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DENNIS RICHARDSON
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LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

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CONTACT: Emil Hnidey

700 NE Multnomah St.

Filed By:

503-229-5946

Suite 600

Emil Hnidey

hnidey.emil@deq.state.or.us

Portland, OR 97232

Rules Coordinator

RULES:

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AMEND: 340-012-0054

RULE TITLE: Air Quality Classification of Violations

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Adding class 1 violations related to Clean Fuels Program.

RULE TEXT:

(1) Class I:

(a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;

(b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit that includes permit conditions required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;

(c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;

(d) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from DEQ;

(e) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;

(f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;

(g) Exceeding a Plant Site Emission Limit (PSEL);

- (h) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;
- (i) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;
- (j) Exceeding a hazardous air pollutant emission limitation;
- (k) Failing to comply with an Emergency Action Plan;
- (l) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established under New Source Review/Prevention of Significant Deterioration (NSR/PSD);
- (m) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;
- (n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;
- (o) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;
- (p) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit or with an emission limitation or a performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;
- (q) Causing emissions that are a hazard to public safety;
- (r) Violating a work practice requirement for asbestos abatement projects;
- (s) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;
- (t) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;
- (u) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;
- (v) Failing to hire a licensed contractor to conduct an asbestos abatement project;
- (w) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);
- (x) Failing to install certified vapor recovery equipment;
- (y) Delivering for sale a noncompliant vehicle by an automobile manufacturer in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;
- (aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements set forth in OAR 340 division 257;
- (bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;
- (cc) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (dd) Failing to comply with any of the clean fuel standards set forth in OAR 340-253-0100(6), OAR 340-253-8010 (Table 1) and OAR 340-253-8020 (Table 2);
- (ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);
- (ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a regulated party's true compliance obligation denominated in deficits under such program;
- (gg) Making material misstatements or knowingly or recklessly providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450; or

(hh) Failing to submit an annual compliance report under OAR 340-253-0100(8).

(2) Class II:

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

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

(c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

(e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;

(f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;

(g) Failing to timely submit a certification, report, or plan as required by rule, permit or permit attachment, unless otherwise classified;

(h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;

(i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;

(j) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;

(k) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).

(l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;

(m) Failing to provide timely, accurate or complete notification of an asbestos abatement project;

(n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;

(o) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620; or

(p) Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;

(q) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is a producer or importer of blendstocks, as defined in OAR 340-253-0040;

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

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

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

(u) Failing to submit a quarterly progress report under OAR 340-253-0100(7).

(v) Failing to timely submit an annual compliance report under OAR 340-253-0100(8).

(3) Class III:

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

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

(c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;

(e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement

project; or

(f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(g) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is an importer of finished fuels, as defined in OAR 340-253-0040;

(h) Failing to keep records under OAR 340-253-0600, except as provided in subsection (2)(r); or

(i) Failing to timely submit a quarterly progress report under OAR 340-253-0100(7).

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

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.045

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025

AMEND: 340-012-0135

RULE TITLE: Selected Magnitude Categories

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Adding " Failing to submit an annual compliance report or quarterly progress report on time: Minor" and other clarifying language.

RULE TEXT:

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

(a) Opacity limit violations:

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

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

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

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

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

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

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

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

(A) Major:

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

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

(B) Moderate:

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

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

(C) Minor:

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

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

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

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

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

- (A) Major — More than 260 linear feet or more than 160 square feet of asbestos-containing material or asbestos-containing waste material;
- (B) Moderate — From 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet of asbestos-containing material or asbestos-containing waste material; or
- (C) Minor — Less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material.
- (D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(j) Open burning violations:

- (A) Major — Initiating or allowing the initiation of open burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;
- (B) Moderate — Initiating or allowing the initiation of open burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if DEQ lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned; or
- (C) Minor — Initiating or allowing the initiation of open burning of less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires.
- (D) The selected magnitude may be increased one level if DEQ finds that one or more of the following are true, or decreased one level if DEQ finds that none of the following are true:

- (i) The burning took place in an open burning control area;
- (ii) The burning took place in an area where open burning is prohibited;
- (iii) The burning took place in a non-attainment or maintenance area for PM10 or PM2.5; or
- (iv) The burning took place on a day when all open burning was prohibited due to meteorological conditions.

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

- (A) Major — Exceeding the limit by more than 10 percent; or
- (B) Moderate — Exceeding the limit by 10 percent or less.

(l) Oregon Clean Fuels Program violations:

(A) Exceeding the clean fuel standards set forth in OAR 340-253-0100(6), 340-253-8010 (Table 1) and 340-253-8020 (Table 2) by not retiring sufficient credits to satisfy a regulated party's compliance obligation:

- (i) Major — more than 15 percent of their total deficit obligation remains unsatisfied;
- (ii) Moderate — more than 10 percent but less than 15 percent of their total deficit obligation remains unsatisfied; or
- (iii) Minor — less than 10 percent of their total deficit obligation remains unsatisfied.

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

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

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

(E) Failing to submit annual compliance report or quarterly progress report under OAR 340-253: Moderate;

(F) Failing to timely submit an annual compliance report or quarterly progress report under OAR chapter 340, division 253: Minor.

