under this section to determine if they result in a substantially similar environmental outcome to the sources of renewable energy required under section (5) of this rule. In reviewing a utility product or agreement that contains multiple sources of power, DEQ may use the estimate under paragraph (a)(C) of this section to determine if sufficient renewable energy that is substantially similar to the requirements of section (5) is included in the product to cover charging that may be claimed under the CFP. DEQ may revisit this determination annually using the annual fuel pathway report for these products or agreements.

(c) Annual Report for renewable electricity products and agreements. If DEQ has approved an application under this section then, the applicant must submit a report annually by June 30 for pathways covered by this section that includes:

(A) An update of the source(s) of electricity or environmental attributes that were used in the prior year and are planned for use in the year in which the report is submitted;

(B) Retirement records for any RECs used to lower the claimed carbon intensity of the electricity being used by customers of those products approved for use in the CFP for the prior year;

(C) If the product is certified by the Green-e Program, proof of completion of final verification of the product must be included, or a validation statement if the product is undergoing the program's Customer Procurement Review;

(D) An update the estimate of the amount of electric vehicle charging attributable to customers using the products or agreements; and

(E) Annual reports required by this section are due by June 30 of each year.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-0500

Registration

(1) Registering as a regulated party, credit generator, aggregator, or an out-of-state producer voluntarily registering under 340-253-0100(1)(c).

(a) To register as a regulated party, credit generator, aggregator, or an out-of-state producer voluntarily registering under 340-253-0100(1)(c), the following information must be included in a registration application and approved by DEQ:

(A) Company identification, including physical and mailing addresses, phone numbers, e-mail addresses, contact names, EPA RFS identification numbers where applicable, and the Oregon Secretary of State Corporations Division business registry number where applicable;

(B) The status of the registrant as a producer, importer of blendstocks, small importer of finished fuels, large importer of finished fuels, credit generator, or aggregator;

(C) The category of each fuel that the company or organization will be producing, importing, or dispensing for use in Oregon;

(D) A list of all related entities for the registrant, and any registered parties that share common ownership or control;

(E) For registrants dispensing natural gas, propane, or hydrogen, using FSE, the number of dispensing facilities located in Oregon and their locations;

(F) For registrants charging electric vehicles using FSE, the number of chargers located in Oregon and their locations;

(G) For registrants that are also electric utilities, whether they want to:

(i) Aggregate the residential electric credits in their service territory under OAR 340-253-0330(2) or (3); or

(ii) Obtain a utility-specific carbon intensity under OAR 340-253-0470;

(H) Any other information requested by DEQ related to registration.

(b) After DEQ approves the registration application, the regulated party, credit generator, or aggregator must establish an account in the OFRS and fill out an Account Administrator Designation form.

(c) Modifications to the registration.

(A) The registrant must submit an amended registration to DEQ within 30 days of any change occurring to information described in section (1).

(B) DEQ may require a registrant to submit an amended registration based on new information DEQ receives.

(C) If a registrant amends its registration under this section, the registrant must also update the registrant's account in the OFRS to accurately reflect the amended information, as appropriate.

(d) Cancellation of the registration.

(A) A regulated party, credit generator, or aggregator must cancel its registration if it is:

(i) A regulated party that no longer meets the applicability of the program under OAR 340-253-0100(1); or

(ii) A credit generator or aggregator that is registered and reporting to the CFP and decides to voluntarily opt-out of the CFP. The credit generator or aggregator must provide a 90-day notice of intent to opt out of the CFP by letter and a proposed effective date for the completion of the opt-out process.

(B) A regulated party, credit generator or aggregator that is canceling its registration under this section must submit any outstanding quarterly and annual reports and be in full compliance with the program's standards. Any party canceling its registration will not be allowed to do so until they comply with any outstanding deficits on their account.

(C) Any credits that remain in an account of a regulated party, credit generator or aggregator that is cancelling its registrations under this section shall be forfeited and the account in the OFRS shall be closed.

(D) Once DEQ determines that the actions described in paragraphs (A) through (C) are complete, DEQ will notify the registrant in writing of the cancellation of its registration.

(e) Registered parties must submit to DEQ an updated version of the related entity form required in paragraph (1)(a)(D) within 30 days of any event that necessitates a change or update to that form.

(2) Registering as a fuel producer.

(a) To register as a fuel producer in the OFRS, the following information must be included in the AFP Account Administrator Designation application and approved by DEQ:

(A) Company identification, including physical and mailing addresses, phone numbers, e-mail addresses, contact names, and EPA RFS identification numbers;

(B) Any other information requested by DEQ related to registration.

(b) DEQ will review the registration application for completeness and validity.

(c) Upon registration approval by DEQ, the fuel producer must establish an account in the AFP portion of the OFRS and comply with the requirements of this division and any conditions placed upon the fuel pathway codes that it holds.

(3) Registering FSE and certain vehicles. Credit generators and aggregators reporting on behalf of credit generators for use of electricity, hydrogen, alternative jet fuel, and fossil and bio-based or renewable LPG, CNG, and LNG, must register their fuel supply equipment (FSE), certain vehicles, or both, to report fuel volumes used, as provided in section (5). An FSE registration is not valid until approved by DEQ.

(4) DEQ will not review or approve FSE and vehicle registrations submitted in the second 45 days of a calendar quarter until the following quarter.

(5) Fuel Supply Equipment. Registered parties may register their active and operational FSE, vehicles, or both to report fueling of vehicles with electricity, natural gas, renewable natural gas, propane, renewable propane, or hydrogen as follows:

(a) To register FSE and vehicles the following must be provided in OFRS:

(A) The entity registering the FSE and vehicles and, if they have been designated as an aggregator, the entity that designated them;

(B) The location of the FSE, including the name of the facility, the address, and latitude and longitude;

(C) For CNG fueling equipment, the utility meter number for a CNG station and an invoice from utility demonstrating fuel delivery to the site or FSE;

(D) For LNG fueling equipment, the fueling station identification number and the owner of the station, as well as the type of station and an invoice demonstrating fuel delivery to the site or FSE;

(E) For propane fueling equipment, the fueling station identification number and the fueling station owner, and an invoice or other documentation demonstrating service to the site or FSE;

(F) For hydrogen fueling equipment, the fueling station identification number, and an invoice or other documentation demonstrating service to the site or FSE; and;

(G) For electrical fuel equipment, the type of charger, the serial number of the fueling equipment, the manufacturer of the fueling equipment, and documentation that the electrical fueling equipment being registered is active and operational;

(b) To register off-road electrical and hydrogen vehicles or their fueling equipment, the registered party must provide the following information:

(A) The quarter and year of the registration;

(B) The address where the vehicle or FSE is based;

(C) The category of FSE;

(D) The type of equipment or vehicle;

(E) The name of the equipment manufacturer;

(F) The unique serial number assigned to by the manufacturer;

(G) The model year;

(H) The vehicle identification number, if applicable;

(I) The date that the information being submitted was collected or last updated; and

(J) Any other information that DEQ requests in order to reduce the likelihood of multiple entities registering the same equipment or reporting the same quantity of fuel, or to ensure that the correct fuel application and energy economy ratio is being used when credits or deficits are being calculated. Information must be provided to DEQ within 14 calendar days of such a request, or the registration will be rejected;

(c) DEQ may request additional documentation or evidence prior to approving a registration of FSE, and DEQ may deny the registration if the applicant fails to provide the requested documentation or evidence within 7 calendar days or another deadline set by DEQ;

(d) For electric vehicle chargers on a single dedicated circuit or panel, a single meter for that circuit or panel may be registered and used as the FSE so long as the registered party can

prove that no other electrical equipment is or will be connected to that circuit, so the meter is only recording EV charging; and

(e) Registrations will only be processed for active and operational FSE or vehicles. Registered parties must inform DEQ if registered FSE or vehicles are replaced or retired, or if they have a maintenance outage that last for more than 90 days. Registered parties must note any maintenance outages in the FSE transaction description of each quarterly report.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0600

Records

(1) Records Retention. Registered parties must retain the following records for at least seven years:

(a) Product transfer documents as described in section (2);

(b) Records related to obtaining a carbon intensity or other value described in OAR 340-253-0450, OAR 340-253-0460, and OAR 340-253-0470;

(c) Copies of all data and reports submitted to DEQ;

(d) Records related to each fuel transaction;

(e) Records used for compliance or credit calculations;

(f) Records used to establish that feedstocks are specified source feedstocks; and

(g) Records related to third-party verification, if required under OAR 340-253-0700.

(2) Documenting Fuel Transactions.

(a) Except as provided in subsection (b), fuel transactions must be documented through a product transfer document and include the information specified below:

(A) Transferor company name, address, and contact information;

(B) Recipient company name, address, and contact information;

(C) Transaction date;

(D) Fuel pathway code;

(E) Carbon intensity;

(F) Volume/amount;

(G) A statement identifying whether the transferor or the recipient has the compliance obligation;

(H) The EPA fuel production company identification number and facility identification number as registered with the RFS program; and

(I) The state where the fuel will be delivered, if known at the time of sale. If unknown, then the PTD must state the destination as unknown.

(b) For transactions of clear and blended gasoline and diesel below the rack where the fuel is not destined for export, only the records described in paragraphs (2)(a)(A), (B), (C), (F), and (G) are required to be retained.

(3) Documenting Credit Transactions. Registered parties must retain the following records related to all credit transactions for at least seven years:

(a) The contract under which the credits were transferred;

(b) Documentation on any other commodity trades or contracts between the two parties conducting the transfer that are related to the credit transfer in any way; and

(c) Any other records relating to the credit transaction, including the records of all related financial transactions.

(4) Review by DEQ. All data, records, and calculations used by a registered party, a fuel producer, or fuel pathway holder registered under OAR 340-253-0500(2) to comply with OAR chapter 340, division 253 are subject to inspection and verification by DEQ. Registered parties, fuel producers, and fuel pathway holders must provide records retained under this rule within 30 calendar days after the date DEQ requests a review of the records, unless DEQ specifies otherwise.

(5) Information exempt from disclosure. Pursuant to the provisions of the Oregon public records law, ORS 192.410 to 192.505, all information submitted to DEQ is subject to inspection upon request by any person unless such information is determined to be exempt from disclosure under the Oregon public records law or other applicable Oregon law.

(6) Attestations regarding environmental attributes used for book and claim for renewable electricity, biomethane, or biogas.

(a) A registered party reporting any fuel claimed in the CFP using a book and claim accounting method must retire RTCs or RECs that embody the full environmental attributes of that fuel in an electronic tracking system approved by DEQ. The quantity of energy covered by the RTC or the REC must match or exceed the volume of fuel claimed in the CFP. The environmental attributes embodied by that RTC or REC must not have been used or claimed in any other program or jurisdiction with the exception of the federal RFS, any reporting required under OAR chapter 340, division 215, and the program under OAR chapter 340, division 271. To be validly used in compliance with this division, any such claims under the federal RFS or OAR chapter 340, divisions 215 and 271, must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP.

(b) A fuel pathway holder using directly delivered renewable electricity, biogas or biomethane as a process energy or feedstock must obtain and keep attestations from each upstream party collectively demonstrating that such holder has exclusive right to use those environmental attributes. The attestation must include documentation that shows:

(A) The entity claiming the environmental attributes for renewable electricity, biogas or biomethane in the CFP must have the exclusive right to claim the environmental attributes associated with the use of that fuel; and

(B) The environmental attributes have not been used or claimed in any other program or jurisdictions with the exception of the federal RFS and any reporting required under OAR chapter 340, divisions 215 and 271. To be validly used in compliance with this division, any such claims under the federal RFS or OAR chapter 340, divisions 215 and 271 must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP.

(c) Any attestation or retirement records for biogas, biomethane, and renewable electricity must be provided to DEQ within seven calendar days of receiving a request for such attestation by DEQ. Failure to provide such attestations is grounds for credit invalidation under OAR 340-253-0670.

(9) Monitoring plan for registered parties who are required to obtain third-party verification services under OAR 340-253-0700. Each registered party responsible for obtaining third-party verification of their data under OAR chapter 340, division 272 must complete and retain a written monitoring plan for review by a verifier or DEQ. If a fuel production facility is required to complete and maintain a monitoring plan by the California LCFS, the same monitoring plan may be used to meet the requirements of this rule unless there are substantive differences between the two programs' treatment of the fuel production process. A monitoring plan must include the following, as applicable:

(a) All of the following general items are required for all monitoring plans:

(A) Information to allow DEQ and the verification team to develop a general understanding of boundaries and operations relevant to the entity, facility, or project, including participation in other markets and other third-party audit programs;

(B) Reference to management policies or practices applicable to reporting pursuant to this division, including recordkeeping;

(C) Explanation of the processes and methods used to collect necessary data for reporting pursuant to this division, including identification of changes made after January 1, 2020;

(D) Explanations and queries of source data to compile summary reports of intermediate and final data necessary for reporting pursuant to this division;

(E) Reference to one or more simplified block diagrams that provide a clear visual representation of the relative locations and positions of measurement devices and sampling locations, as applicable, required for calculating reported data (e.g., temperature, total pressure, LHV or HHV, fuel consumption); the diagram(s) must include storage tanks for raw material, intermediate products, and finished products, fuel sources, combustion units, and production processes, as applicable;

(F) Clear identification of all measurement devices supplying data necessary for reporting pursuant to this division, including identification of low flow cutoffs as applicable, with descriptions of how data from measurement devices are incorporated into the submitted report;

(G) Descriptions of measurement devices used to report CFP data and how acceptable accuracy is demonstrated, e.g., installation, maintenance, and calibration method and frequency for internal meters and financial transaction meters; this provision does not apply to data reported in the Oregon Fuels Reporting System for generating credits for EV charging;

(H) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems, flow meters, and other instrumentation used to provide data for CFP reports;

(I) Original equipment manufacturer (OEM) documentation or other documentation that identifies instrument accuracy and required maintenance and calibration requirements for all measurement devices used to collect necessary data for reporting pursuant to this division;

(J) The dates of measurement device calibration or inspection, and the dates of the next required calibration or inspection;

(K) Requests for postponement of calibrations or inspections of internal meters and subsequent approvals by DEQ. The entity must demonstrate that the accuracy of the measured data will be maintained pursuant to the measurement accuracy requirements of OAR 340-253-0450(12);

(L) A listing of the equation(s) used to calculate flows in mass, volume, or energy units of measurement, and equations from which any non-measured parameters are obtained, including meter software, and a description of the calculation of weighted average transport distance;

(M) Identification of job titles and training practices for key personnel involved in CFP data acquisition, monitoring, reporting, and report attestation, including reference to documented training procedures and training materials;

(N) Records of corrective and subsequent preventative actions taken to address verifier and DEQ findings of past nonconformance and material misstatements;

(O) Log of modifications to a fuel pathway report conducted after attestation in response to review by third-party verifier or DEQ staff;

(P) Written description of an internal audit program that includes data report review and documents ongoing efforts to improve the entity's CFP reporting practices and procedures, if such an internal audit program exists; and

(Q) Methodology used to allocate the produced fuel quantity to each fuel pathway code;

(b) Any monitoring plan related to a fuel pathway carbon intensity or reporting quantities of fuels must also include the following elements specific to fuel pathway carbon intensity calculations and produced quantities of fuels per fuel pathway code:

(A) Explanation of the processes and methods used to collect necessary data for fuel pathway application and annual fuel pathway reports and all site-specific OR-GREET 3.0 inputs, as well as references to source data;

(B) Description of steps taken, and calculations made to aggregate data into reporting categories, for example aggregation of quarterly fuel transactions per fuel pathway code;

(C) Methodology for assigning fuel volumes by fuel pathway code, if not using a method prescribed by DEQ. If using a DEQ prescribed methodology, the methodology should be referenced;

(D) Methodologies for testing conformance to specifications for feedstocks and produced fuels, particularly describing physical testing standards and processes;

(E) Description of procedure taken to ensure measurement devices are performing in accordance with the measurement accuracy requirements of OAR 340-253-0450(12);

(F) Methodology for monitoring and calculating weighted average feedstock transport distance and modes, including the specific documentation records that will be collected and retained on an ongoing basis;

(G) Methodology for monitoring and calculating fuel transport distance and modes, including the specific documentation records that will be collected and retained on an ongoing basis;

(H) References to contracts and accounting records that confirm fuel quantities were delivered into Oregon for use in carbon intensity determination, and confirm feedstock and finished fuel transportation distance; and

(I) All documentation required pursuant to OAR 340-253-0600(10) for specified source feedstocks, defined in OAR 340-253-0400(6); and

(c) The monitoring plan must also include documentation that can be used to justify transaction types reported for fuel in the Oregon Fuels Reporting System, including the production amount, sale/purchase agreements and final fuel dispensing records. Such documentation must be specific to quarterly fuel transactions reports for importers of blendstocks, importers of finished fuels, Oregon producers, credit generators, aggregators, and out-of-state producers.

(10) Feedstock Transfer Documents. A feedstock transfer document for specified source feedstocks must prominently state the following information:

(a) Transferor company name, address and contact information;

(b) Recipient company name, address and contact information;

(c) Type and amount of feedstock, including units; and

(d) Transaction date.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0620

Oregon Fuels Reporting System

(1) Online reporting. Registered parties must use the OFRS to submit all required reports, including quarterly reporting under OAR 340-253-0630 and annual compliance reports under OAR 340-253-0650.

(2) Credit transactions. Registered parties must use the OFRS to transfer credits.

(3) Establishing an account. After DEQ approves a registration application under OAR 340-253-0500, the registered party must establish an account in the OFRS and must include the following information:

(a) Business name, address, state and county, date and place of incorporation, and FEIN;

(b) The name of the person who will be the primary contact, and that person's business and mobile phone numbers, email address, OFRS username and password;

(c) Name and title of at least two persons who will act as Administrators for the account;

(d) Optionally the name and title of one or more persons who will be Contributors on the account;

(e) Optionally the name and title of one or more persons who will be Reviewers on the account;

(f) Optionally the name and title of one or more persons who will be Credit Facilitators on the account; and

(g) Any other information DEQ may require in the OFRS.

(4) Account management roles. The roles and account authorizations of OFRS administrators, contributors, reviewers and credit facilitators are as follows:

(a) Administrators are:

(A) Authorized to sign for the account;

(B) Responsible for submitting quarterly and annual compliance reports;

(C) Authorized to make changes to the company profile; and

(D) Authorized to designate other persons who can review and upload data, but may not authorize others to submit reports, except as provide in paragraph (4)(b)(A).

(b) Contributors are:

(A) Authorized to submit quarterly and annual compliance reports, if given signature authority by an administrator for that organization; and

(B) May not make changes to the account profile.

(c) Reviewers are:

(A) Provided read-only access; and

(B) May not submit quarterly and annual compliance reports.

(d) Credit Facilitators are:

(A) Authorized to initiate and complete credit transfers on behalf of the registered party;

(B) Authorized to add postings to the OFRS “Buy/Sell Board”; and

(C) Provided read-only access to quarterly and annual reports.

(5) Signature. An administrator or a contributor authorized by the registered party to sign reports on its behalf must sign each report required under this division to certify that the submitted information is true, accurate, and complete.

(6) Alternative Fuel Portal. Fuel producers registered under OAR 340-253-0500 must establish an account in the AFP portion of the OFRS, as described in this section, and must designate an administrator for their account.

(a) In order to register in the AFP, a fuel producer must provide as part of its registration application:

(A) The EPA-assigned company identification number under the Title 40 Code of Federal Regulations Part 80 Fuel Programs registration, if applicable;

(B) The production company name, FEIN issued by the United States Internal Revenue Service, and the corporate address of the company;

(C) The name and title of the legal contact for the fuel producer, along with their business phone, email, and a website address for the fuel producer; and

(D) The name and title of the designated administrator of the fuel producer’s account, and a signed account administrator form for that administrator.

(b) Once a fuel producer has an approved account in the AFP, it may:

(a) Register its individual fuel production facilities in the AFP by supplying the following information:

(i) The EPA facility identification number under Part 80 if applicable;

- (ii) The name, address, and geographic coordinates of the facility; and
 - (iii) A contact at the facility, including their name, title, phone number, and email.
- (b) Submit fuel pathway code applications through the AFP for each of its facilities for DEQ approval along with the annual fuel pathway report for each of those facilities; and
- (c) Submit the physical transport mode demonstration package through the AFP for DEQ approval, once a fuel pathway code has been approved.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

340-253-0630

Quarterly Reports

- (1) Quarterly reports. Except for persons exempt from this requirement under OAR 340-253-0100, registered parties must submit a quarterly report using the OFRS by:
- (a) June 30 — for January through March of each year;
 - (b) September 30 — for April through June of each year;
 - (c) January 10 — for July through September of each year;
 - (d) March 31 — for October through December of each previous year;
 - (e) If a reporting deadline occurs on a Saturday, Sunday, or a state holiday, the deadline is extended to the following business day; and
 - (f) The first quarterly report each year, due June 30, may not be submitted prior to May 1st in order to allow time for DEQ to generate carry-back credits for the previous year.
- (2) General reporting requirements for quarterly reports. Quarterly reports must comply with all of the following requirements:
- (a) Quarterly reports must contain the information specified in Table 5 under OAR 340-253-8010 for each fuel.

(b) All persons required to file a quarterly report under this rule must upload their data for the quarterly reports to the OFRS within the first 45 calendar days after the end of the quarter.

(c) During the second 45 calendar days, all persons required to file a quarterly report must work with each other to resolve any fuel transaction discrepancies between different reporters' reported transactions.

(d) For reporting all fuel transactions in a quarterly report, registered parties must use the transaction types defined in OAR 340-253-0040, or those issued by DEQ under subsection (e), to report imports, exports, transfers of ownership, sales to exempt vehicles, and gains or losses of inventory of regulated fuels, and the fueling of vehicles.

(e) DEQ may issue additional transaction types that registered parties may use in the same manner as those authorized under OAR 340-253-0040(110). DEQ may propose a new transaction type on its own initiative or in response to a request from a regulated party. DEQ may approve such new transaction types if they do not expand the program's current reporting requirements for registered parties by requiring additional actions to be reported. The additional transaction types may only refine the detailed reporting of actions that previously were required to be reported under a different transaction type. Prior to approving a new transaction type:

(A) DEQ must post a proposal for the new transaction type on its website and take public comments for no fewer than 45 calendar days;

(B) DEQ will consider any comments received, make any modifications, if necessary, and make a final decision on whether the proposed new transaction type is appropriate, at DEQ's sole discretion;

(C) DEQ will publish its final decision on its website; and

(D) A new approved transaction type will be effective for use in the quarter following the date that it is approved by DEQ.

(3) Submitting a quarterly report. In order to submit a quarterly report, a registered party must confirm the following statement by acceptance and certification in the Oregon Fuels Reporting System:

"I, [Name of real person], as person with Signatory Authority, am submitting this report on behalf of [Company Name], with the understanding that the information contained in this report is considered an official submission to Oregon Department of Environmental Quality for purposes of compliance with the Clean Fuels Program (CFP) regulation. Furthermore, by submitting this report, I understand that I am bound by, and authenticate this record, and attest to the statements contained within. I also understand that submitting or attesting to false statements is prohibited under Oregon law, and may subject me to civil enforcement, criminal enforcement, or both. I certify that information supplied herein is correct and that I have the authority to submit this report on behalf of the company named above. As a

condition of participating in the program, I acknowledge that credits are regulatory instruments that do not constitute personal property, instruments, securities or any other form of property, as provided in OAR 340-253-1000(6)(b). Credits and deficit calculations are subject to the provisions of OAR 340-253-0670, under which DEQ may, without limitation, correct errors should a regulated party or credit generator not do so themselves, place holds on credits and/or accounts as part of an inquiry, and invalidate credits or fuel pathway codes that were illegitimately generated or otherwise created in error. I acknowledge that DEQ may, at its discretion, place a hold on credits and accounts while DEQ undertakes any inquiry regarding such credits or accounts. Suspension, revocation, and/or modification actions by DEQ may be contested as provided under Oregon law.”

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14
DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0640

Specific Requirements for Reporting Under This Division

(1) For natural gas or biomethane (inclusive of CNG, LNG, and L-CNG), any registered party must report the following as applicable under this division:

(a) For CNG and L-CNG, the amount of fuel in therms dispensed per reporting period for all LDV and MDV, HDV-CIE, and HDV-SIE.

(b) For LNG, the amount of fuel dispensed in gallons per compliance period for all LDV and MDV, HDV-CIE, and HDV-SIE.

(c) For CNG, L-CNG, and LNG, the carbon intensity as listed in 4 under OAR 340-253-8040.

(d) For biomethane-based CNG, LNG, and L-CNG, the carbon intensity as approved under OAR 340-253-0450 and the EPA production company identification number and facility identification number. In addition:

(A) If the biomethane-based volumes are being reported using a book-and-claim methodology, the registered party must submit records showing the retirement of RTCs representing the biomethane environmental attributes from that facility in M-RETS Renewable Thermal system or another approved and recognized tracking system with the

quarterly report. The retirement records must show enough RTCs were retired to cover the volume of biomethane claimed as a fuel in the CFP and those certificates must be from the same biomethane production facility to which the fuel pathway code is assigned; and

(B) If biogas or biomethane is being used that is directly delivered to a vehicle and not injected into a pipeline, the registered party must provide the following attestation when it files the quarterly report for the corresponding volume of biogas or biomethane claimed.

“I certify that to the extent that the gas used in the fuel pathway or supplied as a fuel is characterized as biogas or biomethane, _____ (registered party name) owns the exclusive rights to the corresponding environmental attributes. _____ (registered party name) has not sold, transferred, or retired those environmental attributes in any program or jurisdiction other than the federal RFS. Based on diligent inquiry and review of contracts and attestations from our business partners, I certify under penalty of perjury under the laws of the State of Oregon that no other party has or will sell, transfer, or retire the environmental attributes corresponding to the biomethane for which _____ (registered party name) claims credit in the CFP program.”

(2) For electricity, any registered party must report the following as applicable under this division:

(a) The information specified for electricity in Table 5 under OAR 340-253-8010;

(b) For each public access charging facility, fleet charging facility, workplace private access charging facility, multi-family dwelling, or other on-road or off-road vehicle charging, the amount of electricity dispensed in kilowatt hours to vehicles by each registered and approved FSE;

(c) For each public transit agency, the amount of electricity dispensed to or consumed by vehicles used for public transportation in kilowatt hours. The report must:

(A) Separately report uses for light rail, streetcars, aerial trams, or electric transit buses; and

(B) For light rail, streetcars, and aerial trams, separately report electricity used in portions of their system placed in service before and after January 1, 2012;

(d) To claim a carbon intensity other than a statewide or utility-specific mix, or directly connected renewable power under the Lookup Table in OAR 340-253-8010, a registered party must:

(A) Submit documentation that qualifying RECs were retired in a recognized renewable electricity tracking system for the unique purpose of covering that specific charging at the same time as the submittal of the quarterly report; or

(B) Submit documentation at least annually that the electric vehicle chargers are covered by a Utility Renewable Electricity Product or a power purchase agreement that has been approved

by DEQ for a carbon intensity. The carbon intensity assigned to the product or agreement can only be used for reporting if the electric vehicle chargers are covered by that same product or agreement for the time period which is being reported;

(e) Any entity that claims a carbon intensity using paragraph (2)(d)(A) must annually submit proof of completion of final verification or a validation statement from the Green-e Program for the RECs used to generate incremental credits. Failure to submit such proof is grounds for DEQ to invalidate any incremental credits issued to the entity under the procedures of OAR 340-253-0670;

(f) For entities reporting forklift charging, the amount of electricity dispensed to, or consumed by, forklifts, and separately reported for each registered and approved FSE. The report must separately report electricity used to charge forklifts built in or before model year 2015 and electricity used to charge forklifts built in model year 2016 and after; and

(g) For entities reporting electricity dispensed into electric vehicles or mobile equipment where the vehicle or equipment is registered as an FSE, the entity must annually attest at the time of the annual report that all electric charging reported to the CFP occurred in the state of Oregon. The following attestation must be used: "I certify that all electrical charging reported by _____ (registered party name) in ____ (year) occurred within the borders of the State of Oregon."

(3) For renewable hydrocarbon diesel or gasoline co-processed at a petroleum refinery, any registered party must report the following information required under this division, as applicable:

(a) If the registered party is also the producer, then DEQ may require the registered party to report the ongoing information required under OAR 340-253-0450; and

(b) If the registered party is not the producer, and the producer has not met its obligations under OAR 340-253-0450, then DEQ may require the registered party to report the volume of fuel under a temporary fuel pathway code or the fuel pathway code for clear gasoline or diesel, as applicable.

(4) Temperature Correction. All liquid fuel volumes reported in the OFRS under this division must be adjusted to the standard temperature conditions of 60 degrees Fahrenheit (net gallons) as follows:

(a) For ethanol, using the formula: Standardized Volume = Actual volume * ((-0.0006301 * T) + 1.0378), where standardized volume refers to the volume of ethanol in gallons at 60°F, actual volume refers to the measured volume in gallons, and T refers to the actual temperature of the batch in °F;

(b) For Biodiesel, one of the following two methodologies must be used:

(A) Standardized Volume = Actual Volume * ((-0.00045767 * T) + 1.02746025), where Standardized Volume refers to the volume in gallons at 60°F, Actual Volume refers to the measured volume in gallons, and T refers to the actual temperature of the batch in °F; or

(B) The standardized volume in gallons of biodiesel at 60°F, as calculated using the American Petroleum Institute Refined Products Table 6B, as referenced in ASTM 1250-08;

(c) For other liquid fuels, the volume correction to standard conditions must be calculated by the methods described in the American Petroleum Institute Manual of Petroleum Measurement Standards Chapter 11 – Physical Properties Data, the ASTM Standard Guide for the Use of Petroleum Measurement Tables (ASTM D1250-08), or the API Technical Data Book, Petroleum Refining Chapter 6 – Density; and

(d) If a registered party believes the methods in (a) through (c) are inappropriate, they may request to use a different method and DEQ may approve that method if it finds that it is at least as accurate as the methods in (a) through (c).

(5) Reporting transfers of regulated fuel between parties. In all reports under this division, all transfers of ownership of a regulated fuel above the rack and sales to below the rack by a position holder must be reported as documented in the product transfer documents. Transfers of ownership of a regulated fuel may be reported below the rack.

(6) All reporting of fuels transferred in and out of commingled storage under this division must comply with the following:

(a) For reporting liquid fuels that are being transferred in and out of a commingled storage tank or that are commingled in production or in transport, the reporting entity may mass balance transfers out of that commingled tank or system by fuel pathway code based on the gallons input into that tank or system in the current or prior quarter. Liquid gallons reported under a specific fuel pathway code may only be reported as transferred out of commingled storage if they were put into a tank two or more quarters prior if the reporting entity demonstrates to DEQ that the tank has not fully turned over by the quarter it is reporting the volume being transferred out; and

(b) For biomethane injected into a common carrier pipeline, the biomethane may only be reported as being fueled into vehicles if it was injected in the current or prior quarter.

(7) Reporting Exempt Gallons. When a registered party is claiming an exemption for fuel sold to exempt fuel users as defined in OAR 340-253-0250, that registered party must use the exempt fuel transaction which covers that specific category of fuel user. The registered party must report the precise volume of fuel that was delivered to that exempt fuel user. For blended fuels, all components of the blended fuel must be reported as exempt.

(8) Reporting “Not For Transportation” Gallons. When reporting that fuel was sold as not for transportation in the OFRS under this division, the registered party must report in the transaction description field of the OFRS which stationary source, or category of stationary

fuel combustion, the fuel was sold to and the number of gallons sold. For blended fuels, all components must be reported as not being used for transportation.

(9) All reports of position holder transactions under this division must comply with the following:

- (a) Registered parties that are position holders must report fuel sold below the rack;
- (b) Registered parties that are position holders that sell fuel to entities not registered in the CFP may aggregate and report those sales in a single transaction using the “Undefined” business partner descriptor; and
- (c) Registered parties that are position holders that sell fuel below the rack for export must identify each recipient of such fuel that is registered in the CFP.

(10) Reporting Below the Rack Exports. Purchasers of fuel from a position holder that is directly exported without modification must report such fuel, in all applicable reports under this division, using the “Purchase below the rack for export” transaction category. Such purchasers must also report a transaction for the same gallons using an “Export out of Oregon distribution system” transaction.

(11) Annual reporting of utility credit revenue. All electric utilities that receive base or incremental credits must annually report the following items to DEQ no later than April 30th. Failure to file such a report will result in the backstop aggregator or the incremental aggregator receiving credits for that utility until the utility files any past-due reports. Each utility must report the following information, for the prior calendar year:

- (a) Total revenue from the sale of base and incremental credits attributable to residential vehicle charging, if applicable in the prior year;
- (b) For entities whose revenue or expenditures exceed \$250,000 in a given year, the percentages that result when dividing the utility’s CFP-related administrative costs, including but not limited to submitting reports, selling credits, and to administer any programs that were funded by CFP revenue from the utility’s sale of incremental credits, including but not limited to project management and development and management of contracts to operate such programs by the amount of revenue reported under subsection (a);
- (c) A description of the programs that were funded by CFP revenue the utility received from its sale of base credits and the amount spent in each category in the prior year; and
- (d) A description of the programs that were funded by CFP revenue from incremental credits, the amount spent in each category in the prior year, a description of the class of individuals or listing of organizations that benefited from the programs, and any other data elements that DEQ informs each utility receiving incremental credits that it will require following consultations with the Equity Advisory Committee created under OAR 340-253-0330(12)(j).

(12) Hydrogen reporting. Hydrogen reported using a lookup table value that includes biomethane as a feedstock must, in all applicable reports under this division, show that the biomethane or biogas is directly supplied to a hydrogen production facility or supplied via a common carrier pipeline through a book and claim methodology in order to claim biomethane-based hydrogen. If the biomethane is supplied by a book and claim methodology, retirement records for that biomethane must be provided from M-RETS Renewable Thermal Tracking system or another DEQ approved renewable thermal tracking system.

(13) Reporting blends of biodiesel, renewable diesel, and fossil diesel. In all applicable reports under this division, when blended, a mixture of biodiesel, renewable diesel, or fossil diesel must be reported according to its actual percentage mix as precisely as it is known by the reporting party. For example, if 100 gallons of a fuel that is labeled as containing 99% of one component and 1% of the other, then the volumes should be reported as 99 gallons of the first and 1 gallon of the second.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021

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DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-0650

Annual Compliance Reports

(1) Annual compliance reports.

(a) Except as provided in subsection (b), regulated parties, credit generators, and aggregators must use the OFRS to submit an annual compliance report to DEQ not later than April 30 for the previous compliance period.

(b) Small importers of finished fuels may submit a supplemental annual report using OFRS no later than April 30 for the previous compliance period.

(2) General reporting requirements for annual compliance reports. Regulated parties, credit generators, and aggregators must submit annual compliance reports that meet, at minimum, the general and specific requirements for quarterly reports and include the following information:

(a) The total credits and deficits generated by the regulated party, credit generator, or aggregator in the current compliance period, calculated in the OFRS as provided in the equations in OAR 340-253-1020;

(b) Any credits carried over from the previous compliance period;

- (c) Any deficits carried over from the previous compliance period;
 - (d) The total credits acquired from other regulated parties, credit generators, and aggregators;
 - (e) The total credits sold or transferred; and
 - (f) The total credits retired within the OFRS to meet the compliance obligation.
- (3) Registered parties must complete all pending credit transfers prior to submittal of the annual compliance report required under section (1).
- (4) Correcting a previously submitted report. A registered party may ask DEQ to re-open a previously submitted quarterly or annual compliance report for corrective edits and re-submittal, as provided in subsections (a) through (e).
- (a) The requestor must submit a request to unlock the report, including a correction request letter within the OFRS indicating the specific corrections to be made and providing a justification for making the corrections.
 - (b) If DEQ approves a request made under subsection (a), then DEQ will notify the registered party and unlock the report to allow the registered party to make the corrections. DEQ approval of a request to correct a report does not preclude DEQ enforcement based on misreporting. The registered party may only make the specific corrections detailed in the approved correction request letter while the report has been reopened. If the registered party discovers that there are additional corrections that should be made, it must make a separate request to DEQ through OFRS after submitting the initial corrections requested. The request must detail the additional corrections and have that request approved prior to making the additional corrections to their reporting.
 - (c) If a registered party is approved to make corrections to a quarterly report for which the annual compliance deadline has already passed and the corrections result in reduced credits or increased deficits for the registered party, it shall have until the next annual compliance report deadline or 30 calendar days, whichever is earlier, to resubmit the affected annual compliance report or reports.
 - (d) When a registered party has resubmitted a corrected annual compliance report, the registered party must return to compliance with the clean fuel standards by simultaneously retiring additional credits, if necessary.
 - (e) The registered party that needs to resubmit a corrected annual compliance report may request permission from DEQ to carryback credits for the affected annual compliance report or reports. If a credit clearance market is being held that year, the request can only be made if the credit clearance market for that compliance year is already complete.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14
DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0670

Authority to Suspend, Revoke, or Modify

(1) If DEQ determines that any basis for invalidation set forth in section (2) below has occurred, in addition to taking any other authorized enforcement action, DEQ may take any of the actions described in subsections (a) through (d). For the purposes of this section an approved carbon intensity refers to carbon intensities, adjusted carbon intensities and values approved by DEQ under OAR 340-253-0400(4), 340-253-0450, 340-253-0460, or 340-253-0470, as applicable. DEQ may:

(a) Suspend, restrict, modify, or revoke an account in the OFRS, or take a combination of two or more such actions;

(b) Modify or delete an approved carbon intensity;

(c) Restrict, suspend, or invalidate credits; and

(d) Recalculate the deficits in a regulated party's OFRS account or assign deficits as an administrative mechanism for requiring the replacement of invalid credits if the invalid credits cannot be directly canceled.

(2) DEQ may take any of the actions described in section (1) based on any of the following:

(a) Any of the information used to generate or support the approved carbon intensity or other value was incorrect, including if material information was omitted or the process changed following the submission of the carbon intensity application;

(b) Any material information submitted in connection with the approved carbon intensity, other value, or a credit transaction was incorrect;

(c) Fuel reported under a given fuel pathway was produced or transported in a manner that varies in any way from the methods set forth in any corresponding fuel pathway application documents submitted under OAR 340-253-0400 and OAR 340-253-0450 such that the variance would meet the threshold to be material information, or the fuel pathway holder had violated a fuel pathway condition imposed by DEQ during the approval process;

(d) Fuel transaction data or other data reported into the OFRS and used to calculate credits and deficits was incorrect or omitted material information;

(e) Credits or deficits were generated or transferred in violation of any provision of this division or in violation of other laws, statutes, or regulations;

(f) A party obligated to provide records under this division refused to provide such records or failed to do so within the required timeframe in OAR 340-253-0600;

(g) Failure to submit a verification statement when it is required under OAR chapter 340, division 272;

(h) An adverse verification statement submitted under OAR chapter 340, division 272; or

(i) Failure to submit a Green-e certification for RECs used to claim a carbon intensity other than the statewide or a utility-specific mix under OAR 340-253-0470(5).

(3) Providing Notice of an Initial Determination. If DEQ determines that any basis for invalidation under section (1) has occurred, then:

(a) Upon making an initial determination that a credit calculation, deficit calculation, or an approved carbon intensity may be subject to an action described in section (1), DEQ will notify all potentially affected parties;

(b) The notice required under subsection (a) shall state the reason for the initial determination and may also include a specific request from any party for information relevant to any of the bases described in section (2);

(c) Within 20 calendar days of the issuance of a notice under subsection (a), the affected parties must make records and personnel available to DEQ as it conducts its investigation; and

(d) Any party receiving a notice under subsection (a) may submit any information it believes is relevant to the investigation and that it wants DEQ to consider in its evaluation, not later than 20 calendar days after the issuance of the notice or by a later deadline approved by DEQ in writing.

(4) Interim Account Suspension. Once a notice has been issued under section (3), DEQ may immediately take one or both of the following actions:

(a) Deactivate an approved carbon intensity in the AFP; or

(b) Suspend an account in the OFRS. In cases where a discrete number of credits are being investigated, DEQ may place an administrative hold on a specific number of credits rather than suspending an entire account.

(5) Final Determination. Within 50 calendar days after making an initial determination under sections (2) and (3) above, the DEQ shall make a final determination based on the available information, as provided in subsections (a) through (c).

(a) The final determination will include:

(A) Whether any of the bases for invalidation in section (2) exist;

(B) Identification of the affected parties; and

(C) What actions in section (1) DEQ will impose and how many credits, deficits, or approved carbon intensities are affected. If the final determination invalidates credits or deficit calculations, the corresponding credits and deficits will be added or subtracted from the appropriate accounts in the OFRS.

(b) The affected parties may contest the final determination by providing DEQ with a written request for a hearing within 20 calendar days of receipt of the final determination.

(c) The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR chapter 340, division 11. DEQ's determination under section (5) will remain pending until a final order is issued in the contested case, and no party may use or rely upon an account or any credits, deficits or carbon intensities at issue in the contested case until such resolution.

(6) Responsibility for invalidated credits or miscalculated deficits. Any party that generated, previously held, or holds invalidated credits or whose account reflects an invalid deficit calculation is responsible for returning its account to compliance without regard to its fault or role with respect to the invalidation of the credits or miscalculation of deficits.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-0680

Separate Violations

(1) Each illegitimate credit generated constitutes a separate violation of this division.

(2) Each deficit that a registered party does not retire a credit against under OAR 340-253-1030 to demonstrate compliance with any of the clean fuel standards in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010 constitutes a separate violation of this division unless that registered party participates in the Credit Clearance Market as required under OAR 340-253-1040.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

340-253-1000

Credit and Deficit Basics

(1) Carbon intensities.

(a) Except as provided in subsections (b), (c), or (d), when calculating carbon intensities, registered parties must use the carbon intensity approved by DEQ under OAR 340-253-0450 for a given fuel.

(b) If a fuel pathway holder, which may be a registered party, has a provisional carbon intensity approved under OAR 340-253-0450 for a fuel, the registered parties reporting that fuel must use the DEQ-approved provisional carbon intensity.

(c) If a fuel pathway holder or a registered party has a temporary carbon intensity approved under OAR 340-253-0450 for a fuel, the party reporting that fuel must use the temporary carbon intensity for the period which it has been approved, unless DEQ has subsequently approved a permanent carbon intensity for that fuel.

(d) If a registered party purchases a blended finished fuel and the seller does not provide carbon intensity information, then the registered party must:

(A) Use the applicable substitute fuel pathway code in Table 8 under OAR 340-253-8010 or a fuel pathway code that has been otherwise approved and posted by DEQ under OAR 340-253-0450(11) if the fuel is exported, not used for transportation, or used in an exempt fuel use; and

(B) Report the volume using the applicable Table 8 fuel pathway code, or a fuel pathway code that has been otherwise approved and posted by DEQ under OAR 340-253-0450(11), for the fossil fuel and the applicable substitute fuel pathway code for the biofuel or biofuels if the finished fuel blend is not listed.

(2) Fuel quantities. Registered parties must express fuel quantities in the unit for each fuel according to the temperature correction requirements in OAR 340-253-0640(4) for liquid fuels, or according to accurate metering for all other fuels when they are dispensed into the vehicle or other qualifying equipment. If the fuel cannot be accurately metered at the point of dispensation, DEQ may approve an alternative methodology and all registered parties reporting in that circumstance must use that methodology.

(3) Compliance period. The annual compliance period under this division is January 1 through December 31 of each year.

(4) Metric tons of CO₂ equivalent. In all reporting and transactions under this division, registered parties must express credits and deficits to the nearest whole metric ton of carbon dioxide equivalent.

(5) Deficit generation. Under this division:

(a) Deficits are generated at the time that a valid and accurate quarterly report is submitted in the OFRS;

(b) Deficits are generated for fuel that is produced, imported, or dispensed for use in Oregon, as applicable, and the carbon intensity of the fuel, as approved for use under OAR 340-253-0400 through -0470, is more than the clean fuel standard for gasoline and gasoline substitutes in Table 1 under OAR 340-253-8010 or for diesel fuel and diesel substitutes in Table 2 under 340-253-8010, as applicable;

(c) Each deficit is a separate denomination of the regulatory obligations of this program on the registered party; and

(d) Deficits may be generated by any registered party as a result of its reporting or assigned to a registered party by DEQ under OAR 340-253-0670.

(6) Credit generation. Under this division:

(a) Credits are generated at the time that a valid and accurate quarterly report is submitted in the OFRS;

(b) Credits are a regulatory instrument and do not constitute personal property, instruments, securities or any other form of property; and

(c) No credits may be generated or claimed for any transactions or activities occurring in a quarter for which the quarterly reporting deadline has passed, unless the credits are being generated for residential charging of electric vehicles or for claiming incremental credits by a utility or the incremental aggregator.

(7) Mandatory retirement of credits. All registered parties must comply with the clean fuels standards by retiring credits against any deficits they hold when filing the annual report at the end of a compliance period. Any registered party that possesses deficits on its annual report must retire a sufficient number of credits such that:

(a) Enough credits are retired to completely meet the registered party's compliance obligation as denominated in deficits for that compliance period, or

(b) If the total number of the registered party's credits is less than the total number of the regulated party's deficits, the registered party must retire all of its credits.

(c) Credit Retirement Hierarchy. The OFRS will use the following default hierarchy to retire credits for the purposes of meeting a compliance obligation:

(a) Credits acquired or generated in a previous compliance period will be retired prior to credits generated or acquired in the current compliance period;

(b) Credits with an earlier completed transfer “recorded date” will be retired prior to credits with a later completed transfer “recorded date;” and

(c) Credits generated in an earlier quarter will be retired prior to credits generated in a later quarter.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021

DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1005

Transacting Credits

(1) General.

(a) Registered parties may:

(A) Retain credits without expiration within the CFP in compliance with this division; and

(B) Acquire or transfer credits from or to other registered parties.

(b) Registered parties may not:

(A) Retire or transfer credits that have not been generated in compliance with this division;
or

(B) Retire or transfer anticipated credits from future projected or planned carbon intensity reductions, other than advance credits awarded under OAR 340-253-1100.

(2) Credit transfers between registered parties.

(a) A credit seller and a credit buyer may enter into an agreement to transfer credits; and

(b) A credit seller may only transfer credits up to the number of credits in the credit seller's OFRS account on the date of the transfer.

(3) Credit seller requirements. When registered parties wish to transfer credits, the credit seller must initiate an online "Credit Transfer Form" provided in the OFRS and must include the following:

(a) The date on which the credit buyer and credit seller reached their agreement;

(b) The names and FEINs of the credit seller and credit buyer;

(c) The first and last names and contact information of the persons who performed the transaction on behalf of the credit seller and credit buyer;

(d) The number of credits proposed to be transferred; and

(e) The price or equivalent value of the consideration (in U.S. dollars) to be paid per credit proposed for transfer, excluding any fees. If no clear dollar value can be easily arrived at for the transfer, a price of zero must be entered and the seller must include:

(A) A copy of the contract that includes the terms of the trade; or

(B) A qualitative description of the transaction's valuation. If the seller provides a qualitative description, the seller must also provide additional specific information as required by DEQ on the credit transfer form and any additional information that describes the contract upon written request by DEQ.

(4) Credit buyer requirements. Within 10 calendar days of receiving the "Credit Transfer Form" from the credit seller in the OFRS, the credit buyer must confirm the accuracy of the information therein and may accept the credit transfer by signing and dating the form using the OFRS.

(5) If the credit buyer and credit seller have not fulfilled the requirements of sections (3) and (4) within 10 calendar days of the seller initiating the credit transfer in the OFRS, the transaction will be voided. If a transaction has been voided, the credit buyer and credit seller may initiate a new credit transfer in the OFRS.

(6) Aggregator requirements. An aggregator may only act as a credit seller or credit buyer if that aggregator:

(a) Has an approved and active registration under OAR 340-253-0500;

(b) Has an account in the OFRS; and

(c) Has an approved Aggregator Designation Form from a regulated party or credit generator for whom the aggregator is acting in any given transaction.

(7) Illegitimate credits.

(a) A registered party must report accurately when it submits information into the OFRS. If inaccurate information is submitted that results in the generation of one or more credits when such an assertion is inconsistent with the requirements of this division, or a party's submission otherwise causes credits to be generated in violation of the rules of this division, those credits are illegitimate and invalid. If DEQ determines that one or more credits that a party has generated are illegitimate credits, then:

(A) If the registered party that generated the illegitimate credits still holds them in its account, DEQ will cancel those credits;

(B) If the registered party that generated the illegitimate credits has retired those credits to meet its own compliance requirement or if it has transferred them to another party, the party that generated the illegitimate credits must retire a legitimate credit to replace each illegitimate credit; and

(C) The party that generated the illegitimate credits is also subject to enforcement for the violation, as deemed appropriate in DEQ's discretion.

(b) A registered party that has acquired one or more illegitimate credits, but was not the party that generated the illegitimate credits:

(A) When the initial generator of the illegitimate credits has not retired legitimate credits in place of the illegitimate credits and DEQ determines that that initial generator is unlikely to be able to do so, then the party that has acquired such credits may have those credits canceled by DEQ if the party still holds the credits in its account, or if the party has used such illegitimate credits to meet its own compliance requirement, then DEQ may require the party to retire a legitimate credit to replace each such illegitimate credit that it retired to meet its compliance obligation; and

(B) May be subject to enforcement at DEQ's discretion, unless DEQ determines that the party from whom the credits were acquired engaged in false, fraudulent, or deceptive trading practices.

(8) Prohibited credit transfers. A credit transfer involving, related to, in service of, or associated with any of the following is prohibited:

(a) Fraud, or an attempt to defraud or deceive using any device, scheme or artifice;

(b) Either party employed any unconscionable tactic in connection with the transfer;

(c) Any false report, record, or untrue statement of material fact or omission of a material fact related to the transfer or conditions that would relate to the price of the credits being transferred. A fact is material if it is reasonably likely to influence a decision by another party or by the agency;

- (d) Where the intended effect of the activity is to lessen competition or tend to create a monopoly, or to injure, destroy or prevent competition;
- (e) A conspiracy in restraint of trade or commerce; or
- (f) An attempt to monopolize, or combine or conspire with any other person or persons to monopolize.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

- DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
- DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
- DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
- DEQ 17-2017, renumbered from 340-253-1050, filed 11/06/2017, effective 11/06/2017
- DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
- DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

340-253-1010

Fuels to Include in Credit and Deficit Calculation

- (1) Fuels included. Credits and deficits must be calculated for all regulated fuels and clean fuels, except that:
 - (a) Credits may be generated only for B100 that complies with an oxidation stability induction period of not less than 8 hours as determined by the test method described in the European standard EN 15751;
 - (b) B100 that does not comply with subsection (a) can still be imported into Oregon and must be reported, but cannot generate credits for the CFP.
- (2) Fuels exempted. Except as provided in sections (3), (4), and (5), credits and deficits may not be calculated for fuels exempted under OAR 340-253-0250. Exempt fuel volumes must be claimed by the end of the regular reporting period for a given quarter, otherwise DEQ will deem the fuel to have been voluntarily included under section (3).
- (3) Voluntary inclusion. A registered party may choose to include in its credits and deficits calculations fuel that is exempt under OAR 340-253-0250(1) and fuel that is sold to an exempt fuel user in Oregon under 340-253-0250(2), provided that the credit and deficit calculation includes all fuels listed on the same invoice. Voluntarily included fuels cannot be claimed as exempt once the regular reporting period for that quarter has closed.
- (4) When fuels are exported from Oregon:

- (a) Any bulk quantity of fuel that is exported must be reported by the person who holds title to the fuel when it is exported or the position holder if the party exporting the fuel is not registered under this program;
- (b) If the exporter purchased the fuel with the compliance obligation, the exported fuels will not generate deficits or credits;
- (c) If credits or deficits were generated and separated from the fuel through a transfer without obligation, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits detached from the fuel; and
- (d) If the fuel was imported in one quarter and exported in another quarter, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits, respectively, associated with the fuel when it was imported in the prior quarter.
- (5) Alternative jet fuel. Alternative jet fuel may be reported by the producer or importer of the fuel and any registered parties that hold title to it, so long as it can be demonstrated that the fuel is loaded into aircraft in Oregon. If a gallon of alternative jet fuel that has been reported to the CFP as imported or produced is later exported, lost, or otherwise not used for transportation it must be reported as such.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1020

Calculating Credits and Deficits

(1) Except as provided in sections (2) and (3), credit and deficit generation must be calculated for all fuels included in OAR 340-253-1010:

- (a) Using credit and deficit basics as directed in OAR 340-253-1000;
- (b) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 under OAR 340-253-8010;
- (c) Calculating the adjusted energy in megajoules by multiplying the energy in megajoules from section (2) by the energy economy ratio of the fuel listed in Table 7 under OAR 340-253-8010 or as approved by DEQ under OAR 340-253-0460, as applicable;

(d) Calculating the carbon intensity difference by subtracting the fuel's carbon intensity as approved under OAR 340-253-0400 through -0470, adjusted for the fuel application's energy economy ratio as listed in Table 7 under OAR 340-253-8010 or as approved under OAR 340-253-0460 as applicable, from the clean fuel standard for gasoline or gasoline substitutes listed in Table 1 under OAR 340-253-8010 or diesel fuel and diesel substitutes listed in Table 2 under OAR 340-253-8010, or alternative jet fuel listed in table 3 under OAR 340-253-8010, as applicable;

(e) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in megajoules in section (3) by the carbon intensity difference in section (4);

(f) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent calculated in section (5) by 1,000,000; and

(g) Determining under OAR 340-253-1000(5) whether credits or deficits are generated.

(2) Calculating credits for electricity used to power fixed guideway vehicles on track placed in service prior to 2012 and forklifts from model year 2015 and earlier. Credit generation must be calculated by:

(a) Using credit and deficit basics as directed in OAR 340-253-1000;

(b) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 under OAR 340-253-8010;

(c) Calculating the carbon intensity difference by subtracting the fuel's carbon intensity as approved under OAR 340-253-0400 through -0470, adjusted for the fuel application's energy economy ratio listed in Table 7 under OAR 340-253-8010 as applicable, from the clean fuel standard for gasoline or gasoline substitutes listed in Table 1 under OAR 340-253-8010 or diesel fuel and diesel substitutes listed in Table 2 under OAR 340-253-8010, as applicable;

(d) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in megajoules in section (3) by the carbon intensity difference in section (4);

(e) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent calculated in section (5) by 1,000,000; and

(f) Determining under OAR 340-253-1000(5) whether credits or deficits are generated.

(3) Calculating credits for electricity used in residential charging of electric vehicles. credit calculations must be based on the total electricity dispensed (in kilowatt hours) to vehicles, measured by:

(a) The use of direct metering (either sub-metering or separate metering) to measure the electricity directly dispensed to all vehicles at each residence; or

(b) For residences where direct metering has not been installed, DEQ will calculate the total electricity dispensed as a transportation fuel based on analysis of the total number of BEVs and PHEVs in a utility's service territory based on Oregon Department of Motor Vehicles records. DEQ will perform this analysis at least twice a year and issue credits based on it. DEQ will select one of the following methods for estimating the amount of electricity charged based on its analysis of which is more accurate and feasible at the time it is performing the analysis:

(A) An average amount of electricity consumed by BEVs and PHEVs at residential chargers, based on regional or national data; or

(B) An analysis of the average electric vehicles miles traveled by vehicle type or make and model, which compares the total amount of estimated charging for those electric vehicle miles travelled with the total reported charging in those territories in order to determine the amount of unreported charging that can be attributed to residential charging. The analysis may be done on a utility territory specific or statewide basis.

(c) If DEQ determines after the issuance of residential electric vehicle credits that the estimate under (b) contained a significant error that led to one or more credits being incorrectly generated, the error will be corrected by withholding an equal number of credits to the erroneous amount from the next generation of residential electric vehicle credits.

(d) A credit generator or aggregator may propose an alternative method, subject to the approval of DEQ upon its determination that the alternative method is more accurate than either of the methods described in subsection (b).

(e) Credits generated under this subsection will be calculated by DEQ under section 1 of this rule using the estimated amount of electricity under subsection (3)(b) and issued at least twice per year into the OFRS account of the utility or the backstop aggregator within three months of the close of that year.

(4) Calculating Incremental Credits. In calculating incremental credits for actions that lower the carbon intensity of electricity, the credit calculations must be performed based on section (1) of this rule, except that the carbon intensity difference is calculated based on the carbon intensity of the renewable power and the carbon intensity used to calculate the base credits for that electric vehicle or charging equipment, and consistent with following requirements, as applicable:

(a) Incremental credits for non-residential charging are generated upon the retirement of RECs that qualify under OAR 340-253-0470(5) by the credit generator, its aggregator, or the incremental aggregator, or by another entity on their behalf. For credit generators and their aggregators, RECs must be retired prior to or at the same time as the submittal as the quarterly report where the charging is being reported and REC retirement records must be submitted with the quarterly report as supplemental documentation. RECs may be retired by another entity on behalf of the credit generator or aggregator for their electric vehicle

charging so long as it is clearly documented, and that documentation is submitted with the quarterly report.

(b) For incremental credits generated using a Utility Renewable Electricity Product or Power Purchase Agreement, evidence that the chargers were covered by such a product must be submitted at least annually along with a quarterly report. Upon request by DEQ, any entity using a Power Purchase Agreement or a Utility Renewable Electricity Product must produce evidence that the charging equipment was covered by that agreement or product for all time periods when the entity was claiming incremental credits.

(c) For the incremental aggregator, incremental credits are generated when it retires RECs on behalf of non-residential electric vehicle charging.

(d) Incremental credits for residential charging are generated by a utility or its aggregator when RECs are retired on behalf of that charging, or when a utility demonstrates to DEQ that EVs are being charged by customers enrolled in its Utility Renewable Electricity Products.

(5) Additional credits.

(a) Except as provided in subsection (b), starting in 2023, fuel pathway holders that are registered parties may request additional credits from the prior year if their fuel facility has:

(A) Completed verification under OAR 340-253-0700 and OAR chapter 340, division 271; and

(B) The verified operational carbon intensity value for a given fuel pathway is more than 1gCO₂e/MJ lower than the certified carbon intensity value for that year.

(b) Subsection (a) does not apply to lookup table, temporary, or provisional carbon intensities.

(c) DEQ will determine the number of additional credits to award in response to a request under subsection (a) by:

(A) Calculating the difference between the certified and verified operational carbon intensities;

(B) Multiplying the difference calculated under paragraph (A) by the total obligated volume for the year; and

(C) DEQ may adjust the obligated volume for a given year for this calculation if it is aware that a volume of the fuel under a given fuel pathway code was imported or produced in the fourth quarter of a year and exported or otherwise removed from the obligated fuel pool in the first quarter of the following year.

(d) DEQ will deposit the additional credits determined under subsection (c) into the fuel pathway holder's account.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1030

Demonstrating Compliance

(1) Compliance demonstration. Each registered party must meet its compliance obligation for the compliance period by demonstrating through submission of its annual compliance report that it possessed and has retired a number of credits from its account that is equal to its compliance obligation calculated under section (2).

(2) Calculation of compliance obligation. A registered party's compliance obligation is the sum of deficits generated in the compliance period plus deficits carried over from the prior compliance period, represented in the following equation:

$$\textit{Compliance Obligation} = \textit{Deficits Generated} + \textit{Deficits Carried Over}$$

(3) Calculation of credit balance.

(a) Definitions. For the purpose of this section:

(A) Deficits Generated are the total deficits generated by the registered party for the current compliance period;

(B) Deficits Carried Over are the total deficits carried over by the registered party from the previous compliance period;

(C) Credits Generated are the total credits generated by the registered party in the current compliance period;

(D) Credits Acquired are the total credits acquired by the registered party in the current compliance period from other registered parties, including carryback credits;

(E) Credits Carried Over are the total credits carried over by the registered party from the previous compliance period;

(F) Credits Retired are the total credits retired by the registered party within the OFRS for the current compliance period;

(G) Credits Sold are the total credits sold by, or otherwise transferred from, the registered party in the current compliance period to other registered parties; and

(H) Credits on Hold are the total credits placed on hold due to enforcement or an administrative action. While on hold, these credits cannot be used for meeting the registered party's compliance obligation.

(b) A registered party's credit balance is calculated using the following equation:

$$\text{Credit Balance} = (\text{Credits Gen} + \text{Credits Acquired} + \text{Credits Carried Over}) - (\text{Credits Retired} + \text{Credits Sold} + \text{Credits on Hold})$$

(4) Small deficits. At the end of a compliance period, a registered party that has a net deficit balance may carry forward a small deficit to the next compliance period without penalty. A small deficit exists if the amount of credits the registered party needs to meet its compliance obligation is 5 percent or less than the total amount of deficits the registered party generated for the compliance period.

(5) Extended credit acquisition period. A registered party may acquire carryback credits between January 1st and April 30th to be used for meeting its compliance obligation for the prior compliance period. A registered party must complete all carryback credit transfers in the OFRS prior to submitting their annual report, but no later than April 30, in order for them to be valid for meeting the compliance obligation for that annual report's compliance period.

(6) Registered parties who do not demonstrate compliance under section (1) and whose deficit is not small as defined in section (4) may demonstrate compliance through participation in the Credit Clearance Market under OAR 340-253-1040.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1040

Credit Clearance Market

(1) If a registered party did not retire sufficient credits to meet its compliance obligation under OAR 340-253-1030(1) - (6), exclusive of any deficits carried forward to the next

compliance period under OAR 340-253-1030(4), it must enter and purchase its pro-rata share of credits in the credit clearance market under section (5).

(a) The credit clearance market is separate from the normal year-round market opportunities for parties to engage in credit transactions.

(b) DEQ will consider a registered party in compliance with OAR 340-243-1030 if it acquires its pro-rata obligation in the credit clearance market and retires that number of credits within 30 calendar days of the end of the credit clearance market.

(2) The maximum price for the credit clearance market will be:

(a) \$200 per credit for the markets held upon the submission of the annual reports for 2017.

(b) For markets held upon submission of annual reports in 2018 and thereafter DEQ shall adjust the maximum price for the credit clearance market annually for inflation at the end of each January using the inflation rate as provided by the last twelve months of data from the US Bureau of Labor Statistics West Region Consumer Price Index for All Urban Consumers for All Items. The formula for that adjustment is as follows: maximum price = [Last year's maximum price] * (1 + [CPI-U West]). DEQ will publish the new maximum price on its webpage each year.

(3) Acquisition of credits in the credit clearance market. The credit clearance market will operate from June 1 to July 31.

(a) Registered parties subject to section (1) must acquire their pro-rata share of the credits in the credit clearance market calculated in section (5).

(b) A registered party may only use credits acquired in the credit clearance market to retire them against its unmet compliance obligation from the prior year.

(c) To qualify for compliance through the credit clearance market, the registered party in question must have:

(A) Retired all credits in its possession; and

(B) Have an unmet compliance obligation for the prior year that has been reported to DEQ through submission of its annual report in the OFRS.

(4) Selling credits in the clearance market.

(a) On the first Monday in April each year, DEQ shall issue a call to all eligible registered parties in the OFRS to pledge credits into the credit clearance market, or will issue a notification that it will not hold a credit clearance market that year. Registered parties are eligible to sell credits in the clearance market if they will have excess credits upon the submission of their annual report. Parties wanting to pledge credits into the credit clearance

market will notify DEQ by April 30. DEQ will announce if a clearance market will occur by May 15.

(b) In order to participate in the credit clearance market, sellers must:

(A) Agree that they will sell their credits for no higher than the maximum price as published by DEQ for that year;

(B) Agree to withhold any pledged credits from sale in any transaction outside of the credit clearance market until the end of the credit clearance market on July 31, or if no clearance market is held in a given year, then on the date which DEQ announces it will not be held;

(C) Not reject an offer to purchase the credits at the maximum price for that year as published by DEQ, unless the seller has already sold or agreed to sell those pledged credits to another regulated party participating in the credit clearance market; and

(D) Agree to replace any credits that the seller pledges into the clearance market if those credits are later found to be invalid by DEQ due to fraud or non-compliance by the generator of the credit, unless the buyer of the credits was a party to that fraud or non-compliance.

(5) Operation of the credit clearance market. Prior to June 1, DEQ will inform each registered party that failed to meet its annual compliance obligation under OAR 340-253-1030 of its pro-rata share of the credits pledged into the credit clearance market.

(a) Calculation of pro-rata shares.

(A) Each registered party's pro-rata share of the credits pledged into the credit clearance market will be calculated by the following formula:

Registered Party A's pro-rata share =

$(A's \text{ total deficit} / \text{All parties' total deficits}) \times (\text{the lesser of } [pledged \text{ credits}] \text{ or } [All \text{ parties' total deficits}])$

(i) "Total deficit" refers to the registered party's total obligation for the prior compliance year that has not been met under OAR 340-253-1030;

(ii) "All parties' total deficit" refers to the sum of all of the unmet compliance obligations for registered parties in the credit clearance market; and

(iii) "Pledged credits" refers to the sum of all credits pledged for sale into the credit clearance market.

(B) If there is at least one large importer of finished fuels participating in the credit clearance market, DEQ will determine the pro-rata share of the available credits in two phases.

(i) The first phase will begin with all of the credits pledged into the credit clearance market and the deficits from large importers of finished fuels in place of “all parties’ total deficit” in (5)(a)(A)(ii).

(ii) The second phase will begin with the remainder of the pledged credits into the credit clearance market in place of “pledged credits” in (5)(a)(A)(iii) and the deficits from all other registered parties in place of “all parties’ total deficit” in (5)(a)(A)(ii).

(iii) The calculation for each phase will be done as in paragraph (A).

(b) On or before June 1, DEQ will post the name of each registered party that is participating in the credit clearance market as a buyer, and the name of each registered party that is participating as a seller in the market and the number of credits they have pledged into the market.

(c) Following the close of the credit clearance market, each registered party that was required to purchase credits in the credit clearance market must submit an amended annual compliance report in the OFRS by August 31 which shows the acquisition and retirement of its pro-rata share of credits purchased in the credit clearance market, and any remaining unmet deficits.

(6) If a registered party has unmet deficits upon the submission of the amended annual report, DEQ will increase the registered party’s number of unmet deficits by five percent and the total unmet deficits will be carried over into the next compliance period for that regulated party.

(7) If the same registered party has been required to participate in two consecutive credit clearance markets and carries over deficits under section (6) in both markets, DEQ will conduct a root cause analysis into the inability of that registered party to retire the remaining deficits.

(a) If multiple registered parties are subject to this section in a single year, DEQ may produce a single root cause analysis for those registered parties if it determines the same general set of causes contributed to those parties’ inability to retire those deficits. DEQ will also analyze whether there were specific circumstances for the individual parties.

(b) Based on the results of the root cause analysis, DEQ may issue a deferral under OAR 340-253-2000(6)(c)(A) through (C) or craft a remedy that addresses the root cause or causes. The remedy cannot:

(A) Require a registered party to purchase credits for an amount that exceeds the maximum price for credits in the most recent credit clearance market; or

(B) Compel a registered party to sell credits.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-1055

Public Disclosure

(1) List of DEQ-approved registered parties. DEQ will maintain a current list of DEQ-approved registered parties and will make that list publicly available on its website. The list will include, at a minimum, the name of the party and whether the registered party is an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, a producer, a credit generator, or an aggregator.

(2) Monthly credit trading activity report. DEQ must post on its webpage, by no later than the last day of the month immediately following the month for which the calculation is completed, a credit trading activity report that:

(a) Summarizes the aggregate credit transfer information for the:

(A) Most recent month,

(B) Previous three months,

(C) Previous three quarters, and

(D) Previous compliance periods;

(b) Includes, at a minimum

(A) The total number of credits transferred,

(B) The number of transfers,

(C) The number of parties making transfers, and

(D) The formula used by DEQ to calculate the volume-weighted average price of that month's transfers, exclusive of transactions that fall two standard deviations outside of the mean credit price for the month or that are transferred without a price;

(c) Is based on the information submitted into the OFRS; and

(d) Presents aggregated information on all fuel transacted within the state and does not disclose individual parties' transactions.

(3) Quarterly data summary. DEQ must post on its webpage at least quarterly:

(a) An aggregate data summary of credit and deficit generation for the most recent quarter and all prior quarters; and

(b) Information on the contribution of credit generation by different fuel types.

(4) CFP Annual Report. DEQ must post on its webpage by April 15th of each year, the following information from the previous year:

(a) The average cost or cost-savings per gallon of gasoline, per gallon of diesel, or any other fuel types, and the formulas used to calculate such costs or cost-savings; and

(b) The total greenhouse gas emissions reductions.

(5) Utility Reports. DEQ will post the utility reports it receives under OAR 340-253-0640(9) to its website.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-1100

Advance Crediting

(1) General Provisions.

(a) All advance credits must represent actual reductions of greenhouse gas emissions against the clean fuel standards and

(b) Vehicles must be registered in the State of Oregon to be eligible to earn advance credits.

(2) Eligibility to generate Advance Credits.

(a) The following entities may apply for advance credits:

(A) Public Transit Agencies;

(B) Political subdivisions of the State of Oregon;

(C) Tribes;

(D) School Districts;

(E) Companies under contract to provide services to a political subdivision of the State of Oregon or an Oregon School District if the political subdivision endorses the application, and the vehicles covered by the application are intended to provide contracted services to the public; and

(F) Owners of electric charging equipment that is part of a project that receives funds from the National Electric Vehicle Infrastructure (NEVI) formula program under the Bipartisan Infrastructure Law (Paragraph 2 of Title VIII of Division J of Public Law 117-58).

(b) The entities identified in subsection (a) may apply to earn advance credits for the purchase and use of the following vehicle types:

(A) Zero emission medium and heavy duty vehicles; and

(B) Zero emission light-duty vehicles if they are part of an organization's plan to fully convert its light-duty vehicle fleet to zero-emission vehicles within a 15-year time period.

(c) The entities identified in subsection (a) may apply to earn advance credits for the purchase, installation and use of the following fueling infrastructure types:

(A) Direct current (DC) fast charging equipment; and

(B) Hydrogen fueling equipment, provided that the planned source or sources of the hydrogen achieve a CI rating of 117gCO₂e/MJ or below.

(3) Applications for Advance Credits. All of the following requirements apply to applications for advance credits:

(a) Applications for advance crediting will be accepted by DEQ at least once per year from entities eligible to apply under section (2). DEQ will notify stakeholders when applications will be accepted and will provide application materials and guidance about how it will process and consider applications.

(b) Applicants must supply the following information to DEQ:

(A) A letter describing the activities or purchases that they want to receive advance crediting for, including the number of vehicles, charging equipment, and estimated timeframes for when those vehicles and equipment will be put into useful service;

(B) A detailed estimate of the potential credit generation that will result from the zero emissions vehicles and fueling or charging equipment they will purchase, install and use, as authorized under section (2). The estimate must include:

(i) In the case of zero-emission vehicles, an estimate of the number of miles each vehicle will travel within Oregon annually and the estimated amount of electricity or hydrogen needed for each vehicle;

(ii) If the covered zero-emission vehicles will mainly use existing charging or fueling equipment, the ownership of that charging or fueling equipment, and how the applicant will ensure that another entity will not generate credits from that vehicle until it has exited the payback period;

(iii) In the case of electric vehicles, where the vehicles will be charged, if they will be charged using grid or renewable electricity, and, if applicable, the utility-specific CI for where the charging equipment will be located;

(iv) In the case of hydrogen vehicles or fueling equipment, information on the CI(s) and supplier(s) of the hydrogen. including the contract(s) with their hydrogen supplier(s). If the applicant will be supplying their own hydrogen, then it must submit its plans for the hydrogen production system or systems if it does not already have an approved fuel pathway code;

(v) If the applicant is a company under contract to provide school bus services to an Oregon School District, it must also provide:

(I) A contract with the Oregon School District that the school buses will be serving that shows they will be the provider of school bus services to that district for at least three years following their purchase or lease of the school buses covered by the Advance Crediting Agreement; and

(II) A letter from the school district that is endorsing their application for advance crediting;

(vi) If the applicant is a company under a multi-year contract with a political subdivision of the State of Oregon, it must also provide:

(I) A contract with the political subdivision showing how the electric vehicles will be used and that they will be used in state for at least three years following their purchase or lease; and

(II) A letter endorsing the application from the political subdivision;

(vii) A proposed number of credits to be advanced for each vehicle or installed charger; and

(viii) An attestation that the applicant will remain the owner or lessee of the vehicle or equipment until they have paid back the advanced credits, or that, if the vehicle or equipment is sold prior to the end of the payback period, that the applicant will buy and retire credits against the remaining unpaid amount.

(c) In considering applications under this rule, DEQ will prioritize applications where the vehicles or charging equipment will reduce emissions in vulnerable communities disproportionately impacted by climate change, air toxics, and criteria air pollution.

(d) DEQ may request additional documentation from an applicant prior to making a decision on an application submitted under this section. If the applicant does not provide the requested documentation, then DEQ may deny the application without prejudice.

(4) Approval of Advance Credits. If DEQ determines that an application for advance credits meets the requirements of sections (2) and (3) and is in the best interest of the program, then DEQ will negotiate an agreement with the applicant to issue advance credits consistent with this division, and based on all of the following considerations and requirements:

(a) A clear and objective milestone for issuing advance credits that represents when the vehicles and equipment covered by the application are placed into useful service;

(b) The number of credits being advanced in total or per vehicle;

(c) The length of the payback period, which must be one year longer than the number of years of credits that will be advanced;

(d) An attestation from the applicant that it understands that the advanced credits must represent real reductions and that if the activity covered by the agreement does not generate sufficient credits within the payback period that it is responsible for retiring a sufficient number of credits to make up the difference. The attestation must also include a statement that the applicant understands that it is responsible for making up the difference in credits if it sells or relocates covered vehicles outside of Oregon; and

(e) An attestation from the applicant that it will ensure that actual credits are not generated from charging equipment serving these vehicles until the credits have been paid back.

(5) Issuance of Advance Credits. If DEQ approves an application and has executed an agreement with the applicant under section (4), then:

(a) DEQ will issue advance credits to the applicant only after the vehicles or equipment are placed into useful service as agreed to under section (4) of this rule;

(b) Credits will only be issued to the applicant named in the agreement; and

(c) DEQ may advance no more than six years of credits for any single vehicle or piece of infrastructure.

(6) Payback Period. Advanced credits issued under this rule are subject to the following requirements:

(a) The payback period for a vehicle or charging equipment will be specified in the agreement between DEQ and the applicant, except that the payback period may not exceed nine years. The payback period must be at least one year longer than the number of years of credits advanced to the applicant;

(b) In the event that the number of advanced credits was not realized during the payback period, the recipient is responsible for acquiring and retiring sufficient credits to ensure the environmental integrity of the program; and

(c) If a vehicle or charging equipment is sold to another entity prior to the close of the payback period, the applicant is responsible for purchasing and retiring credits against the volume of advanced credits that has not yet been covered by actual credit generation.

(7) Reporting Requirements. An applicant that has received advance credits under this rule must:

(a) File quarterly reports to DEQ showing the amount of charging going into the individual electric vehicles covered by the agreement; and

(b) May not generate additional credits for such charging until the advanced credits are paid back. DEQ and the applicant will monitor the amount of charging or fueling and credits that would have been generated to determine when an equal number of credits has been generated to the number of credits advanced.

(8) Overall limitation on advance credits. DEQ will process applications, negotiate and issue advance credits on a first-come, first served basis, and will stop working on any pending applications when it has issued advance credits equal to five percent of the number of deficits generated in the prior compliance year.

Statutory/Other Authority: ORS 468.020, ORS 468A.266, ORS 468A.268, ORS 468A.277 & ORS 468A.265 through 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, adopt filed 03/26/2021, effective 03/26/2021

340-253-8010

Tables

(1) Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

(2) Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

(3) Table 3 — Oregon Clean Fuel Standard for Alternative Jet Fuel

(4) Table 4 — Oregon Carbon Intensity Lookup Table

(5) Table 5 - Summary Checklist of Quarterly and Annual Compliance Reporting Requirements

(6) Table 6 - Oregon Energy Densities of Fuels

(7) Table 7 - Oregon Energy Economy Ratio Values

(8) Table 8 – Oregon Substitute Fuel Pathway Codes

(9) Table 9 – Oregon Temporary Fuel Pathway Codes

(10) Table 10 – Indirect Land-Use Change Values

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021

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DEQ 8-2016, f. & cert. ef. 8-18-16

DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15




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Table 1

Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO ₂ e per MJ)	Percent Reduction
2015	None (Gasoline Baseline is 98.62 for 2016-2017, 98.64 for 2018, and 98.06 for 2019 and beyond)	
2016*	98.37	0.25 percent
2017	98.13	0.50 percent
2018	97.66	1.00 percent
2019	96.59	1.50 percent
2020	95.61	2.50 percent
2021	94.63	3.50 percent
2022	93.15	5.00 percent
2023	91.68	6.50 percent
2024	90.21	8.00 percent
2025	88.25	10.00 percent
2026	86.29	12.00 percent
2027	84.33	14.00 percent
2028	82.37	16.00 percent
2029	80.41	18.00 percent
2030	78.45	20.00 percent
2031	75.11	23.40 percent
2032	71.78	26.80 percent
2033	68.45	30.20 percent
2034	65.11	33.60 percent

	OAR 340-253-8010 Table 1 Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes	
2035 and beyond	61.78	37.00 percent
*Initial compliance period is a two-year period for 2016 and 2017.		



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Table 2

Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO ₂ e per MJ)	Percent Reduction
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond)	
2016*	99.39	0.25 percent
2017	99.14	0.50 percent
2018	98.61	1.00 percent
2019	97.26	1.50 percent
2020	96.27	2.50 percent
2021	95.29	3.50 percent
2022	93.81	5.00 percent
2023	92.32	6.50 percent
2024	90.84	8.00 percent
2025	88.87	10.00 percent
2026	86.89	12.00 percent
2027	84.92	14.00 percent
2028	82.94	16.00 percent
2029	80.97	18.00 percent
2030	78.99	20.00 percent
2031	75.63	23.40 percent




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Table 2

Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

2032	72.28	26.80 percent
2033	68.92	30.20 percent
2034	65.56	33.60 percent
2035 and beyond	62.21	37.00 percent

*Initial compliance period is a two-year period for 2016 and 2017.

 OAR 340-253-8010 Table 3 Oregon Clean Fuel Standard for Alternative Jet Fuel	
Calendar Year	Oregon Clean Fuel Standard (gCO ₂ e per MJ)
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond. The fossil jet baseline is 90.97.)
2019	90.80
2020	90.80
2021	90.80
2022	90.80
2023	90.80
2024	90.80
2025	88.87
2026	86.89
2027	84.92
2028	82.94
2029	80.97
2030	78.99
2031	75.63
2032	72.28
2033	68.92
2034	65.56
2035 and beyond	62.21



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Table 4
Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO ₂ e/MJ)
			Total Lifecycle Emissions
Gasoline	ORGAS001	Clear gasoline - based on a weighted average of gasoline supplied to Oregon	100.14
	ORGAS002	Imported blended gasoline (E10) – 90% clear gasoline & 10% corn ethanol based on Midwest average. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.06
Diesel	ORULSD001	Clear diesel, based on a weighted average of diesel fuel supplied to Oregon	100.74
	ORULSD002	Imported blended diesel (B5) – 95% clear diesel & 5% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.74
	ORULSD003	Imported blended diesel (B20) – 80% clear diesel & 20% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	92.68
Compressed Natural Gas	ORCNG001	North American NG delivered via pipeline; compressed in OR	79.98
Liquefied Natural Gas	ORLNG001	North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency	86.88
Liquefied Petroleum Gas	ORLPG001	Liquefied petroleum gas	80.88
Electricity	ORELEC100	Solar power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).	0



OAR 340-253-8010
Table 4
Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO ₂ e/MJ)
			Total Lifecycle Emissions
	ORELEC101	Wind power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).	0
	ORELEC200	Renewable power deemed to have a carbon intensity of zero under OAR 340-253-0470 and meeting the provisions of (5).	0
Hydrogen	ORHYF	Compressed H ₂ produced in Oregon from central steam methane reformation of North American fossil-based NG	120.68
	ORHYFL	Liquefied H ₂ produced in Oregon from central steam methane reformation of North American fossil-based NG	157.29
	ORHYB	Compressed H ₂ produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	116.76
	ORHYBL	Liquefied H ₂ produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	149.70
	ORHYEG	Compressed H ₂ produced in Oregon from electrolysis using Oregon average grid electricity	205.38
	ORHYEB	Compressed H ₂ produced in Oregon from electrolysis using BPA average grid electricity	31.65
	ORHYER	Compressed H ₂ produced in Oregon from electrolysis using solar- or wind-generated electricity	13.11



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Table 5

Summary Checklist of Quarterly and Annual Compliance Reporting Requirements

Parameters to Report	Gasoline & Diesel Fuel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
Company or organization name	x	x	x	x	x
Reporting period	x	x	x	x	x
Fuel pathway code	x	x	x	x	x
Transaction type	x	x	x	x	x
Transaction date	x	x	x	x	x
Business Partner	x	x	x	x	x
Production Company ID and Facility ID	n/a	x	n/a	n/a	x
Physical transport mode code	x	x	x	x	x
Aggregation	x	x	x	x	x
Application / EER	x	x	x	x	x
Amount of each fuel used as gasoline replacement	x	x	x	x	x
Amount of each fuel used as diesel fuel replacement	x	x	x	x	x
*Credits/deficits generated per quarter (MT)	x	x	x	x	x
For Annual Compliance Reporting (in addition to the items above)					
*Credits and Deficits generated per year (MT)	x	x	x	x	x




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Table 5

Summary Checklist of Quarterly and Annual Compliance Reporting Requirements

Parameters to Report	Gasoline & Diesel Fuel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
*Credits/deficits carried over from the previous year (MT), if any	x	x	x	x	x
*Credits acquired from another party (MT), if any	x	x	x	x	x
*Credits sold to another party (MT), if any	x	x	x	x	x
*Credits retired within LCFS (MT) to meet compliance obligation, if any	x	x	x	x	x

 OAR 340-253-8010 Table 6 Oregon Energy Densities of Fuels	
Fuel (unit)	MJ/unit
Gasoline (gallon)	122.48 (MJ/gallon)
Diesel fuel (gallon)	134.48 (MJ/gallon)
Compressed natural gas (therm)	105.5 (MJ/therms)
Electricity (kilowatt hour)	3.60 (MJ/kilowatt hour)
Denatured ethanol (gallon)	81.51 (MJ/gallon)
Clear biodiesel (gallon)	126.13 (MJ/gallon)
Liquefied natural gas (gallon)	78.83 (MJ/gallon)
Hydrogen (kilogram)	120.00 (MJ/kilogram)
Liquefied petroleum gas (gallon)	89.63 (MJ/gallon)
Renewable hydrocarbon diesel (gallon)	129.65 (MJ/gallon)
Undenatured anhydrous ethanol (gallon)	80.53 (MJ/gallon)
Alternative Jet Fuel (gallon)	126.37 (MJ/gallon)
Renewable naphtha (gallon)	117.66 (MJ/gallon)



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Table 7

Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	EER Value Relative to Gasoline	Fuel/Vehicle Combination	EER Value Relative to Diesel	Fuel/Vehicle Combination	EER Value Relative to conventional jet
Gasoline (including E10) or any other gasoline-ethanol blend	1	Diesel fuel (including B5) or any other blend of diesel and biodiesel or renewable hydrocarbon diesel	1	Alternative Jet Fuel	1
CNG Internal Combustion Engine Vehicle (ICEV)	1	CNG, LNG, or LPG (Spark-Ignition Engines)	0.9	-	-
Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	3.4	CNG, LNG, or LPG (Compression-Ignition Engines)	1		
Electricity/On-Road Electric Motorcycle	4.4	Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	5		
Propane/Propane Forklift	0.9	Electricity/Battery Electric or Plug-in Hybrid Transit Bus	5		
Hydrogen/Fuel Cell Vehicle	2.5	Electricity/Fixed Guideway Light Rail	3.3		
Electricity/Ground Support Equipment	3.2	Electricity/Fixed Guideway Streetcar	2.1		





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Table 7

Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	EER Value Relative to Gasoline	Fuel/Vehicle Combination	EER Value Relative to Diesel	Fuel/Vehicle Combination	EER Value Relative to conventional jet
---		Electricity/Fixed Guideway Aerial Tram	2.6		
		Electricity/Electric Forklift	3.8		
		Electricity/Electric TRU (eTRU)	3.4		
		Hydrogen/Fuel Cell Vehicle	1.9		
		Hydrogen/Fuel Cell Forklift	2.1		
		Electricity/Cargo Handling Equipment	2.7		
		Electricity/Ocean Going Vessels	2.6		

 <p style="text-align: center;">OAR 340-253-8010 Table 8 Oregon Substitute Fuel Pathway Codes</p>		
Fuel	Fuel Pathway code	CI (gCO ₂ e/MJ)
Substitute CI for Ethanol. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ETH0116	40
Substitute CI for Biodiesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	BIOD0116	15
Substitute CI for Renewable Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	RNWD0116	15
Substitute CI for E10 Gasoline. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORGAS0116	For 2019: 96.59 For 2020 and beyond: 96.00
Substitute CI for B5 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORULSD01165	For 2019: 97.26 For 2020 and beyond: 96.71

 OAR 340-253-8010 Table 8 Oregon Substitute Fuel Pathway Codes		
Fuel	Fuel Pathway code	CI (gCO₂e/MJ)
Substitute CI for B20 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORULSD011620	84.45



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Table 9

Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO ₂ e/MJ)
Ethanol	Corn	Grid electricity, natural gas, and/or renewables	ORETH100T	77.8
	Sorghum	Grid electricity, natural gas, and/or renewables	ORETH101T	95
	Sugarcane and Molasses	Bagasse and straw only, no grid electricity	ORETH102T	55
	Any starch or sugar feedstock	Any	ORETH103T	100.14
	Corn Stover, Wheat Straw, or Sugarcane Straw	As specified in OR-Greet 2.0	ORETH104T	50
Biodiesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORBIOD200T	45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORBIOD201T	65
	Any feedstock	Any	ORBIOD202T	100.74
Renewable Diesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORRNWD300T	45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORRNWD301T	65
	Any feedstock	Any	ORRNWD302T	100.74
Biomethane CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORCNG500T	70



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Table 9

Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO ₂ e/MJ)
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORCNG501T	45
Biomethane LNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLNG501T	85
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLNG502T	60
Biomethane L-CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLCNG502T	90
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLCNG503T	65
Biomethane CNG, LNG, L-CNG	Dairy and Swine Manure	Grid electricity, natural gas, and/or parasitic load	ORLCNG504T	-150
Renewable LPG	Fats, Oils, and Grease residues	Grid electricity, natural gas, and/or renewables	ORRNWP400T	45
	Any feedstock derived from plant oils (excluding palm and palm derivatives)	Grid electricity, natural gas, and/or renewables	ORRNWP401T	65
Electricity	Coal, Natural Gas, Hydroelectric	Oregon average electricity mix	ORELEC600T	135.00




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Table 9

Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO ₂ e/MJ)
	Dams, Windmills, etc.			
Any Gasoline Substitute Feedstock- Fuel Combination Not Included Above	Any	Any	ORSG800T	100.14
Any Diesel Substitute Feedstock- Fuel Combination Not Included Above	Any	Any	ORSD801T	100.74

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Table 10	
Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels	
Feedstock	ILUC Value (gCO₂e/MJ)
Corn Ethanol	7.60
Sorghum Ethanol	19.40
Sugarcane Ethanol	11.80
Soybean Biodiesel or Renewable Diesel	29.10
Canola Biodiesel or Renewable Diesel	14.50
Palm Biodiesel or Renewable Diesel	71.40