

ADMINISTRATIVE RULES

Department of Environmental Quality Chapter 340

Rule Caption: Clean Fuels Program Corrections

Adm. Order No.: DEQ 8-2016

Filed with Sec. of State: 8-18-2016

Certified to be Effective: 8-18-16

Notice Publication Date: 7-1-2016

Rules Amended: 340-253-8010, 340-253-8020, 340-253-8030, 340-253-8040

Rules Repealed: 340-253-8010(T), 340-253-8020(T), 340-253-8030(T), 340-253-8040(T)

Subject: The adopted rule amendments correct a miscalculation of how the clean fuel standards and the carbon intensity values of two fuel pathways were calculated in the rules EQC adopted on Dec. 9, 2015.

The adopted rule amendments also correct spelling mistakes in the names of some pathway identifiers located in the look-up tables.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-253-8010

Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

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

Stat. Auth.: ORS 468.020 & 2009 OL Ch. 754 Sec. 6 (2011 Edition)

Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition)

Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16; DEQ 8-2016, f. & cert. ef. 8-18-16

340-253-8020

Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

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

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3

Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition)

Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16; DEQ 8-2016, f. & cert. ef. 8-18-16

340-253-8030

Table 3 — Oregon Carbon Intensity Lookup Table for Gasoline and Gasoline Substitutes

NOTE: DEQ recognizes that indirect effects, including indirect land use change, are real. However the methodologies to quantify these effects are still in development. DEQ intends to monitor the science of indirect effect and will adjust carbon intensity values through future rulemaking as methodologies improve.

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

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3

Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14; DEQ 8-2014, f. & cert. ef. 6-26-14; Renumbered from 340-253-3010 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16; DEQ 8-2016, f. & cert. ef. 8-18-16

340-253-8040

Table 4 — Oregon Carbon Intensity Lookup Table for Diesel and Diesel Substitutes

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

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3

Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14; DEQ 8-2014, f. & cert. ef. 6-26-14; Renumbered from 340-253-3020 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16; DEQ 8-2016, f. & cert. ef. 8-18-16

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Rule Caption: Water Quality Standards for Bacteria

Adm. Order No.: DEQ 9-2016

Filed with Sec. of State: 8-18-2016

Certified to be Effective: 8-18-16

Notice Publication Date: 4-1-2016

Rules Amended: 340-041-0009, 340-041-0101, 340-041-0220, 340-041-0230, 340-041-0300, 340-041-0320

Subject: The proposed rule amendments will:

Revise Oregon's water quality standards for bacteria in order to protect people who consume shellfish and recreate in coastal waters from illness due to fecal contamination of the water;

Adopt the United States Environmental Protection Agency's 2012 Recommended Water Quality Criteria for coastal waters for enterococcus bacteria including:

- A 90-day geometric mean of 35 enterococcus organisms per 100 mL; and

- A limit of 130 enterococcus organisms per 100 mL that cannot be exceeded more than ten percent of the time in any 90-day period.

Clearly identify that E. coli criteria protect contact recreation in freshwaters, enterococcus criteria protect contact recreation in coastal waters and fecal coliform criteria protect shellfish harvesting;

Establish water quality standards designated use maps and modify designated use tables for coastal basins to show where shellfish harvesting is a designated use and the boundary between coastal contact recreation use and freshwater contact recreation use for purposes of applying the correct water quality criteria to protect those uses;

Change the averaging period for the E. coli standard for freshwaters from 30 days to 90 days and change the averaging methodology from "log mean" to "geometric mean;"

Require that wastewater effluent from fecal sources discharged to waters designated for coastal water contact recreation meet the applicable criteria on a monthly basis;

Include an implementation provision that would require a minimum of five samples to calculate the geometric mean criteria for E. coli and enterococcus, as well as the 90th percentile value for enterococcus.; and

Incorporate plain language into the amended rules consistent with the Oregon Administrative Procedures Act.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-041-0009

Bacteria

(1) Numeric Criteria: Organisms commonly associated with fecal sources may not exceed the criteria in subsections (a)-(c) of this section:

(a) Freshwater contact recreation:

(A) A 90-day geometric mean of 126 E. coli organisms per 100 mL;

(B) No single sample may exceed 406 E. coli organisms per 100 mL.

(b) Coastal water contact recreation, as designated in OAR 340-041-0101, 340-041-220, 340-041-230, 340-041-300 and 340-041-0320:

(A) A 90-day geometric mean of 35 enterococcus organisms per 100 mL;

(B) Not more than ten percent of the samples may exceed 130 organisms per 100 mL.

(c) Shellfish harvesting, as designated in 340-041-0101, 340-041-220, 340-041-230, 340-041-300 and 340-041-0320:

(A) A fecal coliform median concentration of 14 organisms per 100 mL;

(B) Not more than ten percent of the samples may exceed 43 organisms per 100 mL.

(2) A minimum of five samples in a 90-day period is required for calculating the criteria in sections (1)(a)(A) and (1)(b)(A) and (B) of this rule.

(3) Raw Sewage Prohibition: No sewage may be discharged into or in any other manner be allowed to enter the waters of the State, unless such sewage has been treated in a manner the Department approved or otherwise allowed by these rules.

(4) Animal Waste: Runoff contaminated with domesticated animal wastes must be minimized and treated to the maximum extent practicable before it is allowed to enter waters of the State.

(5) Bacterial pollution or other conditions deleterious to waters used for domestic purposes, livestock watering, irrigation, bathing, or shellfish propagation, or otherwise injurious to public health may not be allowed.

(6) Implementation in NDPES Permits: Upon NPDES permit renewal or issuance, or upon request for a permit modification by the permittee at an earlier date, bacteria in effluent discharges associated with fecal sources may not exceed the following amounts:

(a) In waters designated for coastal water contact recreation:

(A) A monthly geometric mean of 35 enterococcus organisms per 100 mL, and