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

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

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

discharge rate of the incident;

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

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

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

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

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

(B) Moderate:

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

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

(C) Minor:

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

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

(b) Violating numeric water quality standards:

(A) Major:

(i) Increased the concentration of any pollutant except for toxics, dissolved oxygen, pH, and turbidity, by 25 percent or more of the standard;

(ii) Decreased the dissolved oxygen concentration by two or more milligrams per liter below the standard;

(iii) Increased the toxic pollutant concentration by any amount over the acute standard or by 100 percent or more of the chronic standard;

(iv) Increased or decreased pH by one or more pH units from the standard; or

(v) Increased turbidity by 50 or more nephelometric turbidity units (NTU) over background.

(B) Moderate:

(i) Increased the concentration of any pollutant except for toxics, pH, and turbidity by more than 10 percent but less than 25 percent of the standard;

(ii) Decreased dissolved oxygen concentration by one or more, but less than two, milligrams per liter below the standard;

(iii) Increased the concentration of toxic pollutants by more than 10 percent but less than 100 percent of the chronic standard;

(iv) Increased or decreased pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard; or

(v) Increased turbidity by more than 20 but less than 50 NTU over background.

(C) Minor:

(i) Increased the concentration of any pollutant, except for toxics, pH, and turbidity, by 10 percent or less of the standard;

(ii) Decreased the dissolved oxygen concentration by less than one milligram per liter below the standard;

(iii) Increased the concentration of toxic pollutants by 10 percent or less of the chronic standard;

(iv) Increased or decreased pH by 0.5 pH unit or less from the standard; or

- (v) Increased turbidity by 20 NTU or less over background.
- (c) The selected magnitude under (2)(a) or (b) may be increased one or more levels if the violation:
 - (A) Occurred in a water body that is water quality limited (listed on the most current 303(d) list) and the discharge is the same pollutant for which the water body is listed;
 - (B) Depressed oxygen levels or increased turbidity and/or sedimentation in a stream in which salmonids may be rearing or spawning as indicated by the beneficial use maps available at OAR 340-041-0101 through 0340;
 - (C) Violated a bacteria standard either in shellfish growing waters or during the period from June 1 through September 30; or
 - (D) Resulted in a documented fish or wildlife kill.
- (3) Magnitudes for selected Solid Waste violations will be determined as follows:
 - (a) Operating a solid waste disposal facility without a permit or disposing of solid waste at an unpermitted site:
 - (A) Major — The volume of material disposed of exceeds 400 cubic yards;
 - (B) Moderate — The volume of material disposed of is greater than or equal to 40 cubic yards and less than or equal to 400 cubic yards; or
 - (C) Minor — The volume of materials disposed of is less than 40 cubic yards.
 - (D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.
 - (b) Failing to accurately report the amount of solid waste disposed:
 - (A) Major — The amount of solid waste is underreported by 15 percent or more of the amount received;
 - (B) Moderate — The amount of solid waste is underreported by 5 percent or more, but less than 15 percent, of the amount received; or
 - (C) Minor — The amount of solid waste is underreported by less than 5 percent of the amount received.
- (4) Magnitudes for selected Hazardous Waste violations will be determined as follows:
 - (a) Failure to make a hazardous waste determination;
 - (A) Major — Failure to make the determination on five or more waste streams;
 - (B) Moderate — Failure to make the determination on three or four waste streams; or
 - (C) Minor — Failure to make the determination on one or two waste streams.
 - (b) Hazardous Waste treatment, storage and disposal violations of OAR 340-012-0068(1)(b), (c), (h), (k), (l), (m), (p), (q) and (r):
 - (A) Major:
 - (i) Treatment, storage, or disposal of more than 55 gallons or 330 pounds of hazardous waste; or
 - (ii) Treatment, storage, or disposal of at least one quart or 2.2 pounds of acutely hazardous waste.
 - (B) Moderate:
 - (i) Treatment, storage, or disposal of 55 gallons or 330 pounds or less of hazardous waste; or
 - (ii) Treatment, storage, or disposal of less than one quart or 2.2 pounds of acutely hazardous waste.
 - (c) Hazardous waste management violations classified in OAR 340-012-0068(1)(d), (e) (f), (g), (i), (j), (n), (s) and (2)(a), (b), (d), (e), (h), (i), (k), (m), (n), (o), (p), (r) and (s):
 - (A) Major:
 - (i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or
 - (ii) Hazardous waste management violations involving at least one quart or 2.2 pounds of acutely hazardous waste.
 - (B) Moderate:
 - (i) Hazardous waste management violations involving more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste; or
 - (ii) Hazardous waste management violations involving less than one quart or 2.2 pounds of acutely hazardous waste.
 - (C) Minor:
 - (i) Hazardous waste management violations involving 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste.

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

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

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

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

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

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

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

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 468.065, 468A.045

STATUTES/OTHER IMPLEMENTED: ORS 468.090 - 468.140, 468A.060

AMEND: 340-012-0140

RULE TITLE: Determination of Base Penalty

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Adding "any violation of the program's market rules, including those classified in OAR 340-012-0054 (1) (ee), (ff), or (gg), by any participant in the Oregon Clean Fuels Program" as a violation of the Clean Fuels Program. Adding "an aggregator, or a registered fuel producer unless the violation is otherwise classified in this rule" as possible violators.

RULE TEXT:

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

(2) \$12,000 Penalty Matrix:

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

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

(B) Open burning violations as follows:

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

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

(C) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) by an automobile manufacturