



State of Oregon
Department of
Environmental
Quality

Oregon Department of Environmental Quality
Nov. 2-3, 2017
Oregon Environmental Quality Commission meeting
Rulemaking, Action item K

Clean Fuels Program Improvements 2017

This file contains the following documents:

- EQC Staff Report
- Attachment A: Draft rules – redline/strikethrough
- Attachment B: Draft rules – no markup

DEQ recommendations to the EQC and Proposed Motions

Recommendations:

The Department of Environmental Quality recommends that the Environmental Quality Commission adopt the proposed rules and rule amendments presented in Attachment A to this report as part of Chapter 340 of the Oregon Administrative Rules.

DEQ also recommends that the EQC find that, upon its evaluation, the Clean Fuels Program, Division 253, Chapter 340 of the Oregon Administrative Rules, including the rules and rule amendments proposed in Attachment A, does not have any significant potential adverse impacts on the generation and disposal of waste in the state.

Proposed Motions:

I move that the Environmental Quality Commission, having considered the record for this rulemaking, find that, upon its evaluation, the Clean Fuels Program, Division 253, Chapter 340 of the Oregon Administrative Rules, including the rules and rule amendments proposed in Attachment A, does not have any significant potential adverse impacts on the generation and disposal of waste in the state

I move that the Environmental Quality Commission, having considered the record for this rulemaking, approve the recommendations of the Department of Environment Quality, and adopt the proposed rules presented in Attachment A to this report as part of Chapter 340 of the Oregon Administrative Rules

Overview

Short summary

DEQ proposes to amend the Oregon Clean Fuels Program rules under Division 253 of Chapter 340 of the Oregon Administrative Rules. The proposed rule changes would fulfill legislative direction in 2015 and 2017 for full implementation of the Clean Fuels Program.

The proposed amendments to the rules will:

- Add provisions for a Credit Clearance Market in place of the existing Monthly Fuel Price Deferral
- Update and refine several provisions relating to electricity's use as a transportation fuel
- Add electricity used for certain public transit applications to the program
- Reclassify renewable hydrocarbon diesel as a regulated fuel because some types of renewable hydrocarbon diesel may have carbon intensities that exceed the clean fuel standard
- Restrict the transfer of the compliance obligation for large importers of finished fuels for in-state transactions below the rack
- Add market monitoring and enforcement provisions
- Amend and rename the Emergency Fuel Supply Deferral to include the ability to respond to credit market disruptions
- Update definitions
- Streamline and clarify several administrative processes
- Update several tables to reflect the latest and most accurate information.

Brief history

The 2009 Oregon Legislature passed House Bill 2186 authorizing the Oregon Environmental Quality Commission to adopt rules to reduce lifecycle emissions of greenhouse gases from Oregon's transportation fuels by 10 percent over a 10-year period.

Since then, the commission has adopted two phases of rules and made one correction to math errors in part of the rules. The 2015 Oregon legislature also removed the initial sunset date of the program, which would have been the end of 2015. The timeline of these legislative and commission actions is below.

- EQC adopted phase 1 rules on Dec. 7, 2012, which required Oregon transportation fuel producers and importers to register, keep records and report the volumes and carbon intensities of the transportation fuels they provide in Oregon.
- EQC adopted phase 2 rules on Jan. 7, 2015, which required Oregon transportation fuel importers to reduce the average carbon intensity of fuels they provide in Oregon by 10 percent over a 10-year period.

- The 2015 Oregon Legislature passed Senate Bill 324 that removed the Dec. 31, 2015, sunset date in House Bill 2186 (2009) and further amended the authorizing statute, ORS 468A.275, for the Oregon Clean Fuels Program.
- EQC adopted updated rules on Dec. 9, 2015, to implement Senate Bill 324 (2015).
- EQC adopted temporary rules on April 21, 2016, to correct a miscalculation in the clean fuel standards and certain carbon intensity values. The commission made those corrections permanent on Aug. 18, 2016.

Regulated parties

The Clean Fuels Program currently has 121 businesses registered to participate, in four general categories of business. Those categories are:

- *Importers of Blendstocks* - These are businesses that import fuel components which can be blended with another fuel component or used alone.
 - There are currently 50 businesses registered as importers of blendstocks.
- *Importers of Finished Fuels* - These are businesses that import fuels that can be used directly in a motor vehicle, such as clear gasoline, gasoline blended with 10 percent ethanol, clear diesel and diesel blended with 5 percent biodiesel.
 - There are currently 48 businesses registered as importers of finished fuels; 33 businesses are large (500,000 gallons per year and greater) and 15 are small (less than 500,000 gallons per year). Small importers of finished fuels are largely exempted from the program, except for the requirement to register and annually file a report through the agency's greenhouse gas reporting program.
 - To note, the program's definition of a "small importer" does not align with the statutory definition of "small business" that is used to analyze the fiscal and economic impact to small businesses.
- *Oregon Producers of Transportation Fuels* – These are businesses that produce transportation fuels of any sort.
 - There are currently two registered Oregon producers of transportation fuels, and both produce biofuels. One produces ethanol from corn and one produces biodiesel from used cooking oil. There are no other Oregon producers of transportation fuels at this time.
- *Credit Generators* – These are businesses that provide or produce clean fuels (natural gas, renewable natural gas, propane, electricity and hydrogen). This category of business is registered solely for its ability to provide credits for clean fuels, and is not required to participate in the program if it does not generate credits for others in Oregon.
 - There are currently 21 businesses registered as credit generators.

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

DEQ requested specific comment on the following questions:

- The proposed rules establish a hierarchy for credit generation due to residential electricity used to power electric vehicles. The proposed hierarchy is to first designate electric utilities, then a designated aggregator, then a backstop aggregator to be eligible to generate credits from the residential charging of electric vehicles in 2018 and beyond. The proposed rules also designate these same entities, in that same order, to be eligible to generate credits from the residential charging of electric vehicles in 2016 and 2017.
 - Should DEQ consider a different entity to generate those credits or a different hierarchy order of the same entities?

- The 2017 Oregon Legislature passed House Bill 2017 which included changes to the Oregon Clean Fuels Program. When the notice of proposed rulemaking was published, the Governor had not yet signed the legislation into law, but this rulemaking package is consistent with the legislation.
 - Do the proposed rules conform to House Bill 2017?

- What is the impact of the Clean Fuels Program on public health and the environment, including but not limited to air quality, water quality and the generation and disposal of solid waste?

Statement of Need

Climate change poses a serious threat to Oregon’s economy, environment and public health. Transportation accounts for approximately one third of all greenhouse gas emissions in Oregon. The goal of the Clean Fuels Program is to reduce greenhouse gas emissions from Oregon’s transportation fuels by promoting lower-carbon production methods for existing fuels and the innovation, commercialization, and deployment of new low-carbon alternative fuels. While the program has been operating since 2016, there are several needs that this proposed rulemaking is seeking to address as described below.

Topic	Discussion
Cost Containment	
What need would the proposed rule address?	In 2015, the Oregon Legislature passed Senate Bill 324, now codified as ORS 468A.275, that removed the sunset of the Clean Fuels Program from its authorizing statute. It also added a more general authorization to adopt a system of cost containment but left the design of the system for DEQ to recommend and EQC to adopt. In 2017, the legislature passed House Bill 2017 that adds specific requirements to include a credit clearance market and requires the Department of Administrative Services Office of Economic Analysis to work with DEQ to conduct the annual fuel forecast. This rulemaking proposes to refine the program’s existing system of cost containment and replace the existing fuel price-based mechanism with a credit price-based mechanism.
How would the proposed rule address the need?	DEQ is proposing a Credit Clearance Market as an additional mechanism in the program to contain the cost of complying with the program. The Credit Clearance Market creates a clear path for regulated parties to come into compliance with the standards in the event that they are short in the number of credits they need to comply. The Credit Clearance Market also creates a clear maximum price for credits to be sold for at the end of a compliance period and thus caps the cost of complying with the program.
How will DEQ know the rule addressed the need?	DEQ will monitor the annual reports submitted by regulated parties to determine whether a Credit Clearance Market is needed and hold one if necessary. DEQ will also monitor credit transactions to determine the average price of credits that are being sold.
Market Monitoring	
What need would the proposed rule address?	While credits in the Clean Fuels Program began trading in 2016, there will be an increase in market activity as the program causes demand for clean fuels to grow. This

Topic	Discussion
	rulemaking proposes to provide DEQ with the ability to collect additional information and establish new investigative processes to improve its oversight of the program's credit market.
How would the proposed rule address the need?	DEQ is proposing several rules that enhance the recordkeeping requirements for credit trades and specify actions that DEQ will take when investigating potential errors in reporting credit transactions, credit or deficit generation, or applications for carbon intensities. DEQ is proposing to establish a clear process to investigate suspected cases of fraud or market manipulation and to create a list of specific prohibitions on conduct in the credit market. DEQ is also proposing to expand the program's emergency deferral so it can take action in the unlikely situations where a market disruption has occurred.
How will DEQ know the rule addressed the need?	DEQ will oversee all aspects of credit and deficit generation including approving the carbon intensities of credit-generating fuels, registering credit generators and regulated parties, and monitoring credit transfers. DEQ will collaborate with market participants and analysts to gauge the impact that the rule changes have on DEQ's oversight of the market.
Electricity Provisions	
What need would the proposed rule address?	When the original regulations were adopted in 2012, very little electricity was being used for transportation. Since then, electric vehicle manufacturers, electric vehicle charger providers, utilities, and governments at all levels have joined forces to promote transportation electrification. This rulemaking proposes to provide additional ways the program can further incent electricity as a lower carbon transportation fuel.
How would the proposed rule address the need?	DEQ is proposing several rule changes that make it easier to calculate the carbon intensity of electricity, allow transit to generate credits, clarify who can generate credits, and make it easier for credits to be generated.
How will DEQ know the rule addressed the need?	DEQ will monitor the carbon intensities of electricity, the number of electric vehicles registered in Oregon, the reporting by electric vehicle charger owners and operators, electric utilities, transit agencies, and aggregators.
Miscellaneous Regulatory Improvements	
What need would the proposed rule address?	DEQ learned a great deal since it began implementing the program in 2016. This rulemaking proposes to improve and streamline the day-to-day operation of the program.
How would the proposed rule	DEQ is proposing several rule changes that will clarify existing

Topic	Discussion
address the need?	requirements on registration, reporting, obtaining the carbon-intensity value for a fuel, and credit transfers for parties in the program. DEQ is also proposing to provide additional transparency regarding the performance of the program and its credit market through additional reporting and public disclosure requirements.
How will DEQ know the rule addressed the need?	DEQ will monitor quarterly and annual reports, the processing of applications to obtain carbon-intensity scores and other aspects of program implementation.
Renewable hydrocarbon diesel	
What need would the proposed rule address?	The carbon intensity of renewable hydrocarbon diesel differs depending on the feedstock it is made from. The fuel generates credits when it is made from lower carbon feedstocks while in other cases it generates deficits. The current rule only requires registration of credit-generating renewable hydrocarbon diesel but not deficit-generating renewable hydrocarbon diesel. This rulemaking proposes to close this loophole.
How would the proposed rule address the need?	DEQ is proposing to require that all renewable hydrocarbon diesels to be registered in the program and generate credits or deficits based on its individual feedstock carbon intensity values.
How will DEQ know the rule addressed the need?	DEQ will monitor quarterly and annual reports and the processing of applications to obtain carbon intensities for fuels.
“Below the rack” transactions	
What need would the proposed rule address?	The current rules allow for program deficits to be transferred from a seller to a buyer at the rack if the buyer is registered as an importer of blendstocks or a large importer of finished fuels. Many large importers of finished fuels (defined by volume imported) are small businesses (defined by number of employees) and do not have the ability to generate their own credits to offset these deficits. This rulemaking proposes to help these businesses by making it so that deficits for already blended or clear fuels they purchase in-state to deliver to retail locations or customers cannot be passed onto them if they are purchasing below the rack. This reduces the amount of deficits that a large importer of finished fuels must offset to only those fuels it imports directly into the state.
How would the proposed rule address the need?	DEQ is proposing to restrict the transfer of deficits “below the rack” if the buyer is an importer of finished fuels.
How will DEQ know the rule addressed the need?	DEQ will monitor the product transfer documents that are required for fuel transactions in the program.

Rules affected, authorities, supporting documents

Lead division

Environmental Solutions Division
 Air Quality Planning Section

Program or activity

Oregon Clean Fuels Program

Chapter 340 action

Adopt - OAR

340-253-0470	340-253-0640	340-253-0670	340-253-1040	340-253-1055
340-253-8090	340-253-8100			

Amend - OAR

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	340-253-0500	340-253-0600	340-253-0620
340-253-0630	340-253-0650	340-253-1000	340-253-1010	340-253-1020
340-253-1030	340-253-2000	340-253-2100	340-253-8010	340-253-8020
340-253-8030	340-253-8040	340-253-8050	340-253-8060	340-253-8070
340-253-8080				

Repeal - OAR

340-253-2200				
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Amend and Renumber - OAR

340-253-1005 to 340-253-1050			
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Statutory authority - ORS

468.020, 468A.275, sections 160, 161, 167, and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Statute implemented - ORS

468A.275 and sections 159 to 167, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Legislation

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

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Documents relied on for rulemaking

Document title	Document location
CFP 2017 Rulemaking materials, November 2016 – June 2017	http://www.oregon.gov/deq/Regulations/rulemaking/Pages/cfp2017.aspx
House Bill 2017-A	https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/HB2017

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 sold by 10 percent over 10 years. 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.

The scope of 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 program in its entirety. The proposed rule changes fall into four broad categories: a) cost containment; b) market monitoring; c) electricity provisions; and d) miscellaneous regulatory improvements along with two discrete rule changes. The proposed rule revisions are based on discussions and input from DEQ's CFP 2017 Rulemaking Advisory Committee. Here is a brief description of the most significant elements of the proposed rules:

- *Cost Containment* – There are three proposed rule changes related to containing the potential costs associated with complying with the clean fuel standards: 1) the addition of a credit clearance market; 2) removing the monthly fuel price deferral; and 3) modifying the forecast deferral to require the Department of Administrative Service's Office of Economic Analysis to conduct the forecast in coordination with DEQ. The credit clearance market creates a process where credits can be acquired by regulated parties that need them at the end of a compliance period if they have not generated or purchased a sufficient number of credits to meet their compliance obligations. A maximum price that credits can be purchased for through the credit clearance market will act as a cap for the regular credit market during the rest of the year, as regulated parties will be allowed to roll over unfilled deficits if they cannot purchase credits at or below that maximum price. The credit clearance market is a much more effective and transparent way to manage the costs associated with the clean fuels program than the monthly fuel price deferral, so DEQ is proposing to remove that deferral. The proposed rules also make changes to the emergency deferral in order to implement the requirements of enrolled HB 2017 A from the 2017 Legislature.
- *Market Monitoring* – There are three proposed rule changes related to improving DEQ's ability to monitor the clean fuels credit market: 1) specifying recordkeeping and inspection requirements for credit transfers; 2) adding provisions to enable the investigation and response to cases of potentially improper credit generation, transfers, fraud, or acts of market manipulation; and 3) amending the emergency fuel supply deferral to allow its' use to respond to other market disruptions. Collectively,

these proposed changes will better allow DEQ to monitor credit market prices and trends, and react to instances where abnormal market behavior might have a negative impact on fuel consumers.

- *Electricity Provisions* – There are six proposed rule changes related to electricity used as a transportation fuel: 1) changing the way the carbon intensity values for electricity are calculated; 2) providing more information on how credits will be calculated and generated for residential charging of electric vehicles; 3) adding a backstop aggregator for residential charging of electric vehicles; 4) adding credits from electricity used for public transit vehicles; 5) adding new energy economy ratios; and 6) generating credits from residential electric vehicle charging for 2016 and 2017.

The first three proposed rule changes clarify how credits will be generated and who is able to generate them. For electricity used for charging electric vehicles at residences, a utility is currently designated to generate the credits or it can designate an aggregator to do so on its behalf. If the utility chooses neither option to generate credits, then the proposed rule change would allow DEQ to select a backstop aggregator to receive the “stranded” credits. The proposed rules establish qualifying criteria and reporting requirements for a backstop aggregator.

The next two proposed rules would expand the types of electric vehicles that can generate credits and how those credits should be calculated. The proposed rules would add electricity used for public transit such as buses, light rail, street cars or aerial tram as a qualifying transportation fuel and clarifies that the transit agency will be the default credit generator. The proposed rules also add in new energy economy ratios, which are values used to compare the relative energy efficiency of types of vehicles, for the vehicle types described above.

The last proposed rule would allow DEQ to use historical data from 2016 and 2017 to calculate the amount of credits that would have been generated from residential electric vehicle charging over that period if the eligible credit generators had been registered for the program. Then, to remain consistent with the proposed hierarchy for credit generation from residential electric vehicle charging, DEQ would make those retroactive credits available to the electric utility or a designated aggregator first, then to a backstop aggregator.

- *Miscellaneous Regulatory Improvements* – There are six proposed rule changes related to administrative requirements and calculation methodologies: 1) updating definitions; 2) requiring additional information to be submitted for co-processed fuels at existing petroleum refineries; 3) updating the process to obtain a carbon intensity value; 4) requiring compressed natural gas to be reported in therms; 5) updating several tables to reflect the latest information; and 6) adding new reports that provide transparency regarding the performance of the program and its credit market. These proposed changes are improvements to the current program based on lessons learned from implementing the program since 2016.

There are two additional, discrete proposed rule changes:

- Changing renewable hydrocarbon diesel from a clean fuel to a regulated fuel. This proposed change would require that all imported renewable hydrocarbon diesel be registered in the clean fuels program and generate credits or deficits based on its individual feedstock carbon intensity values. The current rule only requires registration to generate credits, but some varieties of renewable hydrocarbon diesel have carbon intensities that exceed the clean fuel standard, and that therefore result in deficits that will trigger a compliance obligation.
- Restricting the transfer of deficits for fuel transactions “below the rack” if the buyer is an importer of finished fuels. The current rules allow for deficits to be transferred from a seller to a buyer at the rack if the buyer is registered as an importer of blendstocks or a large importer of finished fuels. This proposed change will restrict that from happening if the buyer is a large importer of finished fuels; the seller of the fuel will retain the deficits in that situation. As the fuel is already blended, the purchaser cannot affect the carbon-intensity of the blend, limiting their options for compliance.

Statement of Cost of Compliance

Direct Costs to Registered Parties

All registered parties have direct costs with complying with the Clean Fuels Program. There are administrative costs related to keeping records, submitting reports, responding to investigations and transferring credits. There is also the cost to comply with the clean fuel standards, which requires regulated parties to generate or acquire and retire enough credits to offset the number deficits it generated. Credits can be acquired with low-carbon fuels as they are transacted or separately on the open market. In both cases the implied or discrete prices paid for credits are negotiated between the two counterparties. Regulated parties, such as importers of blendstocks and finished fuels, may also be producers of low-carbon fuels, or have long-term agreements with low-carbon fuel producers that are not indexed to the current price of credits. Thus, the actual cost to comply with the clean fuels standards will vary from party to party, depending on the scope of the administrative costs, how regulated parties source their fuels and other aspects of their business operations.

For this discussion, importers of blendstocks and finished fuels, Oregon producers, and some credit generators are large businesses under the statutory definition—businesses with more than 50 employees. Some credit generators are considered small businesses under that definition, with 50 or fewer employees.

- For all of the proposed rule changes, registered parties will have to make adjustments to their administrative procedures to comply with the program. The fiscal impact of these changes is minimal.

- For *Electricity Provisions*, there are three classes of parties that might be impacted.
 - For transit agencies, there will be credits generated from electric buses, light rail, streets cars and aerial trams. DEQ's consultant for this rulemaking, ICF, projected between 20,000 – 40,000 credits might be generated from those vehicles between 2018 and 2025. Assuming the current market rate of \$50 per credit, this equates to approximately \$1,000,000 - \$2,000,000 in revenue that can be used to reinvest in those systems or for other purposes.
 - For electric utilities or their designated aggregators, they will be eligible under the proposed rules to acquire the 2016 and 2017 credits for residential electric vehicle charging if they also choose to generate the credits for 2018. ICF projected that the total number of credits that should have been generated in 2016 and 2017 is about 190,000 for both residential and non-residential charging combined. According to industry studies, approximately 85% of charging of electric vehicles occur at residences which means approximately 160,000 credits could be generated by electric utilities or their designated aggregators for those two years. Assuming the current market rate of \$50 per credit, this equates to approximately \$8,100,000 in potential market value. Electric utilities are regulated by the Public Utility Commission or their own governing bodies which will provide guidance on how the revenue from the sale of these credits will be spent. The impact to the utility itself or its designated aggregators will be moderate.
 - For a backstop aggregator, DEQ cannot anticipate which electric utilities will not register to participate in the program for 2018 or future years, which then impacts the number of credits a backstop aggregator could receive. If all the utilities participate in the program, then no credits will go to a backstop aggregator; if none of the utilities participate in the program, then all of the residential credits will go to a backstop aggregator. ICF projected that the total number of credits that can be generated from residential and non-residential electric vehicle charging from 2016 through 2025 is between 2.8 – 3.3 million. Using the same 85% assumption above, approximately 2.4 – 2.8 million credits could be given to a backstop aggregators. At this time, DEQ is providing a conservative estimate that 80% of the credits will stay with the utilities or their designated aggregators and 20% will be given to a backstop aggregator, or approximately 475,000 – 568,000 credits. Assuming the current market rate of \$50 per credit, this equates to approximately \$23,000,000 - \$28,000,000 in potential market value. The proposed rules will require a backstop aggregator to invest the majority of the revenue from the sale of those credits in projects that promote transportation electrification and allow for administrative costs to be funded from credit sales, so the impact to a backstop aggregator itself will be moderate.
- For *Renewable Hydrocarbon Diesel*, the importers of blendstocks will likely be impacted. Lower carbon RHD will generate credits but the higher carbon RHD, such

as those produced from palm oil, would not. The proposed rules will require higher carbon RHD be reported and generate deficits. That change will likely increase the cost to comply but to what extent will vary from party to party depending on how much higher carbon RHD they chose to supply to Oregon fuel consumers.

- For *Transfer of Deficits*, the importers of blendstock and importers of finished fuels will likely be impacted. Most sellers of fuels above the rack are importers of blendstocks and they will likely have more deficits to manage because they will be restricted from transferring them to the importers of finished fuels. Subsequently, the cost to importers of blendstocks might increase while the cost to large importers of finished fuels might decrease, depending on the extent to which the practice for fuel sellers above the rack was to pass the obligation for clear or blended fuels onto fuel buyers below the rack. Presumably the costs of passing or retaining this obligation are captured within the economic terms of the transactions, decreasing the relative economic impact of this change.

Direct Costs to the Oregon Department of Environmental Quality

Many of the items included in this proposed rulemaking streamline current processes and make it more efficient for DEQ to implement. For example:

- Updating the registration process for regulated parties, credit generators, aggregators and fuel producers
- Updating the process to obtain a carbon intensity value
- The creation of temporary fuel pathway codes
- Improving the quarterly reporting process

Several other proposals may generate new work for the agency, but at a scale that DEQ can absorb within its currently-budgeted positions. For example:

- Amending how to calculate the carbon intensity of electricity
- Allowing credits to be generated from electricity used for transit
- Amending the recordkeeping requirements for credit transfers
- Requiring all renewable hydrocarbon diesel to register with the program
- Restricting the transfer of deficits below the rack if the buyer is a finished fuel importer

There are a few major proposals that collectively will significantly increase the amount of work for the agency to implement. While some of these proposals were considered and recommended by the rulemaking advisory committee, making them consistent with HB 2017 provides an additional layer of work for DEQ. For example:

- Implementing the preferred cost containment mechanism, the Credit Clearance Market, including: calling for credits, calculating the pro rata shares, carrying over deficits, and modifying the CFP Online System.
- Increased monitoring and oversight of the credit market, including: auditing of credit transactions, investigating questionable credit trading activity, taking actions against bad actors, and taking formal enforcement or legal action against fraudulent or manipulative credit market activity.

- Implementing the emergency deferral mechanisms for credit market disruptions and abnormal market activity, including: active monitoring of credit prices, auditing supporting documentation for individual credit transactions, analyzing credit price fluctuations, investigating the cause of credit price abnormalities, and issuing an emergency action to remedy a credit market disruption.
- Implementing the modified forecast deferral to coordinate with the Department of Administrative Services Office of Economic Analysis.
- Selecting and managing the backstop aggregator, including: recruiting and selecting a backstop aggregator, entering into a written agreement, calculating the number of credits to be transferred, collaborating to implement the proposed plan, and reviewing reports and financial audits.
- Providing the additional transparency regarding the performance of the program and its credit market, including monthly, quarterly and annual reports and a formal program review.

The agency estimates that it will need up to an additional 1.0 FTE to fully implement the all proposed rule changes, which is approximately \$250,000 for a biennium. DEQ will evaluate options for resourcing the additional work as it finalizes its 2017-2019 budget.

Indirect Costs to Fuel Consumers

The cost of complying with the Clean Fuels Program on a per-gallon basis can be estimated using three pieces of information: 1) the carbon intensity of the fuel, 2) the standard for the year and 3) the price of credits. Here is the equation for that calculation:

$$Cost \left(\frac{\$}{gal} \right) = \left[(fuel\ CI) - (Std) \frac{gCO2e}{MJ} \right] * (ED) \frac{MJ}{gal} * \left(\frac{1\ ton}{1,000,000\ grams} \right) * (CP) \frac{\$}{ton}$$

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

If the carbon intensity of a fuel is higher than the standard, the result can be considered as the cost of complying with the program. Here is an example calculation for the 10 percent ethanol blended with gasoline (E10) in 2016:

$$Cost \left(\frac{\$}{gal} \right) = \left[(98.54) - (98.37) \frac{gCO2e}{MJ} \right] * (112.63) \frac{MJ}{gal} * \left(\frac{1\ ton}{1,000,000\ grams} \right) * \frac{\$50}{ton}$$

$Cost = \$0.000957/gal = 0.10\ cent\ per\ gallon$

If the carbon intensity of a fuel is lower than the standard, the result can be considered as a cost savings of complying with the program. Here is an example calculation for the 20 percent used cooking oil biodiesel blended with diesel (B20) in 2016:

$$\begin{aligned} \text{Cost saving} & \left(\frac{\$}{\text{gal}} \right) \\ & = \left[(84.95) - (99.39) \frac{\text{gCO}_2\text{e}}{\text{MJ}} \right] * (127.50) \frac{\text{MJ}}{\text{gal}} * \left(\frac{1 \text{ ton}}{1,000,000 \text{ grams}} \right) * \frac{\$50}{\text{ton}} \\ \text{Cost saving} & = \$0.092055/\text{gal} = 9.21 \text{ cents per gallon} \end{aligned}$$

Both costs and cost savings should be considered for this discussion although it is difficult to quantify with any certainty about what the impact on the price of fuels will be.

Fuel suppliers such as importers of blendstocks may generate credits as a result of their own business operations at an internal price that is less than the prevailing market price for credits. Fuel suppliers and credit generators may also enter into long-term price agreements for credits which would insulate them from swings in the market price. The calculations above are idealized, and for this discussion, fuel consumers encompass the general public; large and small businesses; and federal, state or local governments as they all purchase fuel for vehicles.

- For all of the proposed rule changes, fuel suppliers will have to make adjustments to their administrative procedures to comply with the program. The fiscal impact of these changes is minimal, as these changes just adjust the administrative procedures that parties must already comply with, but do not significantly increase or decrease the economic burdens of complying with such procedures.
- For *Cost Containment* – DEQ has spent the last seven months with the Clean Fuels Program 2017 advisory committee reviewing and discussing the possible addition of one or more mechanisms, or the modification of existing mechanisms, in order to improve the implementation of Senate Bill 324 (2015):

“The commission shall adopt by rule provisions for managing and containing the costs of compliance with the standards, including but not limited to provisions to facilitate compliance with the standards by ensuring that persons may obtain credits for fuels used as substitutes for gasoline or diesel and by creating opportunities for persons to trade credits.”

DEQ believes that the following excerpt, taken from a discussion paper written by the agency and presented to the Clean Fuels Program 2017 rulemaking advisory committee on Nov. 2, 2016, well explains the rationale for developing a credit clearance market within the context of the program:

Environmental markets are created by governments to allow the private sector to efficiently achieve an environmental goal by averaging out the costs of compliance with a program through the creation of tradeable credits. This allows market forces to work out the most efficient path to getting to the environmental goal of increasing cleaner energy consumption or decreasing pollution.

Oregon's Clean Fuels Program allows regulated parties and credit generators to sell credits created under the program. Now that credits have been generated and transfers are allowed, the environmental market created by the program will help show the cost of reducing carbon intensity under the program and help ensure the lowest-cost reductions are found across the different fuels in the program.

DEQ administers the Clean Fuels Program credit market in terms of accounting for credit and deficit generation by regulated parties and credit generators, requiring accurate fuel volume and carbon intensity reporting, setting the rules for participation in the credit market, and providing the tracking system for credit transfers. The agency oversees and monitors the credit market both to ensure that it serves the goal of lowering overall compliance costs with the program and that it is as well-functioning and provides as level a playing field for different entities in the market as is possible.

In addition to a well-functioning credit market, stakeholders have also indicated a desire for a new Clean Fuels Program mechanism to further contain the cost of complying with the program. For DEQ, the key question is how to balance the needs of fuel consumers with the impact to clean fuel providers and the environmental goals of the program.

Based on discussions with stakeholders, DEQ is proposing the addition of a credit clearance market. The adoption of a credit clearance market is also now required by enrolled House Bill 2017 A from the 2017 Oregon Legislature. The credit clearance market will effectively act to create a cap on credit prices by providing an alternative mechanism for regulated parties to remain in compliance with the rules if credit prices rise above the maximum price set for the Credit Clearance Market. This approach will strengthen the program by increasing market certainty around the maximum compliance cost for the program, reducing the possibility of credit price spikes, and maintaining the incentive to invest in low carbon fuel production and distribution. Deficits where compliance is deferred by regulated parties after going through the credit clearance market will be assessed a five percent interest rate on the number of carried over deficits, and must be covered within five years.

DEQ believes that this approach, in concert with the annual fuel supply forecast, will ensure that compliance can be achieved by regulated parties under all possible credit supply outcomes.

The clearance market works by allowing regulated parties to roll over any uncovered deficits at the end of the a compliance period so long as they purchase their pro-rata share of any credits made available for sale through the clearance market. Sellers in the clearance market will agree to sell their credits at a maximum price of \$200 in 2018 and adjusted for inflation between 2019 and 2025.

The following table show the potential maximum cost under the proposed maximum credit prices in dollars per gallon using 2018 dollars for the imported E10 and B5 fuel pathway

codes. Those fuel pathway codes represent the likely highest carbon-intensity blends of those two fuels.

	2018	2019	2020	2021	2022	2023	2024	2025
Imported E10	\$0.023	\$0.035	\$0.058	\$0.082	\$0.117	\$0.152	\$0.187	\$0.233
Imported B5	\$0.027	\$0.040	\$0.067	\$0.094	\$0.134	\$0.173	\$0.214	\$0.267

To estimate the impact of the proposed rules, DEQ must evaluate the impact on fuel prices impacts of the current rules with the proposed rules. The estimated fuel price impact from the proposed rule is shown above and the estimated fuel price impacts of the current rule is taken from the Clean Fuels Program Phase 2 rulemaking (adopted January 2015).

To estimate the fiscal and economic impact of the current rules on the price of fuel, DEQ reviewed several studies in 2014-2015 which indicated a range of potential impacts from \$0.04 - \$1.06 per gallon in 2025 for high-carbon blends of gasoline and diesel. The review established that the most likely outcome was for credit prices to remain in the lower quarter of that range. The addition of the credit clearance market provides additional certainty that the upper limit of price effects from the program remains towards the low end of that range.

- *For the Electricity Provisions* – The electricity provisions being amended in this rulemaking will likely help lower the costs of the program to fuel consumers by increasing the supply of credits in the market and thus lowering the overall cost of credits in the program.

Impacts to small businesses – businesses with 50 or fewer employees

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.	There are currently 21 small businesses registered with the program, primarily small fuel distributors and small credit generators (electric vehicle chargers and fleets).
b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.	The proposed rule changes would not significantly change the administrative costs for small businesses to comply.
c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.	The proposed rule changes would not affect these costs.
d. Describe how DEQ involved small businesses in developing this proposed rule.	DEQ convened a 29-member advisory committee that included small businesses and membership organizations that represent small businesses to discuss the proposed rule changes.

Documents relied on for fiscal and economic impact

Document title	Document location
Registration and reporting information from the registered parties	Program files located at: DEQ headquarters 700 NE Multnomah, Suite 600 Portland, OR 97232
Clean Fuels Program Phase 2 Rulemaking	http://www.oregon.gov/deq/Rulemaking%20Docs/cfp2pnp.pdf
CFP2017 Rulemaking Advisory Committee meeting materials, including ICF reports	http://www.oregon.gov/deq/Regulations/rulemaking/Pages/cfp2017.aspx

Advisory committee

DEQ appointed the CFP 2017 Rulemaking Advisory Committee to provide input on the proposed rules and for input on the fiscal and economic impact statement. As ORS 183.333 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 impact on small businesses and complies with ORS 183.540.

The committee reviewed the draft fiscal and economic impact statement and its findings are stated in the meeting summary and in submitted written comments. The committee determined the proposed rules would not have a significant impact on businesses in general, nor an adverse impact on small businesses in Oregon.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules would have no effect on the development costs because the proposed rules only affect transportation fuels used in Oregon.

Federal relationship

Relationship to federal requirements

ORS 183.332, 468A.327, and OAR 340-011-0029 require DEQ to 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 a reduction in the average lifecycle carbon intensity of transportation fuels. The proposed rules will 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 to the proposed rule. Input from advisory committees in 2010, 2012, 2014, 2015, 2016 and 2017 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

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 state wide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 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 do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

Stakeholder and public involvement

Advisory committee

DEQ convened a Clean Fuels Program 2017 Rulemaking advisory committee, which included importers of various transportation fuels; large and small businesses that may be regulated parties; the general public; and conservation organizations with members that may be impacted by the program. The committee met seven times. The committee's web page is located at: [Clean Fuels Program Improvements 2017](#).

The committee members were:

CFP2017 Rulemaking Advisory Committee	
Name	Representing
Craig Campbell	AAA
Mike Freese	Associated Oregon Industries
Jeff Rouse	Carson Oil
Anne Smart	ChargePoint
Micah Berry	Chevron USA Inc
Bob Jenks	Citizens Utility Board
Brandon Price	Clean Energy Fuels
Meredith Connolly	Climate Solutions
Annie Stuart	Coleman Oil Company
Jeff Allen	Drive Oregon
Graham Noyes	Low Carbon Fuels Coalition
Jana Gastellum	Oregon Environmental Council
Danelle Romain	Oregon Fuels Association & Oregon Public Utility Districts Association
Beth Vargas Duncan	Oregon Refuse & Recycling Association
Bob Russell	Oregon Trucking Association
Tom Koehler	Pacific Ethanol
Mary Wiencke	PacifiCorp
Brendan McCarthy	Portland General Electric
Lindsay Fitzgerald	Renewable Energy Group
Jessica Hoffmann	RPMG
Ian Hill	SeQuential Biofuels
Connor Nix	Shell Oil Products US
Miles Heller	Andeavor (The refining company formerly known as Tesoro)
Peter Weisberg	The Climate Trust
Lester Spitler	TriMet
Jeremy Martin	Union of Concerned Scientists
Joshua Skov	University of Oregon
Kim Kaminski	Waste Management
Jessica Spiegel	Western States Petroleum Association

Meeting notifications

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

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee was asked to discuss and provide input on the following topics:

- A methodology to implement the Forecasted Fuel Supply Deferral mechanism
- Updates to the illustrative compliance scenarios from the 2014 study
- Development of new illustrative compliance scenarios for the program
- The need for additional cost containment measures in the program and the design of those measures if they are needed
- Other topics, as identified by DEQ staff

EQC prior involvement

DEQ shared information about this rulemaking with the EQC through an informational item on the April 19, 2017, EQC agenda.

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing on July 14, 2017 by:

- Filing notice with the Oregon Secretary of State for publication in the Aug. 1, 2017 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Clean Fuels Program Improvements 2017](#);
- Emailing approximately 9,019 interested parties on the following DEQ lists:
 - Rulemaking
 - Oregon Clean Fuels
 - DEQ Public Notices
- Emailing the following key legislators required under ORS 183.335:
 - Senator Michael Dembrow, Chair, Senate Environment and Natural Resources Committee
 - Representative Ken Helm, Chair, House Energy and Environment Committee
 - Senator Lee Beyer
 - Representative Cliff Bentz

Public hearings

DEQ held one public hearing.

Meeting location: Portland State Office Building
 800 NE Oregon
 Portland, OR 97232

Meeting date and time: Aug. 16, 2017, 1 p.m.

Presiding officer: Dave Nordberg

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 sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for email notices. As Oregon Administrative Rule 137-001-0030 requires, DEQ staff summarized the content of the rulemaking notice.

Thirteen individuals attended the hearing in person or on the phone. Five individuals provided oral comments and they are summarized in the following section.

Summary of comments and responses

The following summaries represent written comments that were received by the close of the public comment period and oral comments received at the public hearing and DEQ's response to the comments. Original comments are on file with DEQ.

Comment #1

Name: Miles Heller

Organization: Andeavor

Comment	Response
Support inclusion of CCM.	Thank you for your comment.
Interest should be eliminated for CCM.	DEQ is required to implement the CCM provisions as specified in HB 2017.
Allow 10% small deficit carry-over.	The proposed 5% small deficit carry-over balances the need to allow flexibility for regulated parties while promoting needed market activity.
Legacy off-road electricity sources should not generate credits, just expansion and new investment.	Credits are currently being generated from the use of lower carbon fuels in biofuel blends and alternative fuel applications that existed prior to the beginning of the program; public transit should not be treated differently.
Consider 3rd party verification in the next rulemaking.	DEQ will be considering 3 rd party verification in the next CFP rulemaking.

Comment #2

Name: Brendan McCarthy

Organization: Portland General Electric

Comment	Response
Why should the utilities be the	DEQ received much input from stakeholders

<p>aggregator for residential electricity credits? What about other entities?</p>	<p>throughout the advisory committee process that electric utilities are best positioned to aggregate the credits for residential charging of electric vehicles primarily because of their on-going commercial relationship with the electric vehicle owners that are their customers. Further, they are the suppliers of the fuel for electric vehicles. The investor-owned utilities are required to comply with SB 1547 (2016) and have recently been directed by the Oregon Public Utility Commission to register with the Clean Fuels Program to generate the residential EV credits on behalf of their customers.</p>
<p>Can there be more than 1 sub-aggregator?</p>	<p>As defined in OAR 340-253-0040(3), an aggregator means a person who registers to participate in the Clean Fuels Program to facilitate credit generation and trade credits. In terms of residential EV credits, there are two instances where aggregators appear.</p> <p>First, if an electric utility designates an aggregator to act on its behalf. While it is conceivable that an entity could designate more than one aggregator, it may be clearer and more efficient for that company to enter into contracts with one or more sub-aggregators to transfer the credits or payment since it would be difficult for DEQ to oversee the actions of multiple sub-aggregators.</p> <p>Second, if stranded credits are transferred to a backstop aggregator. In that context, DEQ proposes to select a single entity to be the backstop aggregator. However, it is conceivable that that entity can, as part of their plan, include multiple partners or sub-aggregators to aid in its implementation. Again, as described above, it may be clearer and more efficient to enter into contracts for the transfer of credits or payment rather than have all of the sub-aggregators register in the program.</p>
<p>Allow EV owner to generate credits or designate an aggregator.</p>	<p>It is not administratively feasible for DEQ to allow individual EV owners to register to generate credits themselves at this time.</p>
<p>Utility should not be in violation if DEQ miscalculates credits.</p>	<p>The utility will not be held in violation as a result of a miscalculation on DEQ's part. Instead, DEQ is proposing to adjust future credit calculations as the way to true-up past miscalculations.</p>

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Comment #3

Name: Jana Gastellum

Organization: Oregon Environmental Council

Comment	Response
Support 5% small deficit carry over, enhanced recordkeeping and market monitoring, CCM, renewal diesel as a regulated fuel, inclusion of new transit credit generation, method to distinguish existing and new.	Thank you for your comment.
Emergency action should be defined as credit prices greater than the CCM cap.	DEQ is required to implement the emergency action provisions as specified in HB 2017.
Should be a statewide aggregator for electric vehicle-related credits.	The proposed backstop aggregator role will ensure statewide coverage for electric vehicle-related credits.

Comment #4

Name: Meredith Connelly

Organization: Climate Solutions

Comment	Response
Support electrified transit addition, method to distinguish existing and new.	Thank you for your comment.
In the future, look at additional new credit generators.	DEQ will be considering additional sources of credit generation in the next CFP rulemaking.

Comment #5

Name: Curtis Powers

Organization: REG

Comment	Response
Support alignment with California program, inclusion of energy density for renewable hydrocarbon diesel.	Thank you for your comment.

Comment #6

Name: Dayne Delahoussaye

Organization: Neste

Comment	Response
Supports renewable diesel as a regulated fuel, but must treat all feedstocks equally.	Thank you for your comment.
Combustion emissions for renewable diesel do not vary	DEQ acknowledges that reductions in other air pollutants may also improve overall air quality, but the

with feedstock so limiting the availability of renewable diesel because of feedstock concerns may forego air quality improvements. DEQ should maintain similar system boundaries for lifecycle carbon intensities for wastes and residues.	driving force of CFP must remain reduction in lifecycle carbon intensity. DEQ is not currently amending the OR-GREET model or modifying the system boundaries for that model.
CCM is unnecessary and unduly burdensome.	DEQ is required to implement the CCM provisions as specified in HB 2017.
If there is a CCM cap, it should not be fixed.	DEQ is required to implement the CCM provisions as specified in HB 2017.

Comment #7

Name: Tracy Richardson

Organization: Springfield Utility Board

Comment	Response
DEQ does not have the authority to approve rates for utility service or prescribe transactions between electric utilities and consumers without a process approved by the PUC or governing body.	<p>HB 2186 (2009), SB 324 (2015) and HB 2017 (2017) authorizes the EQC to define the point at which credits are generated for the CFP. The generation of these credits are contingent upon documenting a fuel's consumption and use as a transportation fuel and is separate and different from other environmental attributes that are related to the generation of electricity such as Renewable Energy Certificates (RECs). While the PUC and DOE have authority over the definition and generation of RECs, their authority over RECs does not extend to the generation of CFP credits.</p> <p>In defining the point of CFP credit generation, the EQC is acting within its jurisdiction and is not interfering with the rate approval process for electric utilities nor has it changed the nature of transactions between electric utilities and their customers.</p>

Comment #8

Name: Lindsay Fitzgerald

Organization: REG

Comment	Response
Support CCM @ \$200/credit, date change for carry back credits, market monitoring, miscellaneous regulatory improvements, renewable hydrocarbon diesel as a regulated fuel, below the rack restrictions.	Thank you for your comment.

Comment #9
 Name: Anne Smart
 Organization: ChargePoint

Comment	Response
Support transit credit generation, multi-family dwelling under non-residential charging.	Thank you for your comment.
Request clarification on “aggregator”, “backstop aggregator” and “designated aggregator”.	<p>An aggregator is defined as a person who registers to participate in the CFP on behalf of one or more credit generators to facilitate credit generation and trade credits.</p> <p>A designated aggregator is not a defined term, but refers to an aggregator that is designated by a credit generator to act on behalf of the entity initially eligible to generate credits.</p> <p>The backstop aggregator is defined as the entity that is chosen by DEQ to manage stranded residential EV credits that are not generated by electric utilities.</p>
Ability for an aggregator to generate residential electricity credits after 1 year if utilities have not entered the program without specific designation; or guarantee 3 years as a designated aggregator.	For the backstop aggregator, DEQ will monitor the participation of electric utilities and how many credits are left stranded in considering what kind of terms to be included in its agreement. For a designated aggregator, DEQ believes that the contractual terms of an aggregator designation by a utility are best left to the utility and the organization it is selecting as an aggregator.

Comment #10
 Name: Jeremy Martin
 Organization: Union of Concerned Scientists

Comment	Response
Ensure credits from residential charging send an effective market signal to EV drivers.	Thank you for the comment. DEQ agrees that the CFP credits should provide effective market signals to promote clean fuels, including electricity. While the agency generally does not have direct control over how the program translates into a signal for EV drivers, it does plan on making this a priority for evaluating plans in the selection process for the backstop aggregator.
Support 5% small deficit carry over with interest.	Thank you for your comment.
Market monitoring and fuel forecasting is critical and market interventions should be a last resort and used sparingly.	Thank you for your comment.

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Comment #11

Name: Kim Kaminski

Organization: Waste Management

Comment	Response
Allow EV manufacturers to generate credits from residential and non-residential charging of electric vehicles.	DEQ received much input from stakeholders throughout the advisory committee process that electric utilities are best positioned to aggregate the credits for residential charging of electric vehicles primarily because of their on-going commercial relationship with the electric vehicle owners that are their customers and that they supply the fuel for the electric vehicles.

Comment #12

Name: Jessica Spiegel

Organization: Western States Petroleum Association

Comment	Response
Still concerned about the feasibility of the program.	The 2017 updated illustrative compliance scenarios developed by ICF shows CFP remaining feasible through 2025 and beyond.
Support cost containment provisions as directed by the Oregon legislature.	Thank you for your comment.
Credits should not be generated for public transit existing prior to the creation of the program.	Credits are currently being generated from the use of lower carbon fuels in biofuel blends and alternative fuel applications that existed prior to the beginning of the program; public transit should not be treated differently.
Should encourage the voluntary inclusion of exempted fuels such as jet fuel.	DEQ will be considering the inclusion of renewable jet fuel in the next CFP rulemaking.
Should explore mechanisms to recognize co-processed renewable fuels into a fungible supply and logistics system.	DEQ has proposed provisions to account for co-processing of biogenic feedstocks in the current rulemaking.
Request guidance on how the roll-over and clearance of past years' deficits is intended to work moving forward.	DEQ would be happy to work with regulated parties that have generated deficits to further explain how it will manage the deficit rollover and clearance process.
OAR 340-253-0040: Should not have backstop aggregators. If there is, then NGOs should provide details of organizational experience with programs of this nature.	DEQ received much input from stakeholders throughout the advisory committee process to develop a provision to ensure that residential EV credits not be stranded if electric utilities don't register to generate them, which led to the proposal for a criteria for potential backstop aggregators. The agency has proposed to require an entity to include their experience with programs of this nature as part of their applications to become the backstop aggregator.

<p>OAR 340-253-0040: Should not limit carryback credits to those generated in previous year; extend period through Q1 of current year.</p>	<p>In demonstrating compliance with an annual standard, only credits generated in that compliance year or banked from previous years should be used.</p>
<p>OAR 340-253-0040: B6 – B20 should not be defined as diesel fuel.</p>	<p>DEQ acknowledges that there are differences in diesel and diesel blends. By including references to ASTM D975 and D7467 in the proposed definition, the intent is to include both when referring generically to “diesel fuel.”</p>
<p>OAR 340-253-0040: As OR-GREET is updated, provide a summary of what changes were incorporated and why.</p>	<p>DEQ is not updating OR-GREET in this rulemaking, but will keep this in mind when it does.</p>
<p>OAR 340-253-0040: Clarify what happens if an Oregon producer ships product outside of Oregon.</p>	<p>The Oregon producer would need to report the total production in Oregon of the fuel and then the export of the fuel.</p>
<p>OAR 340-253-0100: An aggregator should not be defined as “facilitating credit generation”.</p>	<p>DEQ intends this to allow for an aggregator to submit the quarterly reporting for the credit generators that have designated them as their aggregator.</p>
<p>OAR 340-253-0100: Ownership of credits should be limited to regulated parties and credit generators.</p>	<p>To maximize the efficiency of the aggregator role, it would make sense for them to have the ability to hold credits in the CFP Online System, limited to the entity that they have been designated for. In the case where an aggregator is a credit generator itself, then they would be able to hold their own credits as well as those who they aggregating for.</p>
<p>OAR 340-253-0100: Violations by an aggregator should not be tracked back to the party on whose behalf it was acting, unless there is a proven connection of both parties to the violation.</p>	<p>Thank you for your comment.</p>
<p>OAR 340-253-0310: There should be an option for parties to agree that the recipient of gasoline, diesel, ethanol, biodiesel, renewable diesel and blends thereof take the obligation.</p>	<p>DEQ received much input from stakeholders throughout the advisory committee process about the need to mitigate the potential impact of transferring the obligation to smaller businesses; this option would not support mitigation.</p>
<p>OAR 340-253-0310: Clarify “agree” to refer to a contractual agreement.</p>	<p>DEQ has clarified that the agreement must be in writing.</p>

OAR 340-253-0320: The title in should be “suppliers of”...	Thank you for your comment. DEQ has taken this suggestion.
OAR 340-253-0320: CNG and LNG should be removed from OAR 340-253-0320 because in the later years, they generate deficits.	Thank you for your comment. DEQ will consider this in a future rulemaking.
OAR 340-253-0330: Make 2015 the baseline for electricity credit generation to be consistent with E10 and B5.	In calculating the 2015 baseline for E10 and B5 for the program, DEQ used actual 2012 data, making it consistent with the choice of the baseline for electricity credit generation.
OAR 340-253-0330: Request analysis from DOJ about retroactive credit generation.	DEQ considers the retroactive (2016 – 2017) credit generation of residential EV credits for electric utilities that register to generate 2018 credits to be a flexible implementation approach to minimize compliance costs.
OAR 340-253-0330: Suggest several changes to the backstop aggregator provisions.	DEQ will consider these comments as it solicits and chooses the backstop aggregator.
OAR 340-253-0400: Add renewable diesel to the list of statewide carbon intensity values.	There can be multiple feedstocks to produce renewable diesel, so having a single statewide carbon intensity value is not appropriate. Like other biofuels, renewable diesel must obtain a more specific carbon intensity value. For any renewable diesel that does not have a known carbon intensity, the entity reporting that renewable diesel can apply for the use of a temporary fuel pathway until a specific one is approved.
OAR 340-253-0450: Request 14 days for regulated parties to notify DEQ of changes to provisional pathways.	Thank you for your comment. DEQ has taken this suggestion.
OAR 340-253-0450: Request deadline for DEQ to respond to a fuel pathway application.	Thank you for your comment. DEQ has taken this suggestion.
OAR 340-253-0470: Request that electricity be treated equitably with other fuels.	The nature of calculating the carbon intensity of electricity is much different than for the other transportation fuels. Since DEQ has access to annual data related to electricity, the agency believes that this is an appropriate methodology.
OAR 340-253-0500: Retroactive registration to include EPA RFS ID numbers.	The registration forms for fuel producers already includes EPA RFS ID numbers.
OAR 340-253-0500: Specify natural gas, propane or hydrogen used for fueling vehicles only.	Thank you for your comment. DEQ has taken this suggestion.
OAR 340-253-0500: Explain	In the registration process, DEQ is only requesting

what happens if predicted estimates are substantially different than actual volumes.	estimates from fuel producers in the context of potential capacity for forecasting future fuel supply.
OAR 340-253-0500: Will existing registered fuel producers be automatically added to the AFRS?	Existing fuel producers are already registered in the AFRS. The proposed changes are to formalize that registration process into rule.
OAR 340-253-0500: There should be timing requirements for DEQ's role in the registration process.	DEQ has been processing registrations as soon as they have been submitted so additional deadlines are unnecessary.
OAR 340-253-0640: OAR 340-253-0450(10)(b) is improperly referenced.	Thank you for your comment. DEQ has taken this suggestion.
OAR 340-253-0670: Someone who purchases credits with due diligence and in good faith should not be held liable for fraudulent credits.	The credit market in the CFP relies on a buyer beware system. If credits are invalidated for any reason, DEQ feels it is necessary to protect the environmental integrity of the program and will seek any way to replace those invalidated credits.
OAR 340-253-0670: Explain the intersection of this with -1005(7).	In cases where credits needed to be invalidated and the parties in question were not cooperating, the authority in -0670 would be used. In the case where illegitimate credits need to be cancelled or replaced, the hierarchy established in -1005 would be used.
OAR 340-253-1005: Before voiding an unconfirmed transaction, DEQ should send notice to the buyer and seller 48 hours in advance. Confirmation of voided transaction should be sent to buyer and seller upon completion.	DEQ is looking into whether the CFP Online System can be modified to automate a notification. If it can, then the agency might consider adding these notifications into a future rulemaking.
OAR 340-253-1005: Obligated parties should not be held responsible for illegitimate credits passed on by a producer. Statute of limitation. Shortfalls should be made up by the producer, credits generated and used should remain valid.	The credit market in the CFP relies on a buyer beware system. If credits are invalidated for any reason, DEQ feels it is necessary to protect the environmental integrity of the program and will seek any way to replace those invalidated credits.
OAR 340-253-1005: Add affirmative defense and third party verification to the program.	DEQ will be considering third party verification in the next CFP rulemaking.
OAR 340-253-1005: What is the definition of "agreement"?	DEQ has clarified this section to refer to within 20 days of the seller of the credits initiating the transaction.

OAR 340-253-1010: The wording here does not make sense.	Thank you for your comment. DEQ has taken this suggestion.
OAR 340-253-1020: How will varying CI be applied?	CIs will be assigned by utility service territory.
OAR 340-253-1020: Users of credits generated for residential electricity should not be held liable for replacement or penalties.	Since DEQ will be calculating the credits to be generated for residential EV charging, the users of these credits will not be held liable nor be subject to enforcement.
OAR 340-253-1020: How will DEQ withhold credits if an error occurs?	This will depend on the nature of the error being corrected, and if it affects all of the entities receiving residential EV credits or a subset of those entities. For example, the use of an incorrect electricity CI would affect all of the entities, while a mistaken count of qualifying vehicles (for example, counting full EVs but erroneously excluding plug-in hybrid vehicles) may only affect a subset of the entities.
OAR 340-253-1030: The small deficit carry-over should be 10%.	The proposed 5% small deficit carry-over balances the need to allow flexibility for regulated parties and foster needed market activity.
OAR 340-253-1040: There should be no interest penalty assessed.	DEQ is required to implement the CCM provisions as specified in HB 2017.
OAR 340-253-1050: Does “2 standard deviations” equate to abnormal market behavior?	DEQ is required to implement this provision as specified in HB 2017.
OAR 340-253-2000: Should be 2018, not 2017.	Thank you for your comment. DEQ has taken this suggestion.
OAR 340-253-2000: Define “credit market disruption” and “abnormal credit market behavior”.	Assigning definitions to these phrases was discussed extensively during the advisory committee process. Abnormal credit market behavior is a term specified in HB 2017, but no definition is proposed for “credit market disruption” because DEQ is concerned that overly prescriptive definitions could lead to unintended outcomes.
OAR 340-253-2000: Should include an automatic “pause”.	DEQ is required to implement this provision as specified in HB 2017.
OAR 340-253-2100: Include the impact of competing state and complimentary federal programs in the scope of the fuel supply forecast.	DEQ is required to implement this provision as specified in HB 2017.
OAR 340-253-2100: Allow for deficits to be accrued without	DEQ believes the options proposed in the rule is sufficient at this time, but will keep this in mind if

interest penalty if credits are unavailable.	additional options are needed in a future rulemaking.
OAR 340-253-2100: Should include an automatic “pause”.	DEQ is required to implement this provision as specified in HB 2017.
OAR 340-253-8010 through 8100: Provide details on how the new values were obtained for each table. Specify start dates for new table values.	<p>Presuming the EQC adopts the proposed rules at its November 2017 meeting, the updated tables would be first used in the reporting period beginning January 1, 2018 and will apply to the Q1 2018 reporting.</p> <p>-8010 and -8020: Tables 1 and 2 were adjusted because of the change in energy densities.</p> <p>-8030 and -8040: Fuel pathways for biofuels were removed from Tables 3 and 4 in favor of facility-specific pathways and temporary pathways. The carbon intensity values for ORGAS002 and ORULSD002 were adjusted to account for the updated energy densities.</p> <p>ORULSD003 was added in anticipation of this new fuel type.</p> <p>-8050: Table 5 was modified to move renewable diesel from the CNG, LNG & LPG column to the ethanol & biodiesel column to reflect the proposal to treat renewable diesel as a regulated fuel instead of an opt-in fuel.</p> <p>-8060: When OR-GREET was updated from version 1.8b to 2.0, the energy density contained in OR-GREET was also updated except that DEQ did not update the energy density in the same rulemaking. This corrects that oversight.</p> <p>-8070: There were no changes to these energy economy ratios.</p> <p>-8080: New energy economy ratios were proposed for electricity/battery electric of plug-in hybrid transit buses and electricity/fixed guideway light rail, streetcar, and aerial tram.</p> <p>-8090: Table 9 proposes fuel pathway codes that are available to registered parties on a temporary basis if they do not have an approved pathway. The table values are generally set at 5% above the highest approved CI in the Oregon or California low-carbon fuel standards programs.</p> <p>-8100: Table 10 contains values for indirect land-use change values for crop-based biofuels that were adopted in the 2015 rulemaking and have been moved from Tables 3 and 4 to this stand-alone table. No changes have been proposed to these values in this rulemaking.</p>
OAR 340-253-8040: Provide calculation for ORULSD003 in	The CI for ORULSD003 was calculated by using 80% ORULSD001, adjusted for the updated energy densities,

table 4.	and 20% BIODOR001. This is consistent with how the B5 pathway is calculated.
OAR 340-253-8060: Provide the fiscal and economic impact of the change in the energy densities.	The change in energy densities for deficit-generating fuels is less than 5% and is needed for accuracy. DEQ considers this to be an insignificant change in the context of having to quantitatively assess the fiscal and economic impact of a proposed rule change.
OAR 340-253-8090: Provide calculation for the 101.65 CI for any diesel substitute in table 9.	The CI for “Any Diesel Substitute” in table 9 was selected to match that of ORULSD001.

Comment #13

Name: Mary Wiencke
 Organization: PacifiCorp

Comment	Response
Clarify between owner or service provider of non-residential charging equipment that generate the credits.	Since DEQ requires that credit generators include a list of EV chargers that an entity is registering for as part of its registration application, DEQ will identify if two entities are attempting to generate credits for the same charger, will notify both parties of the situation, and will work to resolve which entity is authorized to generate the credits.
RECs should be retired by the owner of the on-site renewable generation system when a zero-carbon electricity fuel pathway code is being used rather than the utility.	This section has been revised so the requirement is that an equal number of RECs must be retired from the renewable generation system that the specific zero-carbon electricity claim is being made for. This allows flexibility if the owner of the EV charger is different from the owner of the co-located renewable generation system.
Modify attestation language to include that information submitted is correct “to the best of my belief and knowledge.”	Thank you for your comment. DEQ has taken this suggestion.

Comment #14

Name: Jessica Hoffmann
 Organization: RPMG, Inc.

Comment	Response
Clarify energy density value in the calculation of the indirect cost to fuel consumers.	DEQ used the current (2016) energy densities for this calculation (116.09 MJ/gallon for gasoline blendstock and 81.51 MJ/gallon for ethanol), prorated to an E10 gallon.
Clarify that OAR 340-253-0620 could be in “writing or electronically through the CFP online system”.	Thank you for your comment. DEQ has taken this suggestion.

Clarify 24 months instead of 2 years in OAR 340-253-0450.	Thank you for your comment. DEQ has taken this suggestion.
Define “full commercial production” in OAR 340-253-0450(6).	DEQ prefers to retain discretion while working with applicants seeking a provisional carbon intensity because of the individualized circumstances of each fuel producer and the multitude of different potential fuel production processes. Defining “full commercial production” may inadvertently limit that discretion.
Retain completeness determination in OAR 340-0500 and -0450.	Thank you for your comment. DEQ has retained the completeness determination in -0450 but has determined that it is not necessary in -0500.
Define “fuel pathway holder” in OAR 340-253-0450, -0500.	Thank you for your comment. DEQ will be considering this in the next CFP rulemaking.
Do not hardwire the Oregon program to the California program; be flexible and coordinate.	Thank you for your comment.
Refine OAR 340-253-1050(5) to protect buyers, rather than imposing liabilities without limitations on sellers.	DEQ has refined this section to be consistent with HB 2017. Given that participation as a seller in the credit clearance market is voluntary, it is reasonable to believe that seller should replace credits invalidated due to fraud or error if the original generator does not replace them.
Clarify “material information” in OAR 340-253-0400, -0450, and -0670.	Thank you for your comment. DEQ has taken this suggestion.
Clarify notification process in OAR 340-253-0670(3).	DEQ appreciates the concerns raised regarding the potential effect on the market if all affected parties receive this initial notification. OAR 340-253-0670, the Authority to Suspend, Revoke, and Modify section, was specifically proposed to be the next step in working with regulated parties to correct erroneous or false information, after initially seeking voluntarily cooperation through the program’s normal auditing and inspection procedures. The agency believes that by the time it is ready to issue an initial determination under OAR 340-253-0670, we would already have been in contact with many of the affected parties as part of our initial investigation and believes that withholding this information beyond a point in time could create a distortion in the marketplace.

Comment #15
 Name: Ken Morgan
 Organization: Tesla, Inc.

Comment	Response
Allow EV manufacturers	DEQ received much input from stakeholders throughout

to generate credits from residential charging of electric vehicles.	the advisory committee process that electric utilities are best positioned to aggregate the credits for residential charging of electric vehicles primarily because of their on-going commercial relationship with the electric vehicle owners that are their customers and that they supply the fuel for the electric vehicles.
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Comment #16
 Name: Shelby Neal
 Organization: National Biodiesel Board

Comment	Response
Support renewable hydrocarbon diesel to regulated fuel, enhanced market monitoring.	Thank you for your comment.
Eliminate EN15751 at the earliest possible time.	DEQ is required to implement this provision as specified in HB 2017.
Support tiered approach for CCM.	DEQ is required to implement the CCM provisions as specified in HB 2017.
Modify the CI for “any feedstock derived from plant oils except for palm-derived oils” in Table 9 OAR 340-253-8090.	Table 9 proposes fuel pathway codes that are available to registered parties on a temporary basis if they do not have an approved pathway. The table values are generally set at 5% above the highest approved CI in the Oregon or California low-carbon fuel standards programs.

Comment #17
 Name: Fabiola Lao
 Organization: Center for Sustainable Energy

Comment	Response
Support hierarchy of credit generation for residential electricity, backstop aggregator.	Thank you for your comment.
Allow for administrative costs to be funded from credit sales, suggest inclusion of education and outreach as a required activity and specify that community-based organizations be included in the implementation plan.	Thank you for your comment. DEQ will consider these comments as we evaluate the submitted plans and incorporate them as appropriate into the agreement between DEQ and any entity that is selected as the backstop aggregator.

DEQ notes that it did not receive any comments raising any concerns about the Clean Fuels Program having any adverse environmental impacts. In particular, no concerns were raised about potential adverse impacts related to the generation and disposal of waste in the state.

Implementation

If approved by the EQC, the proposed rules would become effective upon filing with the Secretary of State on Dec. 15, 2017.

Notification

- DEQ would notify affected parties via email using the Clean Fuels Program email list.
- DEQ will update its webpage to reflect the current information.
- DEQ will publish the adopted rules in the Oregon Bulletin.

Reporting

- DEQ will modify the Clean Fuels Program Online System to incorporate these rule changes.

Training

- DEQ will provide technical assistance about program requirements to regulated parties, credit generators and brokers.
- DEQ will provide general education to decision makers, interested stakeholders and the general public about changes to the program.

Five-year review

ORS 183.405

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 the following proposed rules from the five-year review because the proposed rules would amend or repeal an existing rule or correct errors or omissions in the existing rules:

OAR 340-253-0000, OAR 340-253-0040, OAR 340-253-0060, OAR 340-253-0100, OAR 340-253-0200, OAR 340-253-0250, OAR 340-253-0310, OAR 340-253-0320, OAR 340-253-0330, OAR 340-253-0340, OAR 340-253-0400, OAR 340-253-0450, OAR 340-253-0500, OAR 340-253-0600, OAR 340-253-0620, OAR 340-253-0630, OAR 340-253-0650, OAR 340-253-1000, OAR 340-253-1010, OAR 340-253-1020, OAR 340-253-1030, OAR 340-253-1050 (renumbered to -1005), OAR 340-253-2000, OAR 340-253-2100, OAR 340-253-2200 (repeal), OAR 340-253-8010, OAR 340-253-8020, OAR 340-253-8030, OAR 340-253-8040, OAR 340-253-8050, OAR 340-253-8060, OAR 340-253-8070, OAR 340-253-8080

Five-year rule review required

No later than Nov. 2, 2022, DEQ will review the newly adopted rules, as ORS 183.405(1) requires, determining 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.

The review will apply to the following proposed rules:

OAR 340-253-0470, OAR 340-253-0640, OAR 340-253-0670, OAR 340-253-1040, OAR 340-253-1055, OAR 340-253-8090, OAR 340-253-8100

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).

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 253

OREGON CLEAN FUELS PROGRAM

340-253-0000

Overview

(1) Context. The Oregon Legislature 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. 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. ORS 468A.275 was further amended by the 2017 Oregon Legislature in House Bill 2017. OAR division 253 of chapter 340 implements ~~the~~that law.

~~(4) Program Review. EQC expects DEQ to periodically review and assess the Oregon Clean Fuels Program and make recommendations to EQC for improvement. DEQ will conduct two periodic reviews between 2016 and 2025. Review and assessment may include:~~

~~(a) The program's progress towards meeting its targets;~~

~~(b) Adjustments to the compliance schedule, if needed;~~

~~(c) The costs and benefits that complying with Clean Fuels Program rules cause for regulated parties and credit generators;~~

- ~~(d) The costs and benefits that complying with Clean Fuels Program rules cause for Oregon fuel consumers and Oregon's economy;~~
- ~~(e) The rate of climate change and the costs of environmental and economic damage due to climate change;~~
- ~~(f) The current and projected availability of clean fuels;~~
- ~~(g) The progress and adoption rates of clean fuels, clean fuel infrastructure and clean fuel vehicles;~~
- ~~(h) Identifying hurdles or barriers to implementing the Clean Fuels Program (e.g., permitting issues, infrastructure adequacy, research funds) and recommendations for addressing such hurdles or barriers;~~
- ~~(i) The mechanisms to provide exemptions and deferrals necessary to mitigate the cost of complying with the program;~~
- ~~(j) The methods to quantify lifecycle direct and indirect emissions from transportation fuels including land use change and other indirect effects;~~
- ~~(k) The latest information on low carbon fuel policies and related legal issues;~~
- ~~(l) The status of federal, state and regional programs that address the carbon content of transportation fuel; and~~
- ~~(m) Whether there are the necessary resources to implement the program.~~

~~(5)(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.

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~~
~~ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~

~~Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0040

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If this rule and 340-200-0020 define the same term, the definition in this rule applies to this division.

~~(1) “Actual PADD 5” means Petroleum Administration for Defense District 5, which includes Oregon, Washington, Arizona, Nevada, Hawaii, California and Alaska.~~ (1) “Above the rack” means sales of transportation fuel at pipeline origin points, pipeline batches in transit, and at terminal tanks before the transportation fuel has been loaded into trucks.

(2) “Aggregation indicator” means an identifier for reported transactions that are a result of an aggregation or summing of more than one transaction. 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.

~~(3)~~ (3) “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.

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

(5) “Alternative Fuels Registration System” or “AFRS” means the portion of the CFP Online System where fuel producers can register their production facilities and submit physical pathway demonstrations.

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

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

~~(8)~~ (8) “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.

(9) “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.

~~(10)~~ (10) “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.

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

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

~~(8) “13) “Biodiesel”~~ means a motor vehicle fuel ~~comprised~~ consisting of mono-alkyl esters of long chain fatty acids derived from ~~non-petroleum sourced~~ vegetable oils ~~or,~~ animal fats, or other nonpetroleum resources, not including palm oil, designated as B100 and ~~conforming to the specifications of~~ complying with ASTM D6751-15a, ~~“Standard Specification for,~~

~~(14) “Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels.”~~

~~(10) “Biodiesel blend”~~ means a fuel comprised of a blend of biodiesel with petroleum-based diesel fuel ~~containing at least 6 percent and not more than 20 percent biodiesel by volume,~~ designated BXX ~~where. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend, and conforming to the specifications of ASTM D7467-13, “Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20).”~~

~~(415)~~ “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.

~~(216)~~ “Biomethane” or “Renewable Natural Gas” means refined biogas 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.

~~(317)~~ “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.

~~(14) “Broker” means a person who is not a regulated party or a credit generator and who voluntarily registers to participate in the clean fuels program, described in OAR 340-253-0100(3), to facilitate credit generation and to trade credits with regulated parties, credit generators and other brokers.~~

~~(15) “Broker designation form” means a DEQ approved document that specifies that a regulated party or a credit generator has designated a broker to act on its behalf for specified transactions.~~

~~(16)~~ (18) “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.

~~(17)~~(19) “Buy/Sell Board” means a section of the CFP Online System where registered parties can post that they are interested in buying or selling the rights to use credits.

(20) “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).

~~(1821)~~ “Carryback ~~credits~~credit” means a credit that was generated during or before the prior compliance period that a regulated party acquires between January 1st and ~~March 31st~~ April 30th of the current compliance period to meet its compliance obligation for the prior compliance period ~~and that was generated during or before the prior compliance period. Credits generated between January 1st and March 31st may not be used as carryback credits to meet a regulated party’s compliance obligation for the prior compliance period.~~

~~(1922)~~ “CFP Online System” means the interactive, secured, ~~internet~~ web-based, electronic data tracking, reporting and compliance system that DEQ develops, manages and operates to support the Clean Fuels Program.

~~(2023)~~ “CFP Online System reporting deadlines” means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

~~(2124)~~ “Clean fuel” means a transportation fuel whose carbon intensity is lower than the applicable clean fuel standard for gasoline and gasoline substitutes listed in Table 1 under OAR 340-253-8010 or for diesel and diesel substitutes listed in Table 2 under OAR 340-253-8020.

~~(2225)~~ “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 340-253-8020 for diesel fuel and diesel substitutes.

~~(23)~~ ~~“Clear gasoline” means gasoline derived from crude oil that has not been blended with a renewable fuel.~~

~~(24)~~(26) “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.

~~(2527)~~ “Clear gasoline” means gasoline derived from crude oil that has not been blended with a renewable fuel.

(28) “Compliance period” means ~~the period of time within each calendar year(s) during which regulated parties must demonstrate compliance under OAR 340-253-0100. The initial compliance period is for two calendar years, 2016 and 2017, and subsequent compliance periods are each for single calendar year.~~

~~(2629)~~ “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.

~~(2730)~~ “Credit” means a unit of measure ~~that is~~ generated when ~~the a fuel with a~~ carbon intensity ~~of a fuel that that is less than the applicable clean fuel standard~~ is produced, imported, or dispensed ~~or used for use~~ in Oregon, such that one credit is less than the clean fuel standard. Credits are expressed in units of equal to one metric tonston of carbon dioxide equivalent ~~and are calculated under OAR 340-253-1020~~not emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

~~(2831)~~ “Credit facilitator” means a person in the CFP Online System that a regulated party designates, ~~in the CFP Online System,~~ to initiate and complete credit transfers on behalf of the regulated party.

~~(2932)~~ “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.

~~(3033)~~ “Crude oil” means any naturally occurring flammable mixture of hydrocarbons found in geologic formations.

~~(3134)~~ “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 the agency’s authority under sections 164 or 165, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

~~(35)~~ “Deficit” means a unit of measure ~~that is~~ generated when ~~the a fuel with a~~ carbon intensity ~~of a fuel that that is more than the applicable clean fuel standard~~ is produced, imported, or dispensed ~~or used in Oregon exceeds the clean fuel standard. Deficits are expressed in units of for use in Oregon, such that one deficit is equal to one metric tonston~~ of carbon dioxide equivalent ~~and are calculated under OAR 340-253-1020~~that is emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

~~(32)~~ ~~(36)~~ “Ethanol” or “Denatured Fuel 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” means fuel ethanol is first made unfit for beverage usedrinking by the addition of denaturants under formula(s)substances approved by the applicable regulatory agency to prevent the imposition of beverage alcohol-Alcohol and Tobacco Tax and conforming to the specifications of ASTM D4806, “Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel” commonly identified as “E100.” Trade Bureau.

(~~3337~~) "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-~~15b~~, "~~Standard Specification for Diesel Fuel Oils~~" or;

(b) A light middle distillate or middle distillate fuel blended with at least ~~65~~ and not more than 20 volume percent biodiesel suitable for compression ignition engines conforming to the specifications of ~~ASTMD7467-15b~~, "~~Standard Specifications for Diesel Fuel Oil, Biodiesel Blend (B6-B20)~~." ASTM D7467.

(~~3438~~) "Diesel substitute" means a liquid fuel, other than diesel fuel, suitable for use as a compression-ignition piston engine fuel.

(~~3539~~) "E10" means gasoline containing 10 volume percent fuel ethanol.

(~~3640~~) "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, as listed in Table 7 under OAR 340-253-8070 for gasoline and gasoline substitutes and in Table 8 under OAR 340-253-8080 for diesel fuel and diesel substitutes-; or

~~(37) "Ethanol" means ethyl alcohol, the chemical compound C₂H₅OH.~~

~~(38(b) The efficiency per passenger mile, for fixed guideway applications.~~

~~(41) "Emergency period" is the period of time in which an Emergency Action under OAR 340-253-2000 is in effect.~~

(~~42~~) "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. Fuel exported from Oregon does not carry any obligation except for recordkeeping under OAR 340-253-0600.

(~~3943~~) "Finished fuel" means a transportation fuel used directly in a motor vehicle without requiring additional chemical or physical processing.

~~(40(44) "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 an aerial tramway, or for a bus rapid transit system.~~

(~~45~~) "Fossil" means any naturally-occurring flammable mixture of hydrocarbons found in geologic formations such as rock or strata.

~~(41) “Fuel ethanol” means undenatured ethanol with other components common to its production that do not affect the use of the product as a blending component for automotive spark ignition engine fuels.~~

~~(42)~~(46) “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.

~~(43)~~(47) “Fuel pathway code” or “FPC” means the identifier used in the CFP Online System that applies to a specific fuel pathway as approved or issued under OAR 340-253-~~0500(3)-0400 through 0470.~~

~~(44) “Fuel 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.~~

~~(45)~~(48) “Gasoline” means a fuel suitable for spark ignition engine fuel engines and conforming to the specifications of ASTM D4814-~~15a, “Standard Specification for Automotive Spark Ignition Fuel.”.~~

~~(46)~~(49) “Gasoline substitute” means a liquid fuel, other than gasoline, suitable for use as a spark-ignition engine fuel.

~~(47)~~(50) “Heavy duty motor vehicle” or “HDV” means any motor vehicle rated at more than 10,000 pounds gross vehicle weight.

~~(48) “Hybrid electric vehicle” or “HEV” means any vehicle that can draw propulsion energy from both of the following on-vehicle sources of stored energy:~~

~~(a) A consumable fuel and~~

~~(b) An energy storage device such as a battery, capacitor or flywheel.~~

~~(49)~~(51) “Illegitimate credits” means credits that were not generated in compliance with this division.

~~(50)~~(52) “Import” means to have ownership title to transportation fuel from locations outside of Oregon at the time it is brought into Oregon by any means of transport other than in the fuel tank of a motor vehicle for the purpose of propelling the motor vehicle.

~~(51)~~(53) “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 delivered for use in Oregon.

~~(5254)~~ “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 340-253-8100.

(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 CARB.

~~(5355)~~ “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.

~~(5456)~~ “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.

~~(5557)~~ “Light-duty motor vehicle” or “LDV” means any motor vehicle rated at 8,500 pounds gross vehicle weight or less.

~~(5658)~~ “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.

~~(5759)~~ “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.

~~(5860)~~ “Liquefied natural gas” or “LNG” means natural gas that has been liquefied.

(5961) “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.

~~(60)~~(62) “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.

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

~~(64)~~(64) “Motor vehicle” means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is propelled by internal combustion engine or motor.

~~(62)~~(65) “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.

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

~~(63)~~(67) “OR-GREET” means the Greenhouse gases, Regulated Emissions, and Energy in Transportation (GREET) model developed by Argonne National Laboratory ~~model~~ that DEQ ~~develops~~modifies and maintains for use in Oregon. The most current version is OR-GREET 2.0. DEQ will ~~provide~~make available a copy of OR-GREET 2.0 ~~upon request~~on its website.

~~(64)~~(68) “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.

(69) “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.

~~(65)~~(70) “Producer” means:

(a) With respect to any liquid fuel, the person who makes the fuel in Oregon; or

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

~~(6671)~~ “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.

~~(72)~~ “Public transportation” means regular, continuing shared passenger-transport services along set routes which are available for use by the general public.

~~(7367)~~ “Public transit agency” means an entity that operates a public transportation system.

~~(74)~~ “Registered party” means a regulated party, credit generator, or aggregator that has a DEQ-approved registration under OAR 340-253-0500 to participate in the Clean Fuels Program.

~~(75)~~ “Regulated fuel” means a transportation fuel identified under OAR 340-253-0200(2).

~~(6876)~~ “Regulated party” means a person responsible for compliance with requirements listed under OAR 340-253-0100(1).

~~(6977)~~ “Renewable hydrocarbon diesel” or “renewable diesel”, means a hydrocarbon oil conforming to the specifications of ASTM D975-15b, ~~“Standard Specification for Diesel Fuel Oils”~~ produced from renewable resources.

~~(7078)~~ “Renewable Hydrocarbon Diesel Blend” or “renewable diesel blend” means a fuel comprised of a blend of renewable hydrocarbon diesel with petroleum-based diesel fuel, designated RXX. In the abbreviation RXX, the XX represents the volume percentage of renewable hydrocarbon diesel fuel in the blend.

~~(79)~~ “Renewable gasoline” means a spark ignition engine fuel conforming to the specifications of ASTM D4814, ~~“Standard Specification for Automotive Spark Ignition Engine Fuel”~~ produced from renewable resources.

~~(7180)~~ “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 imported by persons that are related, or share common ownership or control, shall be aggregated together to determine whether a person meets this definition.

~~(72)~~ “Statutory PADD 5” means the Petroleum Administration for Defense District 5 states: Oregon, Washington, Arizona and Nevada. (81

(73) “Tier 1 calculator” or “OR-GREET 2.0 Tier 1 calculator” means the tool used to calculate lifecycle emissions for common conventionally produced first-generation fuels (starch- and sugar-based ethanol, biodiesel, renewable diesel, CNG and LNG).

(7482) “Tier 2 calculator” or “OR-GREET 2.0 Tier 2 calculator” means the tool used to calculate lifecycle emissions for next-generation fuels, including, but not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first-generation fuels produced using innovative production processes.

(7583) “Transaction date” means the title transfer date as shown on the PTD.

(7684) “Transaction quantity” means the amount of fuel reported in a transaction.

(7785) “Transaction type” means the nature of the fuel transaction as defined below:

(a) “~~Production for use~~Produced in Oregon” means the transportation fuel was ~~designated for use only produced at a facility in Oregon at production and acquired a compliance obligation under Clean Fuels Program regardless of production inside or outside of Oregon;~~

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

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

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

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

(f) “Export” means a transportation fuel that was reported ~~with compliance obligation~~ under the Clean Fuels Program but was later exported outside of Oregon;

(g) “Loss of inventory” means the fuel ~~was produced in or imported into~~exited the Oregon ~~but was not used in Oregon~~fuel pool due to volume loss, such as through evaporation or due to different temperatures or pressurization;

(h) “Gain of inventory” means the fuel entered the Oregon fuel pool due to a volume gain, such as through different temperatures or pressurization;

(i) “Not used for transportation” means a transportation fuel that was reported ~~with compliance obligation~~ under the Clean Fuels Program but was later not used for transportation purposes in Oregon or otherwise determined to be exempt under OAR 340-253-0250;

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

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

(l) “NGV fueling” means the dispensing of natural gas at a fueling station designed for fueling natural gas vehicles.

~~(78) “Transmix” means a mixture of refined products that forms at the interface between batches of dissimilar liquid products when transported through pipelines. This mixture is typically a combination of gasoline, diesel or jet fuel.~~

~~(79)~~(86) “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.

~~(80)~~87 “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.

~~(81)~~88 “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 Customary 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;

(B) OAR chapter 603 division 027; or

(C) OAR chapter 340 division 340.

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

~~ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-0060

Acronyms

The following acronyms apply to this division:

~~(1)~~ (4) “AFRS” means Alternative Fuels Registration System.

~~(4)~~(2) “ASTM” means ASTM International (formerly American Society for Testing and Materials).

~~(23)~~ “BEV” means battery electric vehicle.

~~(34)~~ “CARB” means the California Air Resources Board.

~~(45)~~ “CFP” means the Clean Fuels Program established under OAR chapter 340, division 253.

~~(56)~~ “CNG” means compressed natural gas.

~~(67)~~ “CO₂e” means carbon dioxide equivalents.

~~(78)~~ “DEQ” means Oregon Department of Environmental Quality.

~~(89)~~ “EER” means energy economy ratio.

~~(9)~~ (10) “EN” means a European Standard adopted by one of the three European Standardization Organizations.

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

~~(10)~~(12) “EV” means electric vehicle.

~~(11)~~(13) “FEIN” means federal employer identification number.

~~(12)~~(14) “FFV” means flex fuel vehicle.

~~(13)~~(15) “FPC” means fuel pathway code.

~~(14)~~(16) “gCO₂e/MJ” means grams of carbon dioxide equivalent per megajoule of energy.

~~(15)~~(17) “HDV” means heavy-duty vehicle.

~~(1618)~~ “HDV-CIE” means a heavy-duty vehicle compression ignition engine.

~~(1719)~~ “HDV-SIE” means a heavy-duty vehicle spark ignition engine.

~~(18) “HEV” means hybrid electric vehicle.~~

~~(19) “(20) “L-CNG”~~ means liquefied-compressed natural gas.

~~(2021)~~ “LDV” means light-duty vehicle.

~~(2122)~~ “LNG” means liquefied natural gas.

~~(2223)~~ “LPG” means liquefied petroleum gas.

~~(2324)~~ “LPGV” means liquefied petroleum gas vehicle.

~~(2425)~~ “MDV” means medium-duty vehicle.

~~(2526)~~ “mmBtu” means million British Thermal Units.

~~(2627)~~ “NGV” means natural gas vehicle.

~~(2728)~~ “PHEV” means partial hybrid electric vehicle.

~~(2829)~~ “PTD” means product transfer document.

~~(29) “(30) “REC” means Renewable Energy Certificate.~~

~~(31) “RFS”~~ means the Renewable Fuel Standard implemented by the US Environmental Protection Agency ~~Renewable Fuel Standard~~.

~~(3032)~~ “scf” means standard cubic ~~feet~~foot.

~~(3133)~~ “ULSD” means ultra low sulfur diesel.

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-0100

Oregon Clean Fuels Program Applicability and Requirements

(1) Regulated parties. All persons that produce in Oregon, or import into Oregon, any regulated fuel must comply with the rules in this division. The regulated parties for regulated fuels are designated under OAR 340-253-0310.

(a) Regulated parties must comply with sections (4) through (8) below; except that:

(b) Small importers of finished fuels are exempt from sections (6) and (7) below.

(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 ~~and renewable diesel~~;

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

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

(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 ~~persons~~person who chooses voluntarily to participate in the program in order to generate credits must comply with sections (4), (5), (7), and (8) below.

(3) ~~Brokers~~Aggregator.

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

(b) ~~Brokers may hold and trade credits. A broker also may generate credits and~~Aggregators facilitate credit generation and ~~credit trading~~trade credits only if a regulated party or a credit generator ~~authorizes a broker~~has authorized an aggregator to act on its behalf by submitting a ~~Broker~~an Aggregator Designation Form. The only exception to that designation by a credit generator is the backstop aggregator designated under OAR 340-253-0330(6). A regulated party or credit generator already registered with the program may also serve as an aggregator for others. (4) Registration.

(a) A regulated party must submit a complete registration application to DEQ under OAR 340-253-0500 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. A registered regulated party that begins importing a new fuel type not listed on its original application may request a modification of its registration in writing to DEQ.

(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 ~~or used for use~~ in Oregon. DEQ will not recognize credits allegedly generated by any person that does not have an approved, accurate and current registration. A credit generator that produces, imports, or dispenses a new fuel type not listed on its original application may request a modification of its registration in writing to DEQ.

(c) ~~A broker~~An aggregator must submit a complete registration application to DEQ under OAR 340-253-0500 and ~~a broker~~an Aggregator Designation Form each time it enters into a new contract with a regulated party ~~or, a~~ credit generator, ~~before trading credits or facilitating~~or another aggregator to facilitate credit generation or ~~trading trade credits. Any violations by a regulated~~the aggregator may result in enforcement against both the aggregator and the party ~~or credit generator. DEQ will not recognize the transfer~~it was designated to act on behalf of ~~credits by a broker that does not have a DEQ-approved, accurate and current registration and a DEQ-approved broker designation form.~~

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

(6) Clean fuel standards. Each regulated party must comply with the following standards for all transportation fuel it produces in Oregon or imports into Oregon in each compliance period. ~~Regulated parties~~Each regulated 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 340-253-8020 establishes the Oregon Clean Fuel Standard for Diesel and Diesel Substitutes.

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

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

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~ ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-0200

Regulated and Clean Fuels

(1) Applicability. Producers and importers of transportation fuels listed in this rule, unless the fuel is exempt under OAR 340-253-0250, are subject to division 253.

(2) Regulated fuels. Regulated fuels means:

(a) Gasoline;

(b) Diesel;

(c) Ethanol;

(d) Biodiesel;

(e) ~~E10;~~ Renewable hydrocarbon diesel;

(f) ~~B5~~ Any blends of the above fuels; and

(g) Any other liquid or non-liquid transportation fuel not listed in section (3) ~~or exempted under OAR 340-253-0250.~~

(3) Clean fuels. Clean fuels means a transportation fuel with a carbon intensity lower than the clean fuel standard for gasoline and their substitutes listed in Table 1 under

OAR 340-253-8010 or diesel fuel and their substitutes listed in Table 2 under OAR 340-253-8020, as applicable, for that calendar year, such as:

- (a) Bio-based CNG;
- (b) Bio-based L-CNG;
- (c) Bio-based LNG;
- (d) Electricity;
- (e) Fossil CNG;
- (f) Fossil L-CNG;
- (g) Fossil LNG;
- (h) Hydrogen or a hydrogen blend; and
- (i) LPG; ~~and~~;
- ~~(j) Renewable diesel.~~

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2-1-15; DEQ 13-2015 OL Ch. 4 Sec. 3

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

, f. 12-10-15, cert. ef. 1-1-16

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 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.

(b) Small volume fuel producer. A transportation fuel 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 defined under OAR 330-090-0100.

~~(e) Fuels that are exported for use outside of Oregon.~~

(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:

(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 are not designed primarily to transport persons or property, that are operated on highways only incidentally and that are used primarily for construction work.

(b) To be exempt, the regulated party must document that the fuel was supplied for use in a motor vehicle listed in subsection (2)(a). The method of documentation is subject to approval by DEQ and must:

(A) Establish that the fuel was sold through a dedicated source to use in one of the specified motor vehicles; or

(B) Be on a fuel transaction basis if the fuel is not sold through a dedicated source.

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

Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

Designation of Regulated and Opt-in Parties

340-253-0310

Regulated Parties: Providers of Gasoline, E10, Diesel Fuel, B5, Ethanol and Biodiesel, Renewable Diesel, and Blends Thereof

(1) Regulated party. The regulated party is the producer or importer of the regulated fuel ~~under OAR 340-253-0200(2).~~

(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, an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, or is not an importer. The notification does not have to be in writing.

(3) Recipient is an importer of blendstocks or a large importer of finished fuels ~~above the rack~~. If a regulated party transfers the fuel to 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 the 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 no longer responsible for compliance with the regulated party 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 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 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 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 the regulated party 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 a regulated party transfers clear or blended gasoline or diesel to a large importer of finished fuels below the rack:

(A) The transferor remains 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; and

(ii) 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:

(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.

(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.

(a) Unless the recipient and the transferor agree in writing the recipient is the regulated party under subsection (45)(b):

(A) The transferor remains 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 transferor remains the regulated party.

(C) The recipient is not the regulated party.

(b) The recipient may elect to be the regulated party 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.

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

Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0320

Credit Generators: Providers of Compressed Natural Gas, Liquefied Natural Gas, Liquefied Compressed Natural Gas, and Liquefied Petroleum Gas ~~and Renewable Diesel~~

(1) Applicability. This rule applies to providers of compressed natural gas, liquefied natural gas, liquefied compressed natural gas, and liquefied petroleum gas ~~and renewable diesel~~ for use as a transportation fuel in Oregon.

(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 under subsections (a) and (b) to give each credits based on the actual amount of fossil CNG and bio-based CNG 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 fossil LNG and bio-based LNG 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 fossil L-CNG and bio-based L-CNG in the blend.

(5) Liquefied petroleum gas. For propane used as a transportation fuel, the person that is eligible to generate credits is the owner of the fueling equipment at the facility where the liquefied petroleum gas is dispensed for use in a motor vehicle.

~~(6) Renewable diesel. For renewable diesel used as a transportation fuel, the person that is eligible to generate credits is the producer or importer of the fuel.~~

~~(7) Responsibilities to generate credits. Any person specified in sections (2) through (65) may generate clean fuel credits by complying 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.~~

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~ ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 Aggregator. If an electric utility does not register or designate an aggregator under subsection (a), then a backstop aggregator is eligible to claim any credits that the utility could have generated for the following year under section (6).

(3) For non-residential charging. For electricity used to charge an electric vehicle at non-residential locations, such as in public, 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 charging equipment. The owner or the service provider must have an active registration approved by DEQ under OAR 340-253-0500.

(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 Aggregator. If an electric utility does not register or designate an aggregator under subsection (b), then a backstop aggregator is eligible to claim any credits that the utility could have generated for the following year under section (6).

(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. The transit agency must have an active registration approved by DEQ under OAR 340-253-0500. A transit agency may also designate an aggregator to act on its behalf.

(5) Responsibilities to generate credits. Any person specified under sections (2), (3), or (4) may generate clean fuel credits by complying 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.

(6) 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 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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) Responsibilities to generate credits. Any person specified in section (2) may generate clean fuel credits by complying 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.

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-0400

Carbon Intensities

(1) OR-GREET. ~~Regulated parties, credit generators and brokers must calculate all~~
Carbon intensities for fuels must be calculated using OR-GREET 2.0 or a model approved by DEQ approves. ~~If a party wishes to use a 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 ~~Clean Fuels Program~~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) The statewide mix of electricity used in Oregon;~~

~~(d)~~(c) Fuel economy standards and energy economy ratios;

~~(e)~~(d) GREET, OR-GREET, CA-GREET, GTAP, AEZ-EF or OPGEE;

~~(f)~~(e) Methods to calculate lifecycle greenhouse gas emissions;

~~(g)~~(f) Methods to quantify indirect land use change; and

~~(h)~~(g) Methods to quantify other indirect effects.

(3) Statewide carbon intensities.

(a) Regulated parties, credit generators and ~~brokers~~aggregators must use the statewide average carbon intensities listed in Tables 3 and 4 under OAR 340-253-8030 and -8040 for the following fuels:

~~(A) Gasoline;~~

~~(A) Clear gasoline or the gasoline blendstock of a blended gasoline fuel;~~

~~(B) E10;~~Clear diesel or the diesel blendstock of a blended diesel fuel;

~~(C) Diesel fuel;~~

~~(D) B5;~~

~~(E) Fossil CNG;~~

~~(F)~~(D) Fossil LNG; and

~~(G)~~(E) LPG; and

~~(H) Electricity, unless an electricity provider meets the conditions under subsection (1)(b) and chooses to obtain a different carbon intensity.~~

(b) For electricity,

(A) The statewide average electricity carbon intensity is calculated annually under OAR 340-253-0470 and posted on the DEQ website.

(B) Credit generators and brokers or aggregators may obtain use a carbon intensity different from the statewide average if the electricity provider under subsection (b)(A) if:

(A) Is exempt from the definition of public utility; the utility has applied for an individual carbon intensity under ORS 757.005 (1)(b)(H), and is not regulated by the Oregon Public Utility Commission OAR 340-253-0470; or

(B)(i) The party generates lower carbon electricity at the same location as it is dispensed into a vehicle motor vehicle consistent with the conditions of the approved fuel pathway code under OAR 340-253-0470(3).

(4) Carbon intensities for established fuel pathways. Except as provided in sections (3) or (5), regulated parties, credit generators, and ~~brokers~~ aggregators can use a carbon intensity that:

(a) ~~The California Air Resources Board~~ CARB has certified for use in the California Low Carbon Fuel ~~Standards~~ Standard program, adjusted for indirect land use change and approved by DEQ as being consistent with OR-GREET 2.0; or

(b) Matches the description of a fuel pathway listed in Table 3 or 4 under OAR 340-253-8030 or -8040.

(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 ~~broker~~ aggregator has the option to develop ~~a primary alternative~~ its own fuel pathway under 340-253-0450. Fuel pathways shall fall into one of two tiers:

(a) Tier 1. Conventionally-produced alternative fuels of a type that has been in full commercial production for at least three years; produced using grid electricity, natural gas and/or coal for process energy; and do not ~~include~~ employ innovative production methods. Tier 1 fuels include:

(A) Starch- and sugar-based ethanol;

(B) Biodiesel produced from conventional feedstocks (plant oils, tallow and related animal wastes and used cooking oil);

(C) Renewable diesel produced from conventional feedstocks (plant oils, tallow and related animal wastes and used cooking oil);

(D) Natural Gas; and

(E) Biomethane from landfill gas.

(b) Tier 2. All fuels not included in Tier 1 including: but not limited to:

(A) Cellulosic alcohols;

(B) Biomethane from sources other than landfill gas;

(C) Hydrogen;

(D) Renewable hydrocarbons other than renewable diesel produced from conventional feedstocks; ~~and~~

~~(E) Biogenic feedstocks co-processed at a petroleum refinery; and~~

~~(F) Tier 1 fuels using innovative methods.~~

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

~~Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017) 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

~~Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

~~Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-0450

Obtaining a Carbon Intensity

(1) ~~Out-of-state Fuel~~ producers ~~that are not a regulated party, credit generator or broker~~ can apply to obtain a carbon intensity by following the ~~approval~~ process to use obtain a carbon intensity ~~listed in OAR 340-253-0500(3).~~ under this rule.

(2) Applicants seeking approval to use a carbon intensity that is currently approved by the ~~California Air Resources Board~~ CARB must ~~submit provide:~~

~~(a link)~~ The application package submitted to CARB;

(b) The CARB-approved ~~fuel pathway~~ Tier 1 or Tier 2 CA-GREET 2.0 calculator, and the OR-GREET 2.0 equivalent with the fuel transportation and distribution cells modified for that fuel's pathway to Oregon;

~~(3) If it is not possible to identify an applicable carbon intensity under section (2) or (4), then an applicant can seek approval to use a carbon intensity that is listed in Table 3 or 4 under OAR 340 253 8030 or 8040. An applicant must propose to use the carbon intensity with the fuel pathway description that best meets the fuel pathway for the fuel.~~

~~(4)(c) The CARB review report for the approved fuel pathway;~~

(d) Any other supporting materials relating to the pathway, as requested by DEQ; and

(e) If the applicant is seeking to use a provisional 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 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 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 ~~URL~~ 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) 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 using either the Tier 1 or Tier 2 calculator.

(54) In addition to the items in section (43), applicants seeking to obtain a carbon intensity using the Tier 1 calculator must submit the following:

(a) The Tier 1 calculator with the "T1 Calculator" tab completed;

(b) A summary of 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 ~~previous two years~~ most recent 24 months of full commercial production; and

(c) RFS third party engineering report, if available.

(65) In addition to the items in section (43), applicants seeking to obtain a carbon intensity using the Tier 2 calculator must submit the following:

(a) A summary of 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 ~~previous two years~~ most recent 24 months of full commercial production;

(b) The geographical coordinates of the fuel production facility;

(c) A ~~copy of the~~ completed Tier 2 spreadsheet;

(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.

(76) Applicants seeking a provisional carbon intensity.

~~(a) Applicants that are seeking to obtain a carbon intensity for~~ If a fuel production facility ~~that has not been in full commercial operation for two years may seek a~~

~~provisional carbon intensity. Applicants may request a provisional carbon intensity for Tier 1 and Tier 2 facilities provided they have^{has} been in full commercial production for at least one full calendar quarter. 90 days but less than 24 months, it can apply for a provisional carbon intensity.~~

~~(a) The applicant shall submit operating records covering all prior periods of full commercial operation, provided those records cover at least one full calendar quarter. DEQ will use the approval process described in in accordance with sections (4) through (6) of this rule.5).~~

~~(b) After DEQ approves the provisional carbon intensity, the applicants shall submit copies of receipts for all energy purchases each calendar quarter until two full calendar years of commercial production receipts are submitted. Based on timely reports, the applicant may generate provisional credits. DEQ may approve the provisional carbon intensity under section (9).~~

~~(c) At any time during the two year period before the plant reaches a full 24 months of full commercial production, DEQ may revise as appropriate the operational carbon intensity based on the receipts submitted.~~

~~(ed) If, after a plant has been in full commercial production for more than two years 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 CFP Online System and adjust the credit balance accordingly.~~

~~(de) 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 provisional new carbon intensity ~~reduction to reflect~~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.~~

~~(8) Recertified CARB fuel pathways. Beginning on January 1, 2016, CARB will recalculate carbon intensities as it transitions from CA-GREET 1.8 to CA-GREET 2.0.~~

~~(a) For applicants that rely on CARB approved fuel pathways to be used in Oregon, no additional information will be required. DEQ will confirm that the CARB fuel pathways are consistent with OR-GREET 2.0 after they are recertified by CARB and will update the CFP Online System to reflect the updated fuel pathways. The effective dates for the recertified fuel pathways will be identical to those approved by CARB, once approved by DEQ.~~

~~(b) Fuel pathways that are not recertified or that are not approved by DEQ will be removed from the CFP Online System on December 31, 2016.~~

~~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 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-0500

Registration

~~(1) Registration information. To register, regulated parties, credit generators and brokers must submit a registration application containing the following information to DEQ:~~

~~(a) Company identification, including physical and mailing addresses, phone numbers, e-mail addresses, and contact names;~~

~~(b) The status of the registrant as a producer, importer(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 renewable gasoline portion of blendstocks, small importerthe fuel, the applicant must also submit:~~

~~(A) The planned proportions of finished fuels, large importerbiogenic feedstocks to be processed;~~

~~(B) A detailed methodology for the attribution of finished fuels, 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 party or credit generator or broker, 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 340-253-8090.~~

~~(c) For each transportation fuel that will be produced, imported, dispensed or used in Oregon:~~

~~(A) If the fuel has a statewide carbon intensity under OAR 340-253-0400(3) or has a CARB-approved fuel pathway, no fuel-specific information is required.~~

~~(B) If (a) The request must:~~

~~(A) Be submitted within 45 days of the end of the fuel does not have a CARB-approved calendar quarter for which the applicant is seeking to use a temporary fuel pathway, the proposed 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 documentation for the proposal (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.~~

~~(9) Approval process to use carbon intensities for fuels other than electricity.~~

~~(a) For applications proposing to use CARB-approved fuel pathways, including provisional pathways, DEQ will:~~

~~(A) Confirm that the proposed fuel pathway is consistent with OR-GREET 2.0; 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, OR-GREET 2.0 or default value from OAR 340-253-8030 or 8040) and the physical transport mode. outputs; and~~

~~(B) Verify the energy consumption and other inputs.~~

~~(c) If DEQ has approved or denied the application for a carbon intensity, DEQ will notify the applicant of its determination.~~

~~(d) Other information requested by DEQ related to registration DEQ may impose conditions in its approval of the carbon intensity. Conditions may include specific limitations, recordkeeping or reporting requirements, or operational conditions that~~

DEQ determines should apply to assure the ongoing accuracy of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked.

(2)(A) For applicants seeking a provisional pathway, DEQ will specify the conditions used to establish the pathway. The applicant:

(i) Shall submit copies of receipts for all energy purchases each calendar quarter until two full calendar years of commercial production receipts are submitted.; and

(ii) May generate provisional credits by submitting quarterly reports.

(B) For applicants employing co-processing at a petroleum refinery:

(i) DEQ will specify the conditions regarding the quantities of biogenic feedstocks and the amount of energy and hydrogen used to establish the pathway; and

(ii) The applicant shall submit to DEQ the quantities of biogenic feedstocks and the amount of energy and hydrogen used in each calendar quarter.

(e) The producer of any fuel that has received a carbon intensity under section (9) must:

(A) Register with the AFRS; and

(B) Provide proof of delivery to Oregon through a physical pathway demonstration in the quarter in which the fuel is first reported in the CFP Online System.

(f) If DEQ determines the proposal for the 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.

(10) Completeness determination process.

(a) For applications using carbon intensities that are either (i) CARB-approved fuel pathways, (ii) listed in Table 3 or 4 under OAR 340-253-8030 or 8040, or (iii) (a) For applications calculated using the Tier 1 or Tier 2 calculator, DEQ will determine whether the proposal is complete within ~~14 calendar days~~ 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.

(d) If the applicant submits supplemental information, DEQ has 30 calendar days to determine if the supplemental submittal is complete, or to notify the party and identify the continued deficiencies. 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. ~~(3) Approval process to use carbon intensities.~~

~~(a) For applications proposing to use CARB-approved fuel pathways, Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. ~~will confirm that CARB-approved~~1-1-16

340-253-0470

Determining the ~~proposed~~ 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 over the most recent five years and determining the average of the five values. For 2018 and beyond, the carbon intensities for electricity will be calculated using the rolling five-year average of data submitted to DEQ under OAR chapter 340, division 215.

(a) 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 CFP Online System effective for Q1 reporting for the next year.

(2) ~~and~~ 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 it is consistent~~ utility district.

(a) The carbon intensity will be calculated by using the carbon intensity of electricity over the most recent five years and determining the average of the five values.

(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 ~~OR GREET 2.0~~, DEQ shall approve the registration application. 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 ~~14 calendar~~ seven days after the completeness determination 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 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) ~~(b)~~ 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.

(3) 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 applications proposing to use a carbon intensity fuel pathway codes listed in ~~Table~~ Tables 3 and 4 under OAR 340-253-8030 or -8040, ~~DEQ will confirm for solar-generated or wind-generated electricity can only be used for the portion of the electricity dispensed from the charger that the fuel's proposed 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 must be retired in the REC tracking system.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16meets the general description of the

340-253-0500

Registration

(1) Registering as a regulated party, credit generator, or aggregator.

(a) To register as a regulated party, credit generator, or aggregator, 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;

(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 pathway in the tables and is within 5 gCO₂e/MJ or 10 percent of the listed that the company or organization will be producing, importing, or dispensing for use in Oregon;

(D) For registrants dispensing natural gas, propane, or hydrogen, the number of dispensing facilities located in Oregon and their locations and the estimated annual fuel throughput per location;

(E) For registrants charging electric vehicles, the number of chargers located in Oregon and their locations and the estimated annual discharge of electricity per location;

(F) 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) Obtain a utility-specific carbon intensity, DEQ shall approve under OAR 340-253-0400;

(G) Any other information requested by DEQ related to registration.

~~(b) After DEQ approves the registration application within 14 calendar days after the completeness determination.~~

~~(c) For applications proposing to use the Tier 1 calculator, DEQ will confirm that the Tier 1 calculator and the supporting documentation are accurate. DEQ shall approve the registration application within 14 calendar days after the completeness determination.~~

~~(d) For applications proposing to use the Tier 2 calculator, DEQ will review the proposed carbon intensity as follows:~~

~~(A) Once a proposal is deemed complete, DEQ will determine whether the requirements for approval have been met according to the following criteria:~~

~~(i) Replication of the Tier 2 calculator outputs, using the modifications contained in the application;~~

~~(ii) Verification of the energy consumption inputs; and~~

~~(iii) Evaluation of the validity of the remaining inputs.~~

~~(B) Once DEQ has approved the carbon intensity, DEQ will notify the applicant of its determination. DEQ will confirm the determination through the registration approval process.~~

~~(C) If DEQ determines the proposal for the carbon intensity has not met the criteria in subsection (A), DEQ will notify the applicant that the proposal is denied and identify the basis for the denial.~~

~~(4) Registering as a user in the CFP Online System. After DEQ provides written approval of the registration application, the regulated party, credit generator, or broker/agggregator must establish an account in the CFP Online System.~~

~~(5c) 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 CFP Online System to accurately reflect the amended information, as appropriate.~~

~~(6d) Cancellation of the registration.~~

(A) ~~If~~ 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), then it must notify DEQ of such change.); or

(b) If (i) A credit generator or broker wishes to aggregator that decides voluntarily to opt-out of the Clean Fuels Program, CFP. The credit generator or broker aggregator must provide a 90-day notice of intent to opt out of the Clean Fuels Program CFP and a proposed effective date for the completion of the opt-out process.

(e) The B) A regulated party, credit generator or broker aggregator that is cancelling its registration under this section must submit any outstanding quarterly progress reports and an annual reports. Any regulated party must be in full compliance report with the program's standards for the annual reports it submits, and any credit generator or aggregator must not have any outstanding deficits.

(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 CFP Online System shall be closed.

(D) Once DEQ determines that the ~~above~~ actions described in paragraphs (A) through (C) are complete, DEQ will notify the registrant in writing of the cancellation of its registration.

(2) Registering as a fuel producer.

(a) To register as a fuel producer in the CFP Online System, the following information must be included in the AFRS Account Administrator Designation application and approved by DEQ:

(i) Company identification, including physical and mailing addresses, phone numbers, e-mail addresses, contact names, and EPA RFS identification numbers;

(ii) 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 AFRS portion of the CFP Online System.

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-0600

Records

(1) Records Retention. Regulated parties, credit generators, and ~~brokers~~aggregators must retain the following records for at least 5 years:

- (a) Product transfer documents as described in section (2);
- (b) Records related to obtaining a carbon intensity described in OAR 340-253-0450;
- (c) Copies of all data and reports submitted to DEQ;
- (d) Records related to each fuel transaction; and
- (e) Records used for compliance or credit calculations.

(2) Documenting Fuel Transactions. A product transfer document must prominently state 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 ~~ID~~identification number and facility ~~ID~~identification number as registered with the RFS program.

(3) 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 (2)(a), (b), (c), (f), and (g) are required to be retained.

(4) Documenting Credit Transactions. Regulated parties, credit generators, and aggregators must retain the following records related to all credit transactions for at least 5 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. All data, records, and calculations used by a regulated party, a credit generator, or a broker an aggregator to comply with the Oregon Clean Fuels Program OAR chapter 340, division 253 are subject to inspection and verification by DEQ. Regulated parties, credit generators, and brokers aggregators must provide records retained under section (4) this rule within 60 calendar days after the date DEQ requests a review of the records, unless DEQ specifies otherwise.

(5) 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.

(6) 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.

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-0620

CFP Online System

(1) Online reporting.

(a) Except as provided in subsection (b), regulated parties, credit generators, and ~~brokers~~aggregators must use the CFP Online System to submit all required reports, including quarterly progress reports under OAR 340-253-0630 and annual compliance reports under OAR 340-253-0650.

(b) Small importers of finished fuels may submit annual compliance reports using the EZ-Fuels Online Reporting Tool for Fuel Distributors in lieu of using the CFP Online System.

(2) Credit transactions. Regulated parties, credit generators, and ~~brokers~~aggregators must use the CFP Online System to ~~transact~~transfer credits.

(3) Establishing an account. After DEQ approves a registration application, the regulated party, credit generator, or ~~broker~~aggregator must establish an account in the CFP Online System and must include the following information to register as a user in the CFP Online 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, CFP Online System username and password;

(c) Name and title of a person who will act as the Administrator for the account;

(d) Optionally the name and title of one or more persons who will be Contributors on the account;~~optional;~~

(e) Optionally the name and title of one or more persons who will be Reviewers on the account;~~optional;~~

(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 CFP Online System.

(4) Account management roles.

(a) ~~Administrator:~~Administrators are:

- (A) Authorized to sign for the account;
- (B) Responsible for submitting quarterly progress and annual compliance reports;
- (C) Makes changes to the company profile; and
- (D) May designate other persons who can review and upload data, but not submit reports.

(b) ~~Contributor:~~ Contributors are:

- (A) Authorized to submit quarterly progress and annual compliance reports, if given signature authority; but
- (B) Cannot make changes to the account profile.

(c) ~~Reviewer:~~ Reviewers are:

- (A) Provided read-only access; but
- (B) Cannot 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) Add postings to the CFP Online System's "Buy/Sell Board";

(C) Provided read-only access to quarterly and annual reports.

(5) Signature. ~~The~~ An administrator or a contributor authorized by the registered party to sign reports on its behalf must sign each report to certify that the submitted information is true, accurate, and complete.

~~(6) Information exempt from disclosure. Pursuant to the provisions of 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, ORS 192.410 through 192.505 or other applicable Oregon law.~~ Alternative Fuels Registration System. Fuel producers registered under OAR 340-253-0500 must establish an account in the AFRS portion of the CFP Online System and must designate an administrator for their account. The fuel producer may

Q

(a) Register its individual fuel production facilities in the AFRS;

(b) Submit fuel pathway code applications through the AFRS for each of its facilities for DEQ approval; and

(c) Submit the physical transport mode demonstration package through the AFRS for DEQ approval, once a fuel pathway code has been approved.

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0630

Quarterly ~~Progress~~ Reports

(1) Quarterly ~~progress~~-reports. Except for persons exempt from this requirement under OAR 340-253-0100, regulated parties, credit generators, and ~~brokers~~aggregators must submit a quarterly progress report using the CFP Online System by:

- (a) June 30 — for January through March of each year;
- (b) September 30 — for April through June of each year;
- (c) December 31 — for July through September of each year; and
- (d) March 31 — for October through December of each previous year.

(2) General reporting requirements for quarterly ~~progress~~-reports.

(a) Quarterly ~~progress~~ reports must contain the information specified in Table 5 under OAR 340-253-8050 for each transportation fuel subject to the ~~Clean Fuels Program~~CFP.

(b) Reporters must upload the data for the quarterly reports in the CFP Online System within the first 45 days after the end of the quarter.

(c) During the second 45 days, reporters must work with each other to resolve any fuel transaction discrepancies between different reporters' reported transactions.

~~(3) Any reporter that~~ (d) In order to allow for carry-back credits to have been generated credits by importing only in the applicable years, the Q1 report may not be submitted prior to May 1st. All other reports may be submitted immediately following the close of the quarter as long as all transactions with business partners have been reconciled.

(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 CFP Online 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). 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."

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~producing~~

340-253-0640

Specific Requirements for Reporting

(1) For natural gas (including or biomethane (inclusive of CNG, LNG, and L-CNG)), any registered party must report the following as applicable:

(a) For CNG and L-CNG, the amount of fuel (in ~~scf~~therms dispensed per compliance reporting period for all LDV and MDV, HDV-CIE, and HDV-SIE. ~~To convert pounds OF CNG to SCF use the formula below:~~

$$100 \text{ lbs CNG} \times \text{SCF} 20.4 \text{ grams} \times 453.59 \text{ grams/lb} = 22.23 \text{ SCF}$$

(b) For LNG, the amount of fuel dispensed (in ~~gal~~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 Table 3 or 4 under OAR 340-253-8030 or -8040.

(d) For ~~bio~~-biomethane-based CNG, ~~bio~~-LNG, and ~~bio~~-L-CNG, the carbon intensity as approved under OAR 340-253-~~0500~~450 and the EPA production company ~~ID~~identification number and facility ~~ID~~identification number.

~~(4) Any reporter that generated credits by providing~~(2) For electricity used as a transportation fuel, any registered party must report the following as applicable:

(a) The information specified for electricity in Table 5 under OAR 340-253-8050;

~~(b) The carbon intensity of the electricity as listed in Table 3 or 4 under OAR 340-253-8030 or -8040 or as approved under OAR 340-253-0500; and~~

~~(c) For residential charging stations, the total electricity dispensed (in kWh) 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, the credit generator or broker may report the total electricity dispensed as a transportation fuel using an alternative method that the credit generator or broker demonstrates is substantially similar to the use of direct metering, as approved by DEQ.~~

~~(d)~~(b) For each public access charging facility, fleet charging facility ~~and~~, workplace private access charging facility, or multi-family dwelling, the amount of electricity dispensed (in kilowatt hours to vehicles).

(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 for light rail, streetcars, aerial trams, or electric transit buses; and

(B) Separated by electricity used in kWh)-portions of their system placed in service before and after January 1, 2012.

(3) For renewable hydrocarbon diesel or gasoline co-processed at a petroleum refinery, any registered party must report the following information 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.

(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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

340-253-0650

Annual Compliance Reports

(1) Annual compliance reports.

(a) Except as ~~providing~~provided in subsection (b), regulated parties, credit generators, and ~~brokers~~aggregators must use the CFP Online System to submit an annual compliance report to DEQ not later than April 30 for the compliance period ending on December 31 of the previous year.

(b) Small importers of finished fuels may submit annual compliance reports using the EZ-Fuels Online Reporting Tool for Fuel Distributors under OAR chapter 340, division 215, in lieu of using the CFP Online System, not later than March 31 for the compliance period ending on December 31 of the previous year.

(2) General reporting requirements for annual compliance reports. Regulated parties, credit generators, and ~~brokers~~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 ~~broker aggregator~~ in the current compliance period, calculated in the CFP Online System as ~~per 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 ~~brokers aggregators~~;

(e) The total credits sold or ~~otherwise~~-transferred; and

(f) The total credits retired within the CFP Online System to meet the compliance obligation.

(3) All pending credit transfers initiated during a compliance period must be completed prior to submittal of the annual compliance report.

(4) Correcting a previously submitted report. A regulated party, credit generator, or ~~broker aggregator~~ may ask DEQ to re-open a previously submitted quarterly progress or annual compliance report for corrective edits and re-submittal. The requestor must submit an "Unlock Report Request Form" ~~using within~~ the CFP Online System. The requestor is required to provide justification for the report corrections and must indicate the specific corrections to be made to the report. Each submitted request is subject to DEQ approval. DEQ approval of a corrected report does not preclude DEQ enforcement based on misreporting.

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

~~ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~

Stats. Implemented: ~~ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

~~Hist.: DEQ 8-2012, f. 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

OAR 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 approved by DEQ under OAR 340-253-0450 and under OAR 340-253-0400(4).

(a) Suspend, restrict, modify, or revoke an account in the CFP Online System, 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 CFP Online System account.

(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 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 or a credit transaction was incorrect;

(c) Fuel reported under a given pathway was produced or transported in a manner that varies in any way from the methods set forth in any corresponding 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;

(d) Fuel transaction data or other data reported into the CFP Online System 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; or

(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).

(3) Providing Notice of an Initial Determination.

(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 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 days of the issuance of the notice, the affected parties shall make records and personnel available to DEQ as it conducts its investigation.

(d) Any party receiving the notice may submit any information it believes is relevant to the investigation and that it wants DEQ to consider in its evaluation.

(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 AFRS; or

(b) Suspend an account in the CFP Online System. 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 days after making an initial determination under sections (2) and (3) above, the DEQ shall make a final determination based on the available information.

(a) The final determination should 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 CFP Online System.

(b) The affected parties may contest the final determination by providing DEQ with a written request for a hearing within 20 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) will remain in place pending the outcome of the contested case.

(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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1000

Credit and Deficit Basics

(1) Carbon intensities.

(a) Except as provided in subsections (b) or (c), when calculating carbon intensities, regulated parties, credit generators ~~and brokers must~~, and aggregators must use a carbon intensity approved by DEQ under OAR 340-253-0450.

~~(A) Use a carbon intensity approved by DEQ under OAR 340-253-0500(3); and~~

~~(B) Express the carbon intensity to the same number of significant figures as shown in Table 3 or 4 under OAR 340-253-8030 or 8040.~~

(b) If a regulated party, credit generator, or ~~broker~~aggregator has an approved provisional carbon intensity approved under OAR 340-253-0450~~(8)~~, the regulated party, credit generator, or aggregator must use the DEQ-approved provisional carbon intensity.

(c) If a regulated party, credit generator, or aggregator has an approved temporary carbon intensity under OAR 340-253-0450, the regulated party, credit generator, or ~~broker~~aggregator must use the ~~provisional~~temporary carbon intensity for the period which it has been approved, unless DEQ ~~approved~~ has subsequently approved a permanent carbon intensity for that fuel.

(2) Fuel quantities. Regulated parties, credit generators, and ~~brokers~~aggregators must express fuel quantities in the unit of fuel for each fuel.

(3) Compliance period. The annual compliance period is January 1 through December 31 of each year, except ~~that the initial compliance period is January 1, 2016, through December 31, 2017.~~

(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 parties, credit generators, and ~~brokers~~aggregators must express credits and deficits to the nearest whole metric ton of carbon dioxide equivalent.

(5) Deficit and credit generation.

(a) Credit generation. A clean fuel credit is generated when fuel is produced, imported, or dispensed ~~or used~~for use in Oregon, as applicable, and the carbon intensity of the fuel approved for use under OAR 340-253-~~0500(3)~~0400 through -0470 is less 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 340-253-8020. Credits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

(b) Deficit generation. A clean fuel deficit is generated when fuel is produced, imported, or dispensed ~~or used~~for use in Oregon, as applicable, and the carbon intensity of the fuel approved for use under OAR 340-253-~~0500(3)~~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 340-253-8020. Deficits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

~~(c) Banking deficits and credits. Upon submission and acceptance of a timely quarterly progress report, the total number of deficits and credits generated will be placed in the CFP Online System account of the regulated party, credit generator or broker.~~

~~(d) Once banked, regulated parties, credit generators and brokers may retain credits indefinitely, retire them to meet a compliance obligation or transfer them to another regulated party, credit generator or broker.~~

~~(e)~~(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.

(6) Mandatory retirement of credits. When filing the annual report 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 3-2015, f. 1-8-15, cert. ef. 2-1-15;
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 biodiesel blends (B6 through B20) that can comply with an oxidation stability induction period of not less than 20 hours as determined by the test method described in the European standard EN 15751;~~

~~(b) Credits may be generated only for B100 that can comply 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; and~~

~~(c) Biodiesel blends and biodiesel that do not comply with subsections (a) or (b) can still be imported into Oregon but cannot generate credits for the Clean Fuels Program.~~

~~(2) Fuels exempted. Except as provided in section (3), credits and deficits may not be calculated for fuels:~~

~~(a) Exported outside Oregon; or~~

~~(b) Exempt under OAR 340-253-0250.~~

~~(3) Voluntary inclusion. A regulated party, credit generator or broker 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 user under 340-253-0250(2) provided that the credit and deficit calculation includes all fuel listed on the same delivery invoice.~~

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

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

~~340-253-1020~~

~~Calculating Credits and Deficits~~

~~Regulated parties, credit generators and brokers must calculate credits or deficits for each fuel included under 340-253-1010 by:~~

~~(1) Using credit and deficit basics as directed in OAR 340-253-1000;~~

~~(2) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 under OAR 340-253-8060;~~

~~(3) 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 or 8 under OAR 340-253-8070 or 8080, as applicable;~~

~~(4) Calculating the carbon intensity difference by subtracting the fuel's carbon intensity as approved under OAR 340-253-0500(3) 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 340-253-8020, as applicable;~~

~~(5) 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);~~

~~(6) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent in section (5) by 1,000,000; and~~

~~(7) Determining under OAR 340-253-1000(5) whether credits or deficits are generated.~~

~~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 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

~~340-253-1030~~

~~Demonstrating Compliance~~

~~(1) Compliance demonstration. Each regulated party must meet its compliance obligation for the compliance period by demonstrating via its annual compliance report that it possessed and has retired a number of credits from its credit account that is equal to its compliance obligation calculated under section (2).~~

~~(2) Calculation of compliance obligation. A regulated 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:~~

$$~~Compliance\ Obligation = Deficits\ Generated + Deficits\ Carried\ Over~~$$

~~(3) Calculation of credit balance.~~

~~(a) Definitions. For the purpose of this section:~~

~~(A) Deficits Generated are the total deficits generated by the regulated party for the current compliance period;~~

~~(B) Deficits Carried Over are the total deficits carried over by the regulated party from the previous compliance period;~~

~~(C) Credits Generated are the total credits generated by the regulated party in the current compliance period;~~

~~(D) Credits Acquired are the total credits acquired by the regulated party in the current compliance period from other regulated parties, credit generators and brokers, including carryback credits;~~

~~(E) Credits Carried Over are the total credits carried over by the regulated party from the previous compliance period;~~

~~(F) Credits Retired are the total credits retired by the regulated party within the CFP Online System for the current compliance period;~~

~~(G) Credits Sold are the total credits sold by, or otherwise transferred from, the regulated party in the current compliance period to other regulated parties, credit generators and brokers; 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 party's compliance obligation.~~

~~(b) A regulated party's credit balance is calculated using the following equation:~~

$$\begin{aligned} \text{Credit Balance} = & (\text{Credits Gen} + \text{Credits Acquired} + \text{Credits Carried Over}) \\ & - (\text{Credits Retired} + \text{Credits Sold} + \text{Credits on Hold}) \end{aligned}$$

~~(4) Small deficits. At the end of a compliance period, a regulated party that has a net deficit balance may carry forward a small deficit to the next compliance period without penalty if the regulated party does not have any credits to offset its deficits. A small deficit exists if the amount of credits the regulated party needs to meet its compliance obligation is 10 percent or less than the total amount of deficits the regulated party generated for the compliance period.~~

~~(5) Extended credit acquisition period. A regulated party may acquire carryback credits between January 1st and March 31st to be used for meeting its compliance obligation for the prior compliance period. A regulated party must initiate all carryback credit transfers in the CFP Online System by March 31st and complete them by April 15th to be valid for meeting the compliance obligation for the prior compliance period.~~

~~(6) Extended compliance period for large importers of finished fuels. If a large importer of finished fuels cannot meet its compliance obligation for a compliance period, it can choose to carry over its deficit balance to the following compliance period. Deficits accrued in 2016 and 2017 may be carried over to 2018 when compliance with the aggregate deficit balance must be met.~~

~~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 3-2015, f. 1-8-15, cert. ef. 2-1-15;
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

~~340-253-1050~~

~~Credit Basics~~

~~(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 brokers may:~~

~~(A) Retain credits without expiration for use within the Clean Fuels Program in compliance with this division; and~~

~~(B) Acquire or transfer credits from or to other regulated parties, credit generators and brokers that are registered under OAR 340-253-0500.~~

~~(c) Regulated parties, credit generators and brokers may not:~~

~~(A) Use credits that have not been generated in compliance with this division; or~~

~~(B) Borrow or use anticipated credits from future projected or planned carbon intensity reductions.~~

~~(2) Mandatory retirement of credits.~~ at the end of a compliance period, a regulated party that possesses credits must retire a sufficient number of credits ~~so~~such that:

(a) Enough credits are retired to completely meet the regulated party's compliance obligation for that compliance period, or

(b) If the total number of the regulated party's credits is less than the total number of the regulated party's deficits, the regulated party must retire all of its credits.

~~(3)~~ Credit Retirement Hierarchy. The CFP Online System 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) The System will retire~~ Credits acquired or generated in a previous compliance period prior to credits generated or acquired in the current compliance period;

~~(b) The System will retire~~ Credits with an earlier completed transfer "reordingrecorded date" before credits with a later completed transfer "reordingrecorded date;" and

(c) ~~The System will retire~~ Credits generated in an earlier quarter before credits generated in a later quarter.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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) 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.

(c) Regulated parties, credit generators, and aggregators may not:

(A) Use credits that have not been generated in compliance with this division; or

(B) Borrow or use anticipated credits from future projected or planned carbon intensity reductions.

(42) Credit transfers between registered parties.

(a) "Credit seller," as used in this rule, means a ~~regulated~~registered party, ~~credit generator or broker who~~ that wishes to sell or transfer credits.

(b) "Credit buyer," as used in this rule, means a ~~regulated~~registered party, ~~credit generator or broker who~~ that wishes to acquire credits.

(c) A credit seller and a credit buyer may enter into an agreement to transfer credits.

(d) A credit seller may only transfer credits up to the number of credits in the credit seller's CFP Online System account on the date of the transfer.

~~(53)~~ Credit seller requirements. When ~~a credit parties wish to~~ transfer ~~agreement has been reached, within 10 businesses days~~ credits, the credit seller must initiate an online "Credit Transfer Form" provided in the CFP Online System 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 US 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.

~~(64)~~ Credit buyer requirements. Within 10 days of receiving the "Credit Transfer Form" from the credit seller in the CFP Online System, 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 CFP Online System.

~~(75)~~ If the credit buyer and credit seller have not fulfilled the requirements of sections ~~(53)~~ and ~~(64)~~ within 20 days of ~~reaching an agreement~~ the seller initiating the credit transfer, the transaction will be voided. If a transaction has been voided, the credit buyer and credit seller may ~~reinitiate the process to confirm the transaction, but the date of transfer that will be approved will in no event be earlier than ten days before the date that the credit seller initiates the online Credit Transfer Form~~ reinitiate a new credit transfer.

~~(8) Broker. A broker~~ (6) Aggregator. An aggregator may only act as a credit seller or credit buyer if that ~~broker~~ aggregator:

(a) Has an approved and active registration under OAR 340-253-0500;

(b) Has an account in the CFP Online System; and

(c) Has an approved ~~Broker~~ Aggregator Designation Form from a regulated party or credit generator for whom the ~~broker~~ aggregator is acting in any given transaction.

~~(97)~~ Illegitimate credits.

(a) A ~~credit generator violates these rules if~~ registered party must report accurately when it submits information into the CFP Online System ~~indicating. If inaccurate information is submitted~~ that results in the generation of one or more credits ~~have been generated~~ when such an assertion is inconsistent with the requirements of OAR 340-253-1000 through 340-253-1020, 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 ~~a credit generator claims to have~~ that a party has generated are illegitimate credits, then ~~the credit generator:~~

(A) ~~Must provide~~ 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 credit to replace each illegitimate credit ~~that was not properly generated, if available;~~ and

~~(B) Is~~ (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 ~~regulated~~ registered party, ~~credit generator or broker~~ that has acquired one or more illegitimate credits ~~is~~, but was not the party that generated the illegitimate credits:

(A) When the initial generator of the illegitimate credits has not retired approved 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 credit to replace each such illegitimate credit that it retired to meet its compliance obligation;

(B) May be subject to enforcement at DEQ's discretion, unless DEQ determines:

~~(A)~~ that the party from whom the credits were acquired ~~from~~ engaged in false, fraudulent, or deceptive trading practices.

(8) Prohibited credit transfers.

(a) 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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) and (4), credits and deficits may not be calculated for fuels exempted under OAR 340-253-0250.

(3) Voluntary inclusion. ~~registered A~~ regulated party, credit generator ~~or broker;~~ and, 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 fuel listed on the same invoice.

(4) Fuels that are exported from Oregon. Any fuel that is exported must be reported by regulated parties. Exported fuels will not incur compliance obligations or generate credits, unless the exporter has purchased the fuel without the CFP compliance obligation or the credits have already been generated and separated from the fuel such as through a transfer without obligation. If the exporter has purchased the fuel without the CFP compliance obligation or without credits, as applicable, in Oregon, then the exporter will incur the inverse credits or deficits as appropriate to balance out the deficits or credits detached from the fuel by the entity that initially sold the fuel inside of Oregon and that retained the compliance obligation or credits for such fuel.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 340-253-8060;

(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 or 8 under OAR 340-253-8070 or -8080, 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 listed in Table 7 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 340-253-8020, 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) For electricity used to power fixed guideway vehicles on track placed in service prior to 2012, credit and deficit 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 340-253-8060;

(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 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 340-253-8020, 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) 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 annually 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 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 year's 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 once per year into the CFP Online System 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1030

Demonstrating Compliance

(1) Compliance demonstration. Each regulated 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 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:

Compliance Obligation = Deficits Generated + 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 party for the current compliance period;

(B) Deficits Carried Over are the total deficits carried over by the regulated party from the previous compliance period;

(C) Credits Generated are the total credits generated by the regulated party in the current compliance period;

(D) Credits Acquired are the total credits acquired by the regulated party in the current compliance period from other regulated parties, credit generators, and aggregators, including carryback credits;

(E) Credits Carried Over are the total credits carried over by the regulated party from the previous compliance period;

(F) Credits Retired are the total credits retired by the regulated party within the CFP Online System for the current compliance period;

(G) Credits Sold are the total credits sold by, or otherwise transferred from, the regulated party in the current compliance period to other regulated 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 party's compliance obligation.

(b) A regulated party's credit balance is calculated using the following equation:

Credit Balance = (Credits Gen + Credits Acquired + Credits Carried Over)

– (Credits Retired + Credits Sold + Credits on Hold)

(4) Small deficits. At the end of a compliance period, a regulated 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 party needs to meet its compliance obligation is 5 percent or less than the total amount of deficits the regulated party generated for the compliance period.

(5) Extended credit acquisition period. A regulated party may acquire carryback credits between January 1st and March 31st to be used for meeting its compliance obligation for the prior compliance period. A regulated party complete all carryback credit transfers in the CFP Online System 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 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1040

Credit Clearance Market

(1) If a regulated 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 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 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 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 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 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.

(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 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 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 party's pro-rata share of the credits pledged into the credit clearance market will be calculated by the following formula:

Regulated Party A's pro-rata share =

$(A's \text{ total deficit} / \text{All parties' total deficits}) \times (\text{the lesser of [pledged credits] or [All parties' total deficits]})$

(i) "Total deficit" refers to the regulated 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 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 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 party that is participating in the credit clearance market as a buyer, and the name of each 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 party that was required to purchase credits in the credit clearance market must submit an amended annual compliance report in the CFP Online System 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 party has unmet deficits upon the submission of the amended annual report, DEQ will increase the regulated 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 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 party to retire the remaining deficits.

(a) If multiple regulated parties are subject to this section in a single year, DEQ may produce a single root cause analysis for those regulated 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 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16(B) ~~The carbon intensity of the fuel for which the credits were generated matches the carbon intensity listed in the CFP Online System for that producer.~~

(10)

OAR 340-253-1055

Public Disclosure-

(~~a~~1) List of DEQ-approved registered parties. DEQ will maintain a current list of ~~regulated parties, credit generators and brokers whose registrations DEQ has approved under OAR 340-253-0500~~DEQ-approved registered parties and will make that list publicly available ~~electronically~~ on its website. The list will include, at a minimum, the name of the party and whether the ~~regulated~~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 ~~a broker~~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; and

(d) Presents aggregated information on all fuel transacted within the state and does not disclose individual parties' transactions.

(3) Quarterly data summary. DEQ ~~will publish~~must post on its webpage at least quarterly:

(a) An aggregate data summary of credit and deficit generation for the:

~~(i) most recent quarter, and all prior quarters; and~~

~~(ii) Previous quarters of the current compliance period, and~~

~~(iii) Previous compliance periods; and~~

(b) Information on the contribution of credit generation by different fuel types.

~~(c) Credit trading activity 4) Clean Fuels Program Annual Report. DEQ will publish at least monthly:~~

~~(A) A credit trading activity report that summarizes the aggregate credit transfer must post on its webpage by April 15th of each year, the following information for from the:~~

~~(i) Most recent month,~~

~~(ii) Previous three months,~~

~~(iii) previous three quarters, and year:~~

~~(iv) Previous compliance periods; and~~

~~(B) Information on the credits transferred during the most recent month including the total number of credits transferred, the number of transfers and the number of parties making transfers. If more than three transfers have occurred during the month, the report will also include the monthly average credit price for transfers.~~

~~(d) DEQ will base its reports on information submitted into the CFP Online System.~~

~~(e) DEQ reports will represent information aggregated for all fuel transacted within the state; not by individual parties.~~

~~(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.~~

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

~~ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
~~ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

Deferrals

340-253-2000

Emergency ~~Deferral Due to Clean Fuel Supply~~ Deferrals

(1) ~~Determining whether to issue an~~ Emergency deferral ~~due to a fuel shortage~~. DEQ will issue an order declaring an emergency deferral ~~from the clean fuel standard, if:~~

(a) No later than 15 calendar days after the date that DEQ determines:

~~(a) that~~ there is a known shortage of fuel or low carbon fuel that is needed for regulated parties to comply with the clean fuel standard, ~~due to:~~

~~(A) A natural disaster; or~~

~~(B) An unanticipated disruption in production or transportation of clean fuels used for compliance, except disruptions for routine maintenance of a fuel production facility or fuel transmission system; and and that the~~

~~(b) The~~ magnitude of the shortage of that fuel is greater than the equivalent of five percent of the ~~total credits generated by all regulated parties and providers of clean fuels under OAR 340-253-1020 in the previous~~ amount of the fuel forecasted to be available during the effective compliance period. To determine the magnitude of the shortage, and that the fuel of which there is a shortage is needed for regulated parties to comply with that year's standard. DEQ will consider the following:

(A) The volume and carbon intensity of the fuel determined to be not available under subsection (1)(a);

(B) The estimated duration of the shortage; and

(C) Whether ~~one of the following~~ there are any options that could mitigate ~~compliance with the clean fuel standard;~~ the shortage including but not limited to:

(i) The same fuel from other sources ~~is available;~~

(ii) Substitutes for the affected fuel and the carbon intensities of those substitutes are available; or

(iii) Banked clean fuel credits are available; ~~and.~~

~~(D) Any other information DEQ may need to determine the magnitude of the shortage.~~

(b) Immediately upon the issuance by the Governor of a proclamation, executive order or directive pursuant to ORS 176.750 to 176.815 declaring an energy emergency due to a shortage of gasoline or diesel.

(2) ~~Content of an~~ Emergency deferral. ~~If DEQ determines under section (1) that it must~~ due to a credit market disruption. Prior to December 31, 2018, DEQ may ~~issue a~~ issue an order declaring an emergency deferral, then no later than 15 calendar days after the date that DEQ determines that there is a disruption in the credit market. In determining the magnitude of the disruption and its effects, DEQ will ~~determine;~~ consider the following:

(a) The ~~start date~~ root cause and ~~end date~~ the likely duration of the disruption;

(b) The effect of the disruption on retail fuel prices; and

(c) The effect to the program of issuing the emergency deferral.

(3) Emergency deferral due to abnormal credit market behavior. Beginning January 1, 2019, DEQ may issue an order declaring an emergency deferral no later than two months after DEQ determines through a root cause analysis that there is abnormal behavior in the credit market. DEQ must conduct this analysis if:

(a) The volume-weighted moving average price of credits for a consecutive three-month period, ~~which may not exceed one year (but which may be renewed if DEQ makes a subsequent determination~~ increased by 100 percent or more over the volume-weighted moving average price of credits for the previous consecutive three-month period; or

(b) It otherwise determines that abnormal market behavior exists.

(4) In determining the root cause for the increase in credit prices under (3)(a) or the abnormal market behavior ~~under section (1); (3)(b)~~ and its effects on the program and regulated parties, DEQ will consider the following:

~~The fuel deferred from complying with the clean-~~ (a) Trends in credit prices for other low carbon fuel standard programs and the US Renewable Fuel Standard;

(b) Information on the supply of clean fuels;

(c) Information on the demand for clean and regulated fuels in Oregon;

(d) The most recent quarterly data on credit and deficit generation in the program;

(e) Information submitted through credit transfers, the parties transferring credits, and any information requested by the agency under OAR 340-253-0600 of registered parties conducting transfers; and

(f) Any other information on the credit market the agency determines is needed to complete its root cause determination.

(5) Registered Parties may continue to generate credits during emergency deferrals.

(6) If DEQ determines it should issue an emergency deferral under sections (1) through (3) above in order to implement a remedy necessary to address market stability, the order must include:

(a) The duration of the emergency deferral, which may not be less than:

(A) One calendar quarter for a method described in (5)(d)(A); or

(B) 30 calendar days for a method described in (5)(d)(B) or (C); but

(C) An emergency deferral may not continue past the end of the compliance period during which the emergency deferral is issued;

(b) The types of fuel to which the emergency deferral applies; and

(c) Which of the following methods DEQ ~~selects to defer~~ has selected for deferring compliance with the clean fuel standard during the emergency deferral:

(A) Temporarily adjusting the scheduled applicable clean fuel standard to a standard identified that better reflects the forecast availability of credits during the forecast compliance period and requiring regulated parties to comply with the temporary deferral period; ~~standard~~;

(~~AB~~) Allowing ~~for the carryover of~~ deficits ~~to be carried over~~ accrued during the emergency deferral into one or more future compliance periods, ~~notwithstanding OAR 340-253-1030(4) through (6); or without penalty~~;

(~~BC~~) Suspending deficit accrual during the emergency deferral period. ~~or~~

(~~d~~) Credits will accrue during the emergency deferral period.

(3) Issuing an emergency deferral. An emergency deferral order DEQ issues under this rule must notify the affected parties and must contain at least the following information:

(~~a~~) (D) Any other action if DEQ determines that none of the methods described in paragraphs (A) through (C) provide a sufficient mechanism for containing the cost of compliance with the clean fuel standards during the emergency deferral. In making such a determination, DEQ also shall:

(i) Include in such order DEQ's determination ~~under section (1)~~; and the action to be taken; and

~~(b) (ii) Provide written notification and justification of the determination and the action to:~~

~~(I) The Governor;~~

~~(II) The President of the Senate;~~

~~(III) The Speaker of the House of Representatives;~~

~~(IV) The majority and minority leaders of the Senate; and~~

~~(V) The majority and minority leaders of the House of Representatives.~~

~~(7) Terminating an emergency deferral period as established under section (2);~~

~~(e) The fuel deferred as established under section (2); and~~

~~(d) The method selected by DEQ to comply as established under section (2).~~

~~(a) The EQC may terminate, by order, an emergency deferral before the expiration date of the forecast deferral if:~~

~~(A) New information becomes available indicating that the shortage for which the emergency deferral was issued has ended; or~~

~~(B) The underlying conditions that led to the abnormal market behavior has ended.~~

~~(b) An EQC order terminating an emergency deferral is effective 15 calendar days after the date that the order declaring the termination is approved by the EQC.~~

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

~~ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
~~ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

Hist.: ~~DEQ 8-2012, f. & cert. ef. 12-11-12;~~ DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-2100

Forecasted ~~Deferral Due to Clean Fuel Supply~~ Deferral

~~(1) DEQ forecast. DEQ will use available data under section (2) to develop a fuel supply forecast for the next calendar year that includes:~~

~~(a) The potential volumes of gasoline substitutes and diesel fuel substitutes available in Oregon;~~ (1) Fuel supply forecast deferral. Under section 163, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017), the division of the Oregon Department of Administrative Services that serves as office of economic analysis is required to provide to DEQ a fuel supply forecast for the following compliance period not later than October 2. If DEQ receives a fuel supply forecast for the following compliance period by October 2 and the forecast projects that the amount of credits that will be available during the forecast compliance period will be less than 100 percent of the credits projected to be necessary for regulated parties to comply, then DEQ, no later than December 1, shall issue an order declaring a forecast deferral. The order must set forth:

(a) The duration of the forecast deferral, which may not be less than one calendar quarter or longer than one compliance period;

~~(b) The estimated total aggregate credits available;~~

~~(c) The estimated credits needed to meet the clean types of fuel standard to which the forecast deferral applies; and~~

~~(d) A comparison of the estimates under subsections (1)(a) and (b) with (1)(c) to indicate the availability of fuel needed for compliance.~~

~~(2) Available data. DEQ will consider available data to develop the forecast including:~~

~~(a) Past Oregon fuel consumption volumes and trends;~~

~~(b) Oregon and nationwide trends in alternative fuel use;~~

~~(c) Information on numbers of alternative fueled vehicles in Oregon;~~

~~(d) Banked clean fuel credits;~~

~~(e) Projected total transportation fuel consumption volumes in Oregon, including gasoline and diesel fuel;~~

~~(f) Planned projects in or near Oregon such as electric vehicle charging or natural gas fueling stations;~~

~~(g) The status of existing and planned clean fuel production facilities nationwide;~~

~~(h) Applicable updates to the carbon intensities of fuels;~~

~~(i) Nationwide volumes for fuels required under the federal renewable fuel standard; and~~

~~(j) Any other information DEQ may need to develop the forecast.~~

~~(3) Determining whether to issue a forecasted deferral. If DEQ forecasts a shortfall in clean fuel credits under subsection (1)(d), and the shortfall is greater than the equivalent of five percent of the credits needed under (1)(c) to comply with the clean fuel standard, then DEQ will determine whether a forecasted deferral is needed by considering the following:~~

~~(a) Timing of fuel availability;~~

~~(b) Timing, duration and magnitude of the estimated clean fuel shortfall;~~

~~(c) Information in addition to material considered under section (2), on potential and current gasoline substitutes and diesel fuel substitutes, including:~~

~~(A) Production nationwide;~~

~~(B) Use in Oregon; and~~

~~(C) Clean fuel infrastructure development in Oregon; and~~

~~(d) Any other information DEQ may need in the analysis.~~

~~(4) Content of a forecasted deferral. If DEQ determines under section (3) that it must issue a forecasted deferral, DEQ will determine:~~

~~(a) The start date and end date of the forecasted deferral period, which may not exceed one year except that DEQ may renew that period if DEQ makes a subsequent determination under section (3);~~

~~(b) The fuel deferred from complying with the clean fuel standard; and~~

~~(c) Which of the following methods DEQ ~~will use to defer~~ has selected for deferring compliance with the clean fuel standard during the forecasted deferral ~~period~~:~~

~~(A) ~~Defer the requirement to comply~~ (A) Temporarily adjusting the scheduled applicable clean fuel standard to a standard identified that better reflects the forecast availability of credits during the forecast compliance period and requiring regulated parties to comply with the temporary standard;~~

~~(B) ~~Requiring regulated parties to comply only~~ with the clean fuel standard for up to one year, and allow credits to accrue applicable during the compliance period prior to the forecast compliance period; or~~

~~(C) Suspending deficit accrual for part or all of the forecast deferral period;~~

~~(d) In implementing a forecast deferral, DEQ may take an action for deferring compliance with the clean fuel standard other than, or in addition to, selecting a method under subsection (c) only if DEQ determines that none of the methods under subsection (c) will provide a sufficient mechanism for containing the cost of compliance with the clean fuel standards during the forecast deferral. In making such a determination, DEQ shall:~~

~~(B) Propose that EQC revise the Clean Fuels Program(A) Include in such order DEQ's determination and the action to be taken; and~~

~~(B) Provide written notification and justification of the determination and the action to:~~

~~(i) The Governor;~~

~~(ii) The President of the Senate;~~

~~(iii) The Speaker of the House of Representatives;~~

~~(iv) The majority and minority leaders of the Senate; and~~

~~(v) The majority and minority leaders of the House of Representatives.~~

~~(4) Terminating a forecast deferral. The EQC may terminate, by order, a forecast deferral before the expiration date of the forecast deferral. Termination is effective on the first day of the next calendar quarter after the date that the order declaring the termination is adopted.~~

~~Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~

~~Stats. Implemented: ORS 468A.275 and sections 159 through a rulemaking to:~~

~~(i) Amend the clean fuel standard;~~

~~(ii) Amend the clean fuel standard to extend beyond 2025, the year when Oregon must meet the lowest average carbon intensities to allow for less stringent annual reductions while still reaching the same average carbon intensity at the end of the period; or~~

~~(iii) Otherwise amend the Clean Fuels Program to address the forecasted fuel supply shortage, such as by adopting a multi-year deferral.~~

~~(5) Issuing a forecasted deferral. DEQ will issue a forecasted deferral order to the affected parties with the following information:~~

~~(a) DEQ's determination under section (3);~~

~~(b) The deferral period as established under section (4);~~

~~(c) The fuel deferred as established under section (4); and~~

~~(d) The method selected by DEQ to comply as established under section (4).~~

~~167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017). 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 3-2015, f. 1-8-15, cert. ef. 2-1-15;
 DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

340-253-8010

Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes~~340-253-2200~~

Monthly Fuel Price Deferral

~~(1) Definitions. As used in this rule:~~

~~(a) “Diesel Blends” means diesel fuel and diesel fuel blended with biodiesel.~~

~~(b) “Gasoline Blends” means gasoline and gasoline blended with ethanol.~~

~~(c) “Price evaluation threshold” means that the 12-month rolling weighted average price of gasoline blends or diesel blends in Oregon is more than five percent higher than the 12-month rolling weighted average price in the:~~

~~(A) Statutory PADD 5 for gasoline; or~~

<u>Oregon Department of Environmental Quality</u>		
<u>Table 1 — 340-253-8010</u>		
<u>Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes</u>		
<u>Calendar Year</u>	<u>Oregon Clean Fuel Standard (gCO₂e per MJ)</u>	<u>Percent Reduction</u>
<u>2015</u>	<u>None (Gasoline Baseline is 98.62 for 2016-2017, 98.64 for 2018 and beyond)</u>	

<u>Oregon Department of Environmental Quality</u>		
<u>Table J – 340-253-8010</u>		
<u>Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes</u>		
<u>2016*</u>	<u>98.37</u>	<u>0.25 percent</u>
<u>2017</u>	<u>98.13</u>	<u>0.50 percent</u>
<u>2018</u>	<u>97.66</u>	<u>1.00 percent</u>
<u>2019</u>	<u>97.16</u>	<u>1.50 percent</u>
<u>2020</u>	<u>96.18</u>	<u>2.50 percent</u>
<u>2021</u>	<u>95.19</u>	<u>3.50 percent</u>
<u>2022</u>	<u>93.71</u>	<u>5.00 percent</u>
<u>2023</u>	<u>92.23</u>	<u>6.50 percent</u>
<u>2024</u>	<u>90.75</u>	<u>8.00 percent</u>
<u>2025 and beyond</u>	<u>88.78</u>	<u>10.0 percent</u>

*Initial

~~(B) Statutory PADD 5 or, if unavailable, Actual PADD 5, for diesel fuel.~~

~~(2) Average price. Each month, DEQ will calculate the 12-month rolling average price for gasoline blends and diesel blends using data available from the U.S. Energy Information Administration or a comparable source, as follows:~~

~~(a) Oregon's 12-month rolling average price. Each month, DEQ will calculate the Oregon 12-month rolling average price for gasoline blends and diesel blends.~~

~~(b) Gasoline 12-month rolling weighted average price for PADD 5. Each month, DEQ will calculate the PADD 5 12-month rolling volume-weighted average price for gasoline blends using the statutory PADD 5 data.~~

~~(c) Diesel 12-month rolling weighted average price for PADD 5. Each month, DEQ will calculate the PADD 5 12-month rolling volume-weighted average price for diesel blends using the actual PADD 5 or, if available, the statutory PADD 5 data.~~

~~(3) Determining need for cost mitigation. If the price of gasoline blends or diesel blends in Oregon exceeds the price evaluation threshold:~~

~~(a) DEQ will provide fuel data and analysis to EQC that includes the applicable information under sections (4) and (5);~~

~~(b) EQC will determine the need to mitigate the costs of complying with the clean fuel standard after considering the DEQ fuel data and analysis. EQC will direct DEQ to implement one or more cost mitigation strategies if EQC determines that:~~

~~(A) The price of Oregon gasoline blends or diesel blends exceeds the price evaluation threshold due to the costs of complying with the clean fuel standard; and~~

~~(B) Implementing one of the strategies under section (6) is necessary to mitigate the costs of compliance with the clean fuel standard.~~

~~(4) Determining whether the clean fuel standard caused the price evaluation threshold exceedance. EQC will determine whether the price of Oregon gasoline blends or diesel blends exceeds the price evaluation threshold due to the costs of complying with the clean fuel standard. DEQ will analyze and provide the following information to EQC:~~

~~(a) Whether fuel volume and price data is faulty or incomplete;~~

~~(b) Price of gasoline substitutes and diesel substitutes;~~

~~(c) Changes in demand for gasoline blends and diesel blends such as changes caused by:~~

~~(A) An increase in population; or~~

~~(B) An increase in fuel usage.~~

~~(d) A decrease in retail outlets for gasoline blends and diesel blends in Oregon;~~

~~(e) Natural or manmade disasters affecting Oregon but not the statutory PADD 5 as a whole;~~

~~(f) Regulatory change that affects Oregon but not the statutory PADD 5 as a whole;~~

~~(g) Change in the usage of reformulated gasoline or other special fuel in any state in the statutory PADD 5; and~~

~~(h) Any other information DEQ or EQC may need to determine whether the clean fuel standard caused the price of Oregon gasoline blends or diesel blends to exceed the price evaluation threshold.~~

~~(5) Factors in determining whether a price mitigation strategy is necessary. EQC will consider the following factors to determine whether it is necessary to mitigate the costs of compliance with the clean fuel standard, or whether the price of gasoline blends or diesel blends will fall below the price evaluation threshold within six months without implementing a cost mitigation strategy:~~

~~(a) Fuel price trends;~~

~~(b) Price of gasoline substitutes and diesel substitutes;~~

~~(c) Availability and use of gasoline substitutes and diesel substitutes in Oregon;~~

~~(d) Compliance schedule for the fuel;~~

~~(e) Future supply of gasoline substitutes and diesel substitutes; and~~

~~(f) Any other information DEQ or EQC may need to determine whether implementing standard cost mitigation strategy is necessary.~~

~~(6) Cost mitigation strategies. If EQC determines under subsection (3)(b) that mitigating the cost of compliance is necessary, it will order, and DEQ will implement, one of the following cost mitigation strategies with EQC approved start and end dates:~~

~~(a) Suspending deficit accrual during a cost mitigation period and allowing credits to accrue during that period;~~

~~(b) Allowing credits to accrue and allowing deficits to be carried over into future compliance periods, notwithstanding OAR 340-253-1030(4) through (6), during a cost mitigation period. EQC may allow deficits to be carried over for one, is a two, or three future compliance periods before the deficits must be reconciled;~~

~~(c) Suspending deficit accrual for a percentage of the fuel during the cost mitigation period and allowing credits to accrue during the period;~~

~~(d) Eliminating the requirement to comply with the clean fuel standard for up to one- year; or period for 2016 and 2017.~~

~~(e) Adopting any other price mitigation strategy that EQC determines to be necessary to effectively mitigate the cost of compliance.~~

~~(7) EQC reconsideration. EQC may reconsider and revise its determinations under sections (4) and (5) if the information it considered under those sections has changed. Based on that reconsideration, EQC may reconsider and revise or withdraw any cost mitigation strategies ordered under section (6).~~

~~(8) DEQ implementation. In implementing a cost mitigation strategy as EQC directs, DEQ will notify the affected parties with the following information:~~

~~(a) EQC's determinations under sections (4) through (6);~~

~~(b) The start date and end date for the cost mitigation strategy period;~~

~~(c) The fuel(s) affected by the price mitigation strategy; and~~

~~(d) The cost mitigation strategy that EQC adopted under section (6).~~

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

~~ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~

~~Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
~~ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

~~Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~

~~340-253-3010 [Renumbered to 340-253-8030]~~

~~340-253-3020 [Renumbered to 340-253-8040]~~

~~340-253-3030 [Renumbered to 340-253-8060]~~

~~340-253-3040 [Renumbered to 340-253-8070]~~

~~340-253-3050 [Renumbered to 340-253-8080]~~

340-253-8010 Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

~~[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]~~

~~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~~

340-253-8020

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

State of Oregon Department of Environmental Quality

Table 2 — 340-253-8020

Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

<u>State of Oregon Department of Environmental Quality</u>		
<u>Table 2 – 340-253-8020</u>		
<u>Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes</u>		
<u>Calendar Year</u>	<u>Oregon Clean Fuel Standard (gCO₂e per MJ)</u>	<u>Percent Reduction</u>
<u>2015</u>	<u>None (Diesel Baseline is 99.64 for 2016-2017, and 99.61 for 2018 and beyond)</u>	
<u>2016*</u>	<u>99.39</u>	<u>0.25 percent</u>
<u>2017</u>	<u>99.14</u>	<u>0.50 percent</u>
<u>2018</u>	<u>98.61</u>	<u>1.00 percent</u>
<u>2019</u>	<u>98.12</u>	<u>1.50 percent</u>
<u>2020</u>	<u>97.12</u>	<u>2.50 percent</u>
<u>2021</u>	<u>96.12</u>	<u>3.50 percent</u>
<u>2022</u>	<u>94.63</u>	<u>5.00 percent</u>
<u>2023</u>	<u>93.14</u>	<u>6.50 percent</u>
<u>2024</u>	<u>91.64</u>	<u>8.00 percent</u>
<u>2025 and beyond</u>	<u>89.65</u>	<u>10.00 percent</u>

*Initial compliance period is a two-year period for 2016 and 2017.

Stat. Auth.: ~~ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).~~

Stat. Auth.: ~~ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)~~

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

Stats. ~~Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).~~

Hist.: ~~DEQ 8-2012, f. & cert. ef. 2009 OL Ch. 754 Sec. 6 (2011 Edition)~~

Hist.: ~~12-11-12; 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 9-1-1-16~~

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 not included in rule text. Click here for PDF copy of table(s).]~~

Oregon Department of Environmental Quality					
Table 3 -- 340-253-8030					
<u>Oregon Carbon Intensity Lookup Table for Gasoline and Gasoline Substitutes</u>					
<u>Fuel</u>	<u>Pathway Identifier</u>	<u>Pathway Description</u>	<u>Carbon Intensity Values (gCO₂e/MJ)</u>		
			<u>Direct Lifecycle Emissions</u>	<u>Land Use or Other Indirect Effect</u>	<u>Total Emissions</u>
<u>Gasoline</u>	<u>ORGAS001</u>	<u>Clear gasoline - based on a weighted average of gasoline supplied to Oregon</u>	<u>100.77</u>	<u>=</u>	<u>100.77</u>
	<u>ORGAS002</u>	<u>Blended gasoline (E10) - 90% clear gasoline & 10% corn ethanol based on Midwest average</u>	<u>98.64</u>	<u>=</u>	<u>98.64</u>
<u>Compressed Natural Gas</u>	<u>ORCNG001</u>	<u>North American NG delivered via pipeline; compressed in OR</u>	<u>79.93</u>	<u>=</u>	<u>79.93</u>
<u>Liquefied Natural Gas</u>	<u>ORLNG001</u>	<u>North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency</u>	<u>94.46</u>	<u>=</u>	<u>94.46</u>
<u>Liquefied Petroleum Gas</u>	<u>ORLPG001</u>	<u>Liquefied petroleum gas</u>	<u>83.05</u>	<u>=</u>	<u>83.05</u>
<u>Electricity</u>	<u>ORELEC100</u>	<u>Solar power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).</u>	<u>0</u>		<u>0</u>

Oregon Department of Environmental Quality					
Table 3 – 340-253-8030					
Oregon Carbon Intensity Lookup Table for Gasoline and Gasoline Substitutes					
	<u>ORELEC101</u>	<u>Wind power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).</u>	<u>0</u>		<u>0</u>

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

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. 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 1-1-16~~

340-253-8040

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

~~[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]~~

Oregon Department of Environmental Quality					
Table 4 – 340-253-8040					
Oregon Carbon Intensity Lookup Table for Diesel and Diesel Substitutes					
<u>Fuel</u>	<u>Pathway Identifier</u>	<u>Pathway Description</u>	<u>Carbon Intensity Values (gCO2e/MJ)</u>		
			<u>Direct Lifecycle Emissions</u>	<u>Land Use or Other Indirect Effect</u>	<u>Total Emissions</u>

<u>Oregon Department of Environmental Quality</u>					
<u>Table 4 – 340-253-8040</u>					
<u>Oregon Carbon Intensity Lookup Table for Diesel and Diesel Substitutes</u>					
<u>Diesel</u>	<u>ORULSD001</u>	<u>Clear diesel, based on a weighted average of diesel fuel supplied to Oregon</u>	<u>101.65</u>	=	<u>101.65</u>
	<u>ORULSD002</u>	<u>Blended diesel (B5) - 95% clear diesel & 5% soybean biodiesel</u>	<u>99.61</u>	=	<u>99.61</u>
	<u>ORULSD003</u>	<u>Blended diesel (B20) – 80% clear diesel & 20% soybean biodiesel</u>	<u>93.41</u>		<u>93.41</u>
<u>Compressed Natural Gas</u>	<u>ORCNG001</u>	<u>North American NG delivered via pipeline; compressed in OR</u>	<u>79.93</u>	=	<u>79.93</u>
<u>Liquefied Natural Gas</u>	<u>ORLNG001</u>	<u>North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency</u>	<u>94.46</u>	=	<u>94.46</u>
<u>Liquefied Petroleum Gas</u>	<u>ORLPG001</u>	<u>Liquefied petroleum gas, crude and natural gas mix</u>	<u>83.05</u>	=	<u>83.05</u>
<u>Electricity</u>	<u>ORELEC100</u>	<u>Solar power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).</u>	<u>0</u>		<u>0</u>
	<u>ORELEC101</u>	<u>Wind power, produced at the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).</u>	<u>0</u>		<u>0</u>

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ ~~3-2015, f. 1-8-15-2013(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~~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~~

340-253-8050

Table 5 — Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

~~[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]~~

Oregon Department of Environmental Quality
Table 5 — 340-253-8050
Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

<u>Parameters to Report</u>	<u>Gasoline & Diesel Fuel</u>	<u>Ethanol, Biodiesel & Renewable Diesel</u>	<u>CNG, LNG & LPG</u>	<u>Electricity</u>	<u>Hydrogen & Hydrogen Blends</u>
<u>Company or organization name</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Reporting period</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Fuel pathway code</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Transaction type</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Transaction date</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Business Partner</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Production Company ID and Facility ID</u>	<u>n/a</u>	<u>x</u>	<u>n/a</u>	<u>n/a</u>	<u>x</u>
<u>Physical transport mode code</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Aggregation</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>

Oregon Department of Environmental Quality

Table 5 – 340-253-8080

Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

<u>Application / EER</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Amount of each fuel used as gasoline replacement</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>Amount of each fuel used as diesel fuel replacement</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>*Credits/deficits generated per quarter (MT)</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>For Annual Compliance Reporting (in addition to the items above)</u>					
<u>*Credits and Deficits generated per year (MT)</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>*Credits/deficits carried over from the previous year (MT), if any</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>*Credits acquired from another party (MT), if any</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>*Credits sold to another party (MT), if any</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>
<u>*Credits retired within LCFS (MT) to meet compliance obligation, if any</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>

*Values will be calculated and stored in the CFP Online System.

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8060

Table 6 — Oregon Energy Densities of Fuels

~~[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]~~

<u>Oregon Department of Environmental Quality</u> <u>Table 6 – 340-253-8060</u> <u>Oregon Energy Densities of Fuels</u>	
<u>Fuel (unit)</u>	<u>MJ/unit</u>
<u>Gasoline (gallon)</u>	<u>122.48 (MJ/gallon)</u>
<u>Diesel fuel (gallon)</u>	<u>134.48 (MJ/gallon)</u>
<u>Compressed natural gas (standard cubic foot)</u>	<u>0.98 (MJ/standard cubic foot)</u>
<u>Electricity (kilowatt hour)</u>	<u>3.60 (MJ/kilowatt hour)</u>
<u>Denatured ethanol (gallon)</u>	<u>81.51 (MJ/gallon)</u>
<u>Clear biodiesel (gallon)</u>	<u>126.13 (MJ/gallon)</u>
<u>Liquefied natural gas (gallon)</u>	<u>78.83 (MJ/gallon)</u>
<u>Hydrogen (kilogram)</u>	<u>123.00 (MJ/kilogram)</u>
<u>Liquefied petroleum gas (gallon)</u>	<u>89.63 (MJ/gallon)</u>
<u>Renewable hydrocarbon diesel (gallon)</u>	<u>129.65 (MJ/gallon)</u>
<u>Undenatured anhydrous ethanol (gallon)</u>	<u>80.53 (MJ/gallon)</u>

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3~~
ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; ~~Renumbered from 340-253-3030 by~~ DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-~~15~~15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8070)

Table 7 — Oregon Energy Economy Ratio Values for Fuels Used as Gasoline Substitutes

~~NOTE: Renumbered from 340-253-3040.~~

~~[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]~~

Oregon Department of Environmental Quality	
<u>Table 7 – 340-253-8070</u>	
<u>Oregon Energy Economy Ratio Values for Fuels Used as Gasoline Substitutes</u>	
<u>Fuel/Vehicle Combination</u>	<u>EER Value Relative to Gasoline</u>
<u>Gasoline (including E10) or any other ethanol blend</u>	<u>1.0</u>
<u>Compressed Natural Gas (CNG) or Internal Combustion Engine Vehicle (ICEV)</u>	<u>1.0</u>
<u>Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle</u>	<u>3.4</u>
<u>Hydrogen/Fuel Cell Vehicle</u>	<u>2.5</u>

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

~~2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
 Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; Renumbered from 340-253-3040 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~~

340-253-8080

Table 8 — Oregon Energy Economy Ratio Values for Fuels Used as Diesel Substitutes

NOTE: ~~Renumbered from 340-253-3050.~~

~~[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]~~

<u>Oregon Department of Environmental Quality</u>	
<u>Table B – 340-253-8080</u>	
<u>Oregon Energy Economy Ratio Values for Fuels Used as Diesel Substitutes</u>	
<u>Fuel/Vehicle Combination</u>	<u>EER Value Relative to Diesel</u>
<u>Diesel fuel (including B5) or other biodiesel or renewable hydrocarbon diesel blends</u>	<u>1.0</u>
<u>Compressed Natural Gas (CNG) or Liquefied Natural Gas (LNG) (Spark-Ignition Engines)</u>	<u>0.9</u>
<u>Compressed Natural Gas (CNG) or Liquefied Natural Gas (LNG) (Compression-Ignition Engines)</u>	<u>1.0</u>
<u>Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle</u>	<u>2.7</u>
<u>Electricity/Battery Electric or Plug-in Hybrid Transit Bus</u>	<u>4.2</u>
<u>Electricity/Fixed Guideway Light Rail</u>	<u>3.3</u>
<u>Electricity/Fixed Guideway Streetcar</u>	<u>2.1</u>
<u>Electricity/Fixed Guideway Aerial Tram</u>	<u>2.5</u>
<u>Hydrogen/Fuel Cell Vehicle</u>	<u>1.9</u>

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

ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; Renumbered from 340-253-3050 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15, cert. ef. 2-1-155; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8090

Table 9 – Temporary Fuel Pathway Codes

<u>Oregon Department of Environmental Quality</u>				
<u>Table 9 – 340-253-8090</u>				
<u>Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs</u>				
<u>Fuel</u>	<u>Feedstock</u>	<u>Process Energy</u>	<u>FPC</u>	<u>CI (gCO₂e/MJ)</u>
<u>Ethanol</u>	<u>Corn</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORETH100T</u>	<u>77.35-</u>
	<u>Sorghum</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORETH101T</u>	<u>93.35</u>
	<u>Sugarcane and Molasses</u>	<u>Bagasse and straw only, no grid electricity</u>	<u>ORETH102T</u>	<u>57.09</u>
	<u>Any starch or sugar feedstock</u>	<u>Any</u>	<u>ORETH103T</u>	<u>100.77</u>
	<u>Corn Stover, Wheat Straw, or Sugarcane Straw</u>	<u>As specified in OR-Greet 2.0</u>	<u>ORETH104T</u>	<u>41.05</u>
<u>Biodiesel</u>	<u>Any feedstock derived from animal fats, corn oil, or a waste stream</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORBIOD200T</u>	<u>47.30</u>
	<u>Any feedstock derived from plant oils except for Palm-derived oils</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORBIOD201T</u>	<u>65.03</u>
	<u>Any feedstock</u>	<u>Any</u>	<u>ORBIOD202T</u>	<u>101.65</u>
<u>Renewable Diesel</u>	<u>Any feedstock derived from animal fats, corn oil, or a waste stream</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORRNWD300T</u>	<u>39.26</u>
	<u>Any feedstock derived from plant oils except for Palm-derived oils</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORRNWD301T</u>	<u>56.55</u>
	<u>Any feedstock</u>	<u>Any</u>	<u>ORRNWD302T</u>	<u>101.65</u>
<u>Biomethane CNG</u>	<u>Landfill or Digester Gas</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORCNG500T</u>	<u>63.96</u>

<u>Oregon Department of Environmental Quality</u> <u>Table 9 – 340-253-8090</u> <u>Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs</u>				
<u>Biomethane LNG</u>	<u>Landfill or Digester Gas</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORLNG501T</u>	<u>80.44</u>
<u>Biomethane L-CNG</u>	<u>Landfill or Digester Gas</u>	<u>Grid electricity, natural gas, and/or renewables</u>	<u>ORLCNG502T</u>	<u>84.65</u>
<u>Electricity</u>	<u>Coal, Natural Gas, Hydroelectric Dams, Wind Mills, etc.</u>	<u>Oregon average electricity mix</u>	<u>ORELEC600T</u>	<u>135.00</u>
<u>Any Gasoline Substitute Feedstock-Fuel Combination Not Included Above</u>	<u>Any</u>	<u>Any</u>	<u>ORSG800T</u>	<u>100.77</u>
<u>Any Diesel Substitute Feedstock-Fuel Combination Not Included Above</u>	<u>Any</u>	<u>Any</u>	<u>ORSD801T</u>	<u>101.65</u>

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

340-253-8100

Table 10 – Indirect Land-Use Change Values

<u>Oregon Department of Environmental Quality</u> <u>Table 10 – 340-253-8100</u> <u>Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels</u>	
<u>Feedstock</u>	<u>ILUC Value (gCO₂e/MJ)</u>

<u>Oregon Department of Environmental Quality</u> <u>Table 10 – 340-253-8100</u> <u>Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels</u>	
<u>Corn Ethanol</u>	<u>7.60</u>
<u>Sorghum Ethanol</u>	<u>19.40</u>
<u>Sugarcane Ethanol</u>	<u>11.80</u>
<u>Soybean Biodiesel or Renewable Diesel</u>	<u>29.10</u>
<u>Canola Biodiesel or Renewable Diesel</u>	<u>14.50</u>
<u>Palm Biodiesel or Renewable Diesel</u>	<u>71.40</u>

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 253

OREGON CLEAN FUELS PROGRAM

340-253-0000

Overview

(1) Context. The Oregon Legislature 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. 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. ORS 468A.275 was further amended by the 2017 Oregon Legislature in House Bill 2017. OAR 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0040

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If this rule and 340-200-0020 define the same term, the definition in this rule applies to this division.

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

(2) “Aggregation indicator” means an identifier for reported transactions that are a result of an aggregation or summing of more than one transaction. 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.

(3) “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.

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

(5) “Alternative Fuels Registration System” or “AFRS” means the portion of the CFP Online System where fuel producers can register their production facilities and submit physical pathway demonstrations.

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

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

(8) “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.

(9) “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.

- (10) “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.
- (11) “Bill of lading” means a document issued that lists goods being shipped and specifies the terms of their transport.
- (12) “Bio-based” means a fuel produced from non-petroleum, biogenic renewable resources.
- (13) "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.
- (14) "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.
- (15) “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.
- (16) “Biomethane” or “Renewable Natural Gas” means refined biogas 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.
- (17) “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.
- (18) “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.
- (19) “Buy/Sell Board” means a section of the CFP Online System where registered parties can post that they are interested in buying or selling the rights to use credits.
- (20) “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).
- (21) “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.

(22) “CFP Online 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.

(23) “CFP Online System reporting deadlines” means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

(24) “Clean fuel” means a transportation fuel whose carbon intensity is lower than the applicable clean fuel standard for gasoline and gasoline substitutes listed in Table 1 under OAR 340-253-8010 or for diesel and diesel substitutes listed in Table 2 under OAR 340-253-8020.

(25) “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 340-253-8020 for diesel fuel and diesel substitutes.

(26) “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.

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

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

(29) “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.

(30) “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.

(31) “Credit facilitator” means a person in the CFP Online System that a regulated party designates to initiate and complete credit transfers on behalf of the regulated party.

(32) “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.

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

(34) “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 the agency’s authority under sections 164 or 165, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

(35) “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.

(36) “Ethanol” or “Denatured Fuel 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.

(37) “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.

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

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

(40) “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, as listed in Table 7 under OAR 340-253-8070 for gasoline and gasoline substitutes and in Table 8 under OAR 340-253-8080 for diesel fuel and diesel substitutes; or

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

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

(42) “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. Fuel exported from Oregon does not carry any obligation except for recordkeeping under OAR 340-253-0600.

(43) “Finished fuel” means a transportation fuel used directly in a motor vehicle without requiring additional chemical or physical processing.

(44) “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 an aerial tramway, or for a bus rapid transit system.

(45) “Fossil” means any naturally-occurring flammable mixture of hydrocarbons found in geologic formations such as rock or strata.

(46) “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.

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

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

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

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

(51) “Illegitimate credits” means credits that were not generated in compliance with this division.

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

(53) “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 delivered for use in Oregon.

(54) “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 340-253-8100.

(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 CARB.

(55) “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.

(56) “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.

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

(58) “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.

(59) “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.

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

(61) “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.

(62) “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.

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

(64) “Motor vehicle” means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is propelled by internal combustion engine or motor.

(65) "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.

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

(67) “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 Oregon. The most current version is OR-GREET 2.0. DEQ will make available a copy of OR-GREET 2.0 on its website.

(68) “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.

(69) “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.

(70) “Producer” means:

(a) With respect to any liquid fuel, the person who makes the fuel in Oregon; or

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

(71) “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.

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

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

(74) “Registered party” means a regulated party, credit generator, or aggregator that has a DEQ-approved registration under OAR 340-253-0500 to participate in the Clean Fuels Program.

(75) “Regulated fuel” means a transportation fuel identified under OAR 340-253-0200(2).

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

(77) “Renewable hydrocarbon diesel” or “renewable diesel”, means a hydrocarbon oil conforming to the specifications of ASTM D975 produced from renewable resources.

(78) "Renewable Hydrocarbon Diesel Blend" or “renewable diesel blend” means a fuel comprised of a blend of renewable hydrocarbon diesel with petroleum-based diesel fuel, designated RXX. In the abbreviation RXX, the XX represents the volume percentage of renewable hydrocarbon diesel fuel in the blend.

(79) “Renewable gasoline” means a spark ignition engine fuel conforming to the specifications of ASTM D4814 produced from renewable resources.

(80) “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 imported by persons that are related, or share common ownership or control, shall be aggregated together to determine whether a person meets this definition.

(81) “Tier 1 calculator” or “OR-GREET 2.0 Tier 1 calculator” means the tool used to calculate lifecycle emissions for common conventionally produced first-generation fuels (starch- and sugar-based ethanol, biodiesel, renewable diesel, CNG and LNG).

(82) “Tier 2 calculator” or “OR-GREET 2.0 Tier 2 calculator” means the tool used to calculate lifecycle emissions for next-generation fuels, including but not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first-generation fuels produced using innovative production processes.

(83) “Transaction date” means the title transfer date as shown on the PTD.

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

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

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

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

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

(f) “Export” means a transportation fuel that was reported under the Clean Fuels Program but was later exported outside of Oregon;

(g) “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;

(h) “Gain of inventory” means the fuel entered the Oregon fuel pool due to a volume gain, such as through different temperatures or pressurization;

(i) “Not used for transportation” means a transportation fuel that was reported under the Clean Fuels Program but was later not used for transportation purposes in Oregon or otherwise determined to be exempt under OAR 340-253-0250;

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

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

(l) “NGV fueling” means the dispensing of natural gas at a fueling station designed for fueling natural gas vehicles.

(86) “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.

(87) “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.

(88) “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 Customary 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;

(B) OAR chapter 603 division 027; or

(C) OAR chapter 340 division 340.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

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340-253-0060

Acronyms

The following acronyms apply to this division:

(1) “AFRS” means Alternative Fuels Registration System.

(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) "CFP" means the Clean Fuels Program established under OAR chapter 340, division 253.
- (6) "CNG" means compressed natural gas.
- (7) "CO₂e" means carbon dioxide equivalents.
- (8) "DEQ" means Oregon Department of Environmental Quality.
- (9) "EER" means energy economy ratio.
- (10) "EN" means a European Standard adopted by one of the three European Standardization Organizations.
- (11) "EQC" means Oregon Environmental Quality Commission.
- (12) "EV" means electric vehicle.
- (13) "FEIN" means federal employer identification number.
- (14) "FFV" means flex fuel vehicle.
- (15) "FPC" means fuel pathway code.
- (16) "gCO₂e/MJ" means grams of carbon dioxide equivalent per megajoule of energy.
- (17) "HDV" means heavy-duty vehicle.
- (18) "HDV-CIE" means a heavy-duty vehicle compression ignition engine.
- (19) "HDV-SIE" means a heavy-duty vehicle spark ignition engine.
- (20) "L-CNG" means liquefied-compressed natural gas.
- (21) "LDV" means light-duty vehicle.
- (22) "LNG" means liquefied natural gas.
- (23) "LPG" means liquefied petroleum gas.
- (24) "LPGV" means liquefied petroleum gas vehicle.

- (25) “MDV” means medium-duty vehicle.
- (26) “mmBtu” means million British Thermal Units.
- (27) “NGV” means natural gas vehicle.
- (28) “PHEV” means partial hybrid electric vehicle.
- (29) “PTD” means product transfer document.
- (30) “REC” means Renewable Energy Certificate.
- (31) “RFS” means the Renewable Fuel Standard implemented by the US Environmental Protection Agency.
- (32) “scf” means standard cubic foot.
- (33) “ULSD” means ultra low sulfur diesel.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0100

Oregon Clean Fuels Program Applicability and Requirements

- (1) Regulated parties. All persons that produce in Oregon, or import into Oregon, any regulated fuel must comply with the rules in this division. The regulated parties for regulated fuels are designated under OAR 340-253-0310.
 - (a) Regulated parties must comply with sections (4) through (8) below; except that:
 - (b) Small importers of finished fuels are exempt from sections (6) and (7) below.
- (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;

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

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

(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), and (8) below.

(3) Aggregator.

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

(b) Aggregators 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. The only exception to that designation by a credit generator is the backstop aggregator designated under OAR 340-253-0330(6). A regulated party or credit generator already registered with the program may also serve as an aggregator for others. (4) Registration.

(a) A regulated party must submit a complete registration application to DEQ under OAR 340-253-0500 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. A registered regulated party that begins importing a new fuel type not listed on its original application may request a modification of its registration in writing to DEQ.

(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. A credit generator that produces, imports, or dispenses a new fuel type not listed on its original application may request a modification of its registration in writing to DEQ.

(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 parties, credit generators, and aggregators must develop and retain all records OAR 340-253-0600 requires.

(6) Clean fuel standards. Each regulated 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 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 340-253-8020 establishes the Oregon Clean Fuel Standard for Diesel and Diesel Substitutes.

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

(8) Annual report. Each regulated 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0200

Regulated and Clean Fuels

(1) Applicability. Producers and importers of transportation fuels listed in this rule, unless the fuel is exempt under OAR 340-253-0250, are subject to division 253.

(2) Regulated fuels. Regulated fuels means:

(a) Gasoline;

- (b) Diesel;
- (c) Ethanol;
- (d) Biodiesel;
- (e) Renewable hydrocarbon diesel;
- (f) Any blends of the above fuels; and
- (g) Any other liquid or non-liquid transportation fuel not listed in section (3).

(3) Clean fuels. Clean fuels means a transportation fuel with a carbon intensity lower than the clean fuel standard for gasoline and their substitutes listed in Table 1 under OAR 340-253-8010 or diesel fuel and their substitutes listed in Table 2 under OAR 340-253-8020, as applicable, for that calendar year, such as:

- (a) Bio-based CNG;
- (b) Bio-based L-CNG;
- (c) Bio-based LNG;
- (d) Electricity;
- (e) Fossil CNG;
- (f) Fossil L-CNG;
- (g) Fossil LNG;
- (h) Hydrogen or a hydrogen blend; and
- (i) LPG.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 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.

(b) Small volume fuel producer. A transportation fuel 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 defined under OAR 330-090-0100.

(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:

(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 are not designed primarily to transport persons or property, that are operated on highways only incidentally and that are used primarily for construction work.

(b) To be exempt, the regulated party must document that the fuel was supplied for use in a motor vehicle listed in subsection (2)(a). The method of documentation is subject to approval by DEQ and must:

(A) Establish that the fuel was sold through a dedicated source to use in one of the specified motor vehicles; or

(B) Be on a fuel transaction basis if the fuel is not sold through a dedicated source.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

Designation of Regulated and Opt-in Parties

340-253-0310

Regulated Parties: Providers of Gasoline, Diesel, Ethanol, Biodiesel, Renewable Diesel, and Blends Thereof

(1) Regulated party. The regulated party is the producer or importer of the regulated fuel under OAR 340-253-0200(2).

(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, an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, or is not an importer. The notification does not have to be in writing.

(3) Recipient is an importer of blendstocks or a large importer of finished fuels above the rack. If a regulated party transfers the fuel to 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 the 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 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 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 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 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 a regulated party transfers clear or blended gasoline or diesel to a large importer of finished fuels below the rack:

(A) The transferor remains 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; and

(ii) 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:

(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.

(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.

(a) Unless the recipient and the transferor agree in writing the recipient is the regulated party under subsection (5)(b):

(A) The transferor remains 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 transferor remains the regulated party.

(C) The recipient is not the regulated party.

(b) The recipient may elect to be the regulated party 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;

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

340-253-0320

Credit Generators: Providers of Compressed Natural Gas, Liquefied Natural Gas, Liquefied Compressed Natural Gas, and Liquefied Petroleum Gas

(1) Applicability. 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.

(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 under subsections (a) and (b) to give each credits based on the actual amount of fossil CNG and bio-based CNG 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 fossil LNG and bio-based LNG 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 fossil L-CNG and bio-based L-CNG in the blend.

(5) Liquefied petroleum gas. For propane used as a transportation fuel, the person that is eligible to generate credits is the owner of the fueling equipment at the facility where the liquefied petroleum gas is dispensed for use in a motor vehicle.

(6) Responsibilities to generate credits. Any person specified in sections (2) through (5) may generate clean fuel credits by complying 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 Aggregator. If an electric utility does not register or designate an aggregator under subsection (a), then a backstop aggregator is eligible to claim any credits that the utility could have generated for the following year under section (6).

(3) For non-residential charging. For electricity used to charge an electric vehicle at non-residential locations, such as in public, 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 charging equipment. The owner or the service provider must have an active registration approved by DEQ under OAR 340-253-0500.

(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 Aggregator. If an electric utility does not register or designate an aggregator under subsection (b), then a backstop aggregator is eligible to claim any credits that the utility could have generated for the following year under section (6).

(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. The transit agency must have an active registration approved by DEQ under OAR 340-253-0500. A transit agency may also designate an aggregator to act on its behalf.

(5) Responsibilities to generate credits. Any person specified under sections (2), (3), or (4) may generate clean fuel credits by complying 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.

(6) 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 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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) Responsibilities to generate credits. Any person specified in section (2) may generate clean fuel credits by complying 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0400

Carbon Intensities

(1) OR-GREET. Carbon intensities for fuels must be calculated using OR-GREET 2.0 or a model approved by DEQ. If a party wishes to use a 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 parties, credit generators and aggregators must use the statewide average carbon intensities listed in Tables 3 and 4 under OAR 340-253-8030 and -8040 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) LPG.
 - (b) For electricity,
 - (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 may use a 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).
- (4) Carbon intensities for established fuel pathways. Except as provided in sections (3) or (5), regulated parties, credit generators, and aggregators can use a carbon intensity that:

(a) CARB has certified for use in the California Low Carbon Fuel Standard program, adjusted for indirect land use change and approved by DEQ as being consistent with OR-GREET 2.0; or

(b) Matches the description of a fuel pathway listed in Table 3 or 4 under OAR 340-253-8030 or -8040.

(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 under 340-253-0450. Fuel pathways shall fall into one of two tiers:

(a) Tier 1. Conventionally-produced alternative fuels of a type that has been in full commercial production for at least three years; produced using grid electricity, natural gas and/or coal for process energy; and do not employ innovative production methods. Tier 1 fuels include:

(A) Starch- and sugar-based ethanol;

(B) Biodiesel produced from conventional feedstocks (plant oils, tallow and related animal wastes and used cooking oil);

(C) Renewable diesel produced from conventional feedstocks (plant oils, tallow and related animal wastes and used cooking oil);

(D) Natural Gas; and

(E) Biomethane from landfill gas.

(b) Tier 2. All fuels not included in Tier 1 including but not limited to:

(A) Cellulosic alcohols;

(B) Biomethane from sources other than landfill gas;

(C) Hydrogen;

(D) Renewable hydrocarbons other than renewable diesel produced from conventional feedstocks;

(E) Biogenic feedstocks co-processed at a petroleum refinery; and

(F) Tier 1 fuels using innovative methods.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 2.0 calculator, and the OR-GREET 2.0 equivalent with the fuel transportation and distribution cells modified for that fuel's pathway to Oregon;
 - (c) The CARB review report for the approved fuel pathway;
 - (d) Any other supporting materials relating to the pathway, as requested by DEQ; and
 - (e) If the applicant is seeking to use a provisional 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 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 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) 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 using either the Tier 1 or Tier 2 calculator.
- (4) In addition to the items in section (3), applicants seeking to obtain a carbon intensity using the Tier 1 calculator must submit the following:
- (a) The Tier 1 calculator with the "T1 Calculator" tab completed;
 - (b) A summary of 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
 - (c) RFS third party engineering report, if available.
- (5) In addition to the items in section (3), applicants seeking to obtain a carbon intensity using the Tier 2 calculator must submit the following:
- (a) A summary of 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;
 - (b) The geographical coordinates of the fuel production facility;

- (c) A completed Tier 2 spreadsheet;
 - (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 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 receipts submitted.
 - (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 CFP Online 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 renewable gasoline portion 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 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 340-253-8090.

(a) The request must:

(A) Be submitted within 45 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.

(9) Approval process to use carbon intensities for fuels other than electricity.

(a) For applications proposing to use CARB-approved fuel pathways, including provisional pathways, DEQ will:

(A) Confirm that the proposed fuel pathway is consistent with OR-GREET 2.0; 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 the application for a carbon intensity, DEQ will notify the applicant of its determination.
- (d) DEQ may impose conditions in its approval of the carbon intensity. Conditions may include specific limitations, recordkeeping or reporting requirements, or operational conditions that DEQ determines should apply to assure the ongoing accuracy of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked.
 - (A) For applicants seeking a provisional pathway, DEQ will specify the conditions used to establish the pathway. The applicant:
 - (i) Shall submit copies of receipts for all energy purchases each calendar quarter until two full calendar years of commercial production receipts are submitted.; and
 - (ii) May generate provisional credits by submitting quarterly reports.
 - (B) For applicants employing co-processing at a petroleum refinery:
 - (i) DEQ will specify the conditions regarding the quantities of biogenic feedstocks and the amount of energy and hydrogen used to establish the pathway; and
 - (ii) The applicant shall submit to DEQ the quantities of biogenic feedstocks and the amount of energy and hydrogen used in each calendar quarter.
- (e) The producer of any fuel that has received a carbon intensity under section (9) must:
 - (A) Register with the AFRS; and
 - (B) Provide proof of delivery to Oregon through a physical pathway demonstration in the quarter in which the fuel is first reported in the CFP Online System.
- (f) If DEQ determines the proposal for the 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.

(10) Completeness determination process.

(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.

(d) If the applicant submits supplemental information, DEQ has 30 calendar days to determine if the supplemental submittal is complete, or to notify the party and identify the continued deficiencies. 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 over the most recent five years and determining the average of the five values. For 2018 and beyond, the carbon intensities for electricity will be calculated using the rolling five-year average of data submitted to DEQ under OAR chapter 340, division 215.

(a) 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 CFP Online System effective for Q1 reporting for the next year.

(2) 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 recent five years and determining the average of the five values.

(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 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 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.

(3) 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 Tables 3 and 4 under OAR 340-253-8030 or -8040 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 must be retired in the REC tracking system.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0500

Registration

(1) Registering as a regulated party, credit generator, or aggregator.

(a) To register as a regulated party, credit generator, or aggregator, 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;

(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) For registrants dispensing natural gas, propane, or hydrogen, the number of dispensing facilities located in Oregon and their locations and the estimated annual fuel throughput per location;

(E) For registrants charging electric vehicles, the number of chargers located in Oregon and their locations and the estimated annual discharge of electricity per location;

(F) 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) Obtain a utility-specific carbon intensity under OAR 340-253-0400;

(G) 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 CFP Online System.

(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 CFP Online System 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 decides 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 and a proposed effective date for the completion of the opt-out process.

(B) A regulated party, credit generator or aggregator that is cancelling its registration under this section must submit any outstanding quarterly reports and annual reports. Any regulated party must be in full compliance with the program's standards for the annual reports it submits, and any credit generator or aggregator must not have any outstanding deficits.

(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 CFP Online System 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.

(2) Registering as a fuel producer.

(a) To register as a fuel producer in the CFP Online System, the following information must be included in the AFRS Account Administrator Designation application and approved by DEQ:

(i) Company identification, including physical and mailing addresses, phone numbers, e-mail addresses, contact names, and EPA RFS identification numbers;

(ii) 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 AFRS portion of the CFP Online System.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0600

Records

(1) Records Retention. Regulated parties, credit generators, and aggregators must retain the following records for at least 5 years:

(a) Product transfer documents as described in section (2);

(b) Records related to obtaining a carbon intensity described in OAR 340-253-0450;

(c) Copies of all data and reports submitted to DEQ;

(d) Records related to each fuel transaction; and

(e) Records used for compliance or credit calculations.

(2) Documenting Fuel Transactions. A product transfer document must prominently state 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.

(3) 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 (2)(a), (b), (c), (f), and (g) are required to be retained.

(4) Documenting Credit Transactions. Regulated parties, credit generators, and aggregators must retain the following records related to all credit transactions for at least 5 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. All data, records, and calculations used by a regulated party, a credit generator, or an aggregator to comply with OAR chapter 340, division 253 are subject to inspection and verification by DEQ. Regulated parties, credit generators, and aggregators must provide records retained under this rule within 60 days after the date DEQ requests a review of the records, unless DEQ specifies otherwise.

(5) 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.

(6) 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0620

CFP Online System

(1) Online reporting.

(a) Except as provided in subsection (b), regulated parties, credit generators, and aggregators must use the CFP Online System to submit all required reports, including quarterly progress reports under OAR 340-253-0630 and annual compliance reports under OAR 340-253-0650.

(b) Small importers of finished fuels may submit annual compliance reports using the EZ-Fuels Online Reporting Tool for Fuel Distributors in lieu of using the CFP Online System.

(2) Credit transactions. Regulated parties, credit generators, and aggregators must use the CFP Online System to transfer credits.

(3) Establishing an account. After DEQ approves a registration application, the regulated party, credit generator, or aggregator must establish an account in the CFP Online System and must include the following information to register as a user in the CFP Online 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, CFP Online System username and password;

(c) Name and title of a person who will act as the Administrator 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 CFP Online System.

(4) Account management roles.

(a) Administrators are:

(A) Authorized to sign for the account;

(B) Responsible for submitting quarterly progress and annual compliance reports;

(C) Makes changes to the company profile; and

(D) May designate other persons who can review and upload data, but not submit reports.

(b) Contributors are:

(A) Authorized to submit quarterly progress and annual compliance reports, if given signature authority; but

(B) Cannot make changes to the account profile.

(c) Reviewers are:

(A) Provided read-only access; but

(B) Cannot 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) Add postings to the CFP Online System’s “Buy/Sell Board”;

(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 to certify that the submitted information is true, accurate, and complete.

(6) Alternative Fuels Registration System. Fuel producers registered under OAR 340-253-0500 must establish an account in the AFRS portion of the CFP Online System and must designate an administrator for their account. The fuel producer may

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(a) Register its individual fuel production facilities in the AFRS;

(b) Submit fuel pathway code applications through the AFRS for each of its facilities for DEQ approval; and

(c) Submit the physical transport mode demonstration package through the AFRS for DEQ approval, once a fuel pathway code has been approved.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;

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

340-253-0630

Quarterly Reports

(1) Quarterly reports. Except for persons exempt from this requirement under OAR 340-253-0100, regulated parties, credit generators, and aggregators must submit a quarterly progress report using the CFP Online System by:

(a) June 30 — for January through March of each year;

(b) September 30 — for April through June of each year;

- (c) December 31 — for July through September of each year; and
 - (d) March 31 — for October through December of each previous year.
- (2) General reporting requirements for quarterly reports.
- (a) Quarterly reports must contain the information specified in Table 5 under OAR 340-253-8050 for each transportation fuel subject to the CFP.
 - (b) Reporters must upload the data for the quarterly reports in the CFP Online System within the first 45 days after the end of the quarter.
 - (c) During the second 45 days, reporters 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. All other reports may be submitted immediately following the close of the quarter as long as all transactions with business partners have been reconciled.
- (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 CFP Online 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). 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.”

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0640

Specific Requirements for Reporting

(1) For natural gas or biomethane (inclusive of CNG, LNG, and L-CNG), any registered party must report the following as applicable:

(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 Table 3 or 4 under OAR 340-253-8030 or -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.

(2) For electricity, any registered party must report the following as applicable:

(a) The information specified for electricity in Table 5 under OAR 340-253-8050;

(b) For each public access charging facility, fleet charging facility, workplace private access charging facility, or multi-family dwelling, the amount of electricity dispensed in kilowatt hours to vehicles.

(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 for light rail, streetcars, aerial trams, or electric transit buses; and

(B) Separated by electricity used in portions of their system placed in service before and after January 1, 2012.

(3) For renewable hydrocarbon diesel or gasoline co-processed at a petroleum refinery, any registered party must report the following information 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.

(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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 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 CFP Online System to submit an annual compliance report to DEQ not later than April 30 for the compliance period ending on December 31 of the previous year.

(b) Small importers of finished fuels may submit annual compliance reports using the EZ-Fuels Online Reporting Tool for Fuel Distributors under OAR chapter 340, division 215, in lieu of using the CFP Online System, not later than March 31 for the 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 CFP Online System 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 CFP Online System to meet the compliance obligation.
- (3) All pending credit transfers initiated during a compliance period must be completed prior to submittal of the annual compliance report.
- (4) Correcting a previously submitted report. A regulated 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. The requestor must submit an “Unlock Report Request Form” within the CFP Online System. The requestor is required to provide justification for the report corrections and must indicate the specific corrections to be made to the report. Each submitted request is subject to DEQ approval. DEQ approval of a corrected report does not preclude DEQ enforcement based on misreporting.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

OAR 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 approved by DEQ under OAR 340-253-0450 and under OAR 340-253-0400(4).
- (a) Suspend, restrict, modify, or revoke an account in the CFP Online System, 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 CFP Online System account.
- (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 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 or a credit transaction was incorrect;
 - (c) Fuel reported under a given pathway was produced or transported in a manner that varies in any way from the methods set forth in any corresponding 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;
 - (d) Fuel transaction data or other data reported into the CFP Online System 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; or
 - (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).
- (3) Providing Notice of an Initial Determination.
- (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 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 days of the issuance of the notice, the affected parties shall make records and personnel available to DEQ as it conducts its investigation.
 - (d) Any party receiving the notice may submit any information it believes is relevant to the investigation and that it wants DEQ to consider in its evaluation.

(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 AFRS; or

(b) Suspend an account in the CFP Online System. 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 days after making an initial determination under sections (2) and (3) above, the DEQ shall make a final determination based on the available information.

(a) The final determination should 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 CFP Online System.

(b) The affected parties may contest the final determination by providing DEQ with a written request for a hearing within 20 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) will remain in place pending the outcome of the contested case.

(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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1000

Credit and Deficit Basics

(1) Carbon intensities.

(a) Except as provided in subsections (b) or (c), when calculating carbon intensities, regulated parties, credit generators, and aggregators must use a carbon intensity approved by DEQ under OAR 340-253-0450.

(b) If a regulated party, credit generator, or aggregator has an approved provisional carbon intensity approved under OAR 340-253-0450, the regulated party, credit generator, or aggregator must use the DEQ-approved provisional carbon intensity.

(c) If a regulated party, credit generator, or aggregator has an approved temporary carbon intensity under OAR 340-253-0450, the regulated party, credit generator, or aggregator 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.

(2) Fuel quantities. Regulated parties, credit generators, and aggregators must express fuel quantities in the unit of fuel for each fuel.

(3) Compliance period. The annual compliance period 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 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.

(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 or for diesel fuel and diesel substitutes in Table 2 under 340-253-8020. Credits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

(b) Deficit generation. A clean fuel deficit 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 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 340-253-8020. Deficits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

(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.

(6) Mandatory retirement of credits. When filing the annual report at the end of a compliance period, a regulated party that possesses credits must retire a sufficient number of credits such that:

(a) Enough credits are retired to completely meet the regulated party's compliance obligation for that compliance period, or

(b) If the total number of the regulated party's credits is less than the total number of the regulated party's deficits, the regulated party must retire all of its credits.

(7) Credit Retirement Hierarchy. The CFP Online System 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 prior to credits generated or acquired in the current compliance period;

(b) Credits with an earlier completed transfer "recorded date" before credits with a later completed transfer "recorded date;" and

(c) Credits generated in an earlier quarter before credits generated in a later quarter.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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) 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.

(c) Regulated parties, credit generators, and aggregators may not:

(A) Use credits that have not been generated in compliance with this division; or

(B) Borrow or use anticipated credits from future projected or planned carbon intensity reductions.

(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.

(c) A credit seller and a credit buyer may enter into an agreement to transfer credits.

(d) A credit seller may only transfer credits up to the number of credits in the credit seller's CFP Online System account on the date of the transfer.

(3) Credit seller requirements. When parties wish to transfer credits, the credit seller must initiate an online "Credit Transfer Form" provided in the CFP Online System 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 US 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.
- (4) Credit buyer requirements. Within 10 days of receiving the “Credit Transfer Form” from the credit seller in the CFP Online System, 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 CFP Online System.
- (5) If the credit buyer and credit seller have not fulfilled the requirements of sections (3) and (4) within 20 days of the seller initiating the credit transfer, the transaction will be voided. If a transaction has been voided, the credit buyer and credit seller may initiate a new credit transfer.
- (6) Aggregator. 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 CFP Online System; 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 CFP Online System. 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, 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 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 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 credit to replace each such illegitimate credit that it retired to meet its compliance obligation;

(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) 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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) and (4), credits and deficits may not be calculated for fuels exempted under OAR 340-253-0250.

(3) Voluntary inclusion. A regulated 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 fuel listed on the same invoice.

(4) Fuels that are exported from Oregon. Any fuel that is exported must be reported by regulated parties. Exported fuels will not incur compliance obligations or generate credits, unless the exporter has purchased the fuel without the CFP compliance obligation or the credits have already been generated and separated from the fuel such as through a transfer without obligation. If the exporter has purchased the fuel without the CFP compliance obligation or without credits, as applicable, in Oregon, then the exporter will incur the inverse credits or deficits as appropriate to balance out the deficits or credits detached from the fuel by the entity that initially sold the fuel inside of Oregon and that retained the compliance obligation or credits for such fuel.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 340-253-8060;

(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 or 8 under OAR 340-253-8070 or -8080, 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 listed in Table 7 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 340-253-8020, 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) For electricity used to power fixed guideway vehicles on track placed in service prior to 2012, credit and deficit 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 340-253-8060;

(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 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 340-253-8020, 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) 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 annually 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 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 year's 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 once per year into the CFP Online System 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1030

Demonstrating Compliance

(1) Compliance demonstration. Each regulated 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 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 regulated party for the current compliance period;

(B) Deficits Carried Over are the total deficits carried over by the regulated party from the previous compliance period;

(C) Credits Generated are the total credits generated by the regulated party in the current compliance period;

(D) Credits Acquired are the total credits acquired by the regulated party in the current compliance period from other regulated parties, credit generators, and aggregators, including carryback credits;

(E) Credits Carried Over are the total credits carried over by the regulated party from the previous compliance period;

(F) Credits Retired are the total credits retired by the regulated party within the CFP Online System for the current compliance period;

(G) Credits Sold are the total credits sold by, or otherwise transferred from, the regulated party in the current compliance period to other regulated 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 party's compliance obligation.

(b) A regulated party's credit balance is calculated using the following equation:

Credit Balance = (Credits Gen + Credits Acquired + Credits Carried Over)

– (Credits Retired + Credits Sold + Credits on Hold)

(4) Small deficits. At the end of a compliance period, a regulated 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 party needs to meet its compliance obligation is 5 percent or less than the total amount of deficits the regulated party generated for the compliance period.

(5) Extended credit acquisition period. A regulated party may acquire carryback credits between January 1st and March 31st to be used for meeting its compliance obligation for the prior compliance period. A regulated party complete all carryback credit transfers in the CFP Online System 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 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1040

Credit Clearance Market

(1) If a regulated 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 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 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 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 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 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.

(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 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 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 party's pro-rata share of the credits pledged into the credit clearance market will be calculated by the following formula:

Regulated 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 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 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 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 party that is participating in the credit clearance market as a buyer, and the name of each 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 party that was required to purchase credits in the credit clearance market must submit an amended annual compliance report in the CFP Online System 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 party has unmet deficits upon the submission of the amended annual report, DEQ will increase the regulated 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 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 party to retire the remaining deficits.

(a) If multiple regulated parties are subject to this section in a single year, DEQ may produce a single root cause analysis for those regulated 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 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

OAR 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; 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 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.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-2000

Emergency Deferrals

(1) Emergency deferral due to a fuel shortage. DEQ will issue an order declaring an emergency deferral:

(a) No later than 15 calendar days after the date that DEQ determines that there is a known shortage of fuel or low carbon fuel that is needed for regulated parties to comply with the clean fuel standard and that the magnitude of the shortage of that fuel is greater than the equivalent of five percent of the amount of the fuel forecasted to be available during the effective compliance period. To determine the magnitude of the shortage and that the fuel of which there is a shortage is needed for regulated parties to comply with that year's standard, DEQ will consider the following:

(A) The volume and carbon intensity of the fuel determined to be not available under subsection (1)(a);

(B) The estimated duration of the shortage; and

(C) Whether there are any options that could mitigate the shortage including but not limited to:

(i) The same fuel from other sources;

(ii) Substitutes for the affected fuel and the carbon intensities of those substitutes are available; or

(iii) Banked clean fuel credits are available.

(b) Immediately upon the issuance by the Governor of a proclamation, executive order or directive pursuant to ORS 176.750 to 176.815 declaring an energy emergency due to a shortage of gasoline or diesel.

(2) Emergency deferral due to a credit market disruption. Prior to December 31, 2018, DEQ may issue an order declaring an emergency deferral no later than 15 calendar days after the date that DEQ determines that there is a disruption in the credit market. In determining the magnitude of the disruption and its effects, DEQ will consider the following:

(a) The root cause and the likely duration of the disruption;

(b) The effect of the disruption on retail fuel prices; and

(c) The effect to the program of issuing the emergency deferral.

(3) Emergency deferral due to abnormal credit market behavior. Beginning January 1, 2019, DEQ may issue an order declaring an emergency deferral no later than two months after DEQ determines through a root cause analysis that there is abnormal behavior in the credit market. DEQ must conduct this analysis if:

(a) The volume-weighted moving average price of credits for a consecutive three-month period increased by 100 percent or more over the volume-weighted moving average price of credits for the previous consecutive three-month period; or

(b) It otherwise determines that abnormal market behavior exists.

(4) In determining the root cause for the increase in credit prices under (3)(a) or the abnormal market behavior under (3)(b) and its effects on the program and regulated parties, DEQ will consider the following:

(a) Trends in credit prices for other low carbon fuel standard programs and the US Renewable Fuel Standard;

(b) Information on the supply of clean fuels;

(c) Information on the demand for clean and regulated fuels in Oregon;

(d) The most recent quarterly data on credit and deficit generation in the program;

(e) Information submitted through credit transfers, the parties transferring credits, and any information requested by the agency under OAR 340-253-0600 of registered parties conducting transfers; and

(f) Any other information on the credit market the agency determines is needed to complete its root cause determination.

(5) Registered Parties may continue to generate credits during emergency deferrals.

(6) If DEQ determines it should issue an emergency deferral under sections (1) through (3) above in order to implement a remedy necessary to address market stability, the order must include:

(a) The duration of the emergency deferral, which may not be less than:

(A) One calendar quarter for a method described in (5)(d)(A); or

(B) 30 calendar days for a method described in (5)(d)(B) or (C); but

(C) An emergency deferral may not continue past the end of the compliance period during which the emergency deferral is issued;

- (b) The types of fuel to which the emergency deferral applies; and
- (c) Which of the following methods DEQ has selected for deferring compliance with the clean fuel standard during the emergency deferral:
 - (A) Temporarily adjusting the scheduled applicable clean fuel standard to a standard identified that better reflects the forecast availability of credits during the forecast compliance period and requiring regulated parties to comply with the temporary standard;
 - (B) Allowing for the carryover of deficits accrued during the emergency deferral into one or more future compliance periods without penalty;
 - (C) Suspending deficit accrual during the emergency deferral period or
 - (D) Any other action if DEQ determines that none of the methods described in paragraphs (A) through (C) provide a sufficient mechanism for containing the cost of compliance with the clean fuel standards during the emergency deferral. In making such a determination, DEQ also shall:
 - (i) Include in such order DEQ's determination and the action to be taken; and
 - (ii) Provide written notification and justification of the determination and the action to:
 - (I) The Governor;
 - (II) The President of the Senate;
 - (III) The Speaker of the House of Representatives;
 - (IV) The majority and minority leaders of the Senate; and
 - (V) The majority and minority leaders of the House of Representatives.
- (7) Terminating an emergency deferral.
 - (a) The EQC may terminate, by order, an emergency deferral before the expiration date of the forecast deferral if:
 - (A) New information becomes available indicating that the shortage for which the emergency deferral was issued has ended; or
 - (B) The underlying conditions that led to the abnormal market behavior has ended.

(b) An EQC order terminating an emergency deferral is effective 15 calendar days after the date that the order declaring the termination is approved by the EQC.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-2100

Forecasted Fuel Supply Deferral

(1) Fuel supply forecast deferral. Under section 163, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017), the division of the Oregon Department of Administrative Services that serves as office of economic analysis is required to provide to DEQ a fuel supply forecast for the following compliance period not later than October 2. If DEQ receives a fuel supply forecast for the following compliance period by October 2 and the forecast projects that the amount of credits that will be available during the forecast compliance period will be less than 100 percent of the credits projected to be necessary for regulated parties to comply, then DEQ, no later than December 1, shall issue an order declaring a forecast deferral. The order must set forth:

(a) The duration of the forecast deferral, which may not be less than one calendar quarter or longer than one compliance period;

(b) The types of fuel to which the forecast deferral applies; and

(c) Which of the following methods DEQ has selected for deferring compliance with the clean fuel standard during the forecasted deferral:

(A) Temporarily adjusting the scheduled applicable clean fuel standard to a standard identified that better reflects the forecast availability of credits during the forecast compliance period and requiring regulated parties to comply with the temporary standard;

(B) Requiring regulated parties to comply only with the clean fuel standard applicable during the compliance period prior to the forecast compliance period; or

(C) Suspending deficit accrual for part or all of the forecast deferral period.

(d) In implementing a forecast deferral, DEQ may take an action for deferring compliance with the clean fuel standard other than, or in addition to, selecting a method under subsection (c) only if DEQ determines that none of the methods under subsection (c) will provide a sufficient mechanism for containing the cost of compliance with the clean fuel standards during the forecast deferral. In making such a determination, DEQ shall:

(A) Include in such order DEQ's determination and the action to be taken; and

(B) Provide written notification and justification of the determination and the action to:

(i) The Governor;

(ii) The President of the Senate;

(iii) The Speaker of the House of Representatives;

(iv) The majority and minority leaders of the Senate; and

(v) The majority and minority leaders of the House of Representatives.

(4) Terminating a forecast deferral. The EQC may terminate, by order, a forecast deferral before the expiration date of the forecast deferral. Termination is effective on the first day of the next calendar quarter after the date that the order declaring the termination is adopted.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8010

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

Oregon Department of Environmental Quality		
Table 1 – 340-253-8010		
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 beyond)	
2016*	98.37	0.25 percent
2017	98.13	0.50 percent
2018	97.66	1.00 percent
2019	97.16	1.50 percent
2020	96.18	2.50 percent
2021	95.19	3.50 percent
2022	93.71	5.00 percent
2023	92.23	6.50 percent
2024	90.75	8.00 percent
2025 and beyond	88.78	10.0 percent

*Initial compliance period is a two-year period for 2016 and 2017.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
 Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
 Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;
 DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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

State of Oregon Department of Environmental Quality		
Table 2 – 340-253-8020		
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, and 99.61 for 2018 and beyond)	
2016*	99.39	0.25 percent
2017	99.14	0.50 percent
2018	98.61	1.00 percent
2019	98.12	1.50 percent
2020	97.12	2.50 percent
2021	96.12	3.50 percent
2022	94.63	5.00 percent
2023	93.14	6.50 percent
2024	91.64	8.00 percent
2025 and beyond	89.65	10.00 percent

*Initial compliance period is a two-year period for 2016 and 2017.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;

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

340-253-8030

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

Oregon Department of Environmental Quality					
Table 3 – 340-253-8030					
Oregon Carbon Intensity Lookup Table for Gasoline and Gasoline Substitutes					
Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO ₂ e/MJ)		
			Direct Lifecycle Emissions	Land Use or Other Indirect Effect	Total Emissions
Gasoline	ORGAS001	Clear gasoline - based on a weighted average of gasoline supplied to Oregon	100.77	-	100.77
	ORGAS002	Blended gasoline (E10) - 90% clear gasoline & 10% corn ethanol based on Midwest average	98.64	-	98.64
Compressed Natural Gas	ORCNG001	North American NG delivered via pipeline; compressed in OR	79.93	-	79.93
Liquefied Natural Gas	ORLNG001	North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency	94.46	-	94.46
Liquefied Petroleum Gas	ORLPG001	Liquefied petroleum gas	83.05	-	83.05
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		0
	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		0

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
 Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
 Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8040

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

Oregon Department of Environmental Quality					
Table 4 – 340-253-8040					
Oregon Carbon Intensity Lookup Table for Diesel and Diesel Substitutes					
Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO ₂ e/MJ)		
			Direct Lifecycle Emissions	Land Use or Other Indirect Effect	Total Emissions
Diesel	ORULSD001	Clear diesel, based on a weighted average of diesel fuel supplied to Oregon	101.65	-	101.65
	ORULSD002	Blended diesel (B5) - 95% clear diesel & 5% soybean biodiesel	99.61	-	99.61
	ORULSD003	Blended diesel (B20) – 80% clear diesel & 20% soybean biodiesel	93.41		93.41
Compressed Natural Gas	ORCNG001	North American NG delivered via pipeline; compressed in OR	79.93	-	79.93

Oregon Department of Environmental Quality					
Table 4 – 340-253-8040					
Oregon Carbon Intensity Lookup Table for Diesel and Diesel Substitutes					
Liquefied Natural Gas	ORLNG001	North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency	94.46	-	94.46
Liquefied Petroleum Gas	ORLPG001	Liquefied petroleum gas, crude and natural gas mix	83.05	-	83.05
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		0
	ORELEC101	Wind power, produced at the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).	0		0

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
 Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
 Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15;
 DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8050

Table 5 - Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

Oregon Department of Environmental Quality

Table 5 – 340-253-8050

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

Oregon Department of Environmental Quality
 Table 5 – 340-253-8050
Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

*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

*Values will be calculated and stored in the CFP Online System.

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
 Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
 Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8060

Table 6 - Oregon Energy Densities of Fuels

Oregon Department of Environmental Quality Table 6 – 340-253-8060 Oregon Energy Densities of Fuels	
Fuel (unit)	MJ/unit
Gasoline (gallon)	122.48 (MJ/gallon)
Diesel fuel (gallon)	134.48 (MJ/gallon)

Oregon Department of Environmental Quality Table 6 – 340-253-8060 Oregon Energy Densities of Fuels	
Compressed natural gas (standard cubic foot)	0.98 (MJ/standard cubic foot)
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)	123.00 (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)

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
 Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
 Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8070

Table 7 - Oregon Energy Economy Ratio Values for Fuels Used as Gasoline Substitutes

Oregon Department of Environmental Quality Table 7 – 340-253-8070 Oregon Energy Economy Ratio Values for Fuels Used as Gasoline Substitutes	
Fuel/Vehicle Combination	EER Value Relative to Gasoline
Gasoline (including E10) or any other ethanol blend	1.0

Oregon Department of Environmental Quality Table 7 – 340-253-8070 Oregon Energy Economy Ratio Values for Fuels Used as Gasoline Substitutes	
Compressed Natural Gas (CNG) or Internal Combustion Engine Vehicle (ICEV)	1.0
Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	3.4
Hydrogen/Fuel Cell Vehicle	2.5

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
 Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
 Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8080

Table 8 – Oregon Energy Economy Ratio Values for Fuels Used as Diesel Substitutes

Oregon Department of Environmental Quality Table 8 – 340-253-8080 Oregon Energy Economy Ratio Values for Fuels Used as Diesel Substitutes	
Fuel/Vehicle Combination	EER Value Relative to Diesel
Diesel fuel (including B5) or other biodiesel or renewable hydrocarbon diesel blends	1.0
Compressed Natural Gas (CNG) or Liquefied Natural Gas (LNG) (Spark-Ignition Engines)	0.9

Oregon Department of Environmental Quality Table 8 – 340-253-8080 Oregon Energy Economy Ratio Values for Fuels Used as Diesel Substitutes	
Compressed Natural Gas (CNG) or Liquefied Natural Gas (LNG) (Compression-Ignition Engines)	1.0
Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	2.7
Electricity/Battery Electric or Plug-in Hybrid Transit Bus	4.2
Electricity/Fixed Guideway Light Rail	3.3
Electricity/Fixed Guideway Streetcar	2.1
Electricity/Fixed Guideway Aerial Tram	2.5
Hydrogen/Fuel Cell Vehicle	1.9

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)
 Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).
 Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-8090

Table 9 – Temporary Fuel Pathway Codes

Oregon Department of Environmental Quality Table 9 – 340-253-8090 Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Oregon Department of Environmental Quality				
Table 9 – 340-253-8090				
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	77.35-
	Sorghum	Grid electricity, natural gas, and/or renewables	ORETH101T	93.35
	Sugarcane and Molasses	Bagasse and straw only, no grid electricity	ORETH102T	57.09
	Any starch or sugar feedstock	Any	ORETH103T	100.77
	Corn Stover, Wheat Straw, or Sugarcane Straw	As specified in OR-Greet 2.0	ORETH104T	41.05
Biodiesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORBIOD200T	47.30
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORBIOD201T	65.03
	Any feedstock	Any	ORBIOD202T	101.65
Renewable Diesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORRNWD300T	39.26
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORRNWD301T	56.55
	Any feedstock	Any	ORRNWD302T	101.65
Biomethane CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORCNG500T	63.96
Biomethane LNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLNG501T	80.44
Biomethane L-	Landfill or	Grid electricity, natural	ORLCNG502T	84.65

Oregon Department of Environmental Quality				
Table 9 – 340-253-8090				
Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs				
CNG	Digester Gas	gas, and/or renewables		
Electricity	Coal, Natural Gas, Hydroelectric Dams, Wind Mills, etc.	Oregon average electricity mix	ORELEC600T	135.00
Any Gasoline Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSG800T	100.77
Any Diesel Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSD801T	101.65

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).

340-253-8100

Table 10 – Indirect Land-Use Change Values

Oregon Department of Environmental Quality	
Table 10 – 340-253-8100	
Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels	
Feedstock	ILUC Value (gCO ₂ e/MJ)
Corn Ethanol	7.60

Oregon Department of Environmental Quality Table 10 – 340-253-8100 Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels	
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

Stat. Auth.: ORS 468.020, ORS 468A.275 and sections 160, 161, 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017)

Stats. Implemented: ORS 468A.275 and sections 159 through 167 and 173, chapter 750, Oregon Laws 2017 (Enrolled House Bill 2017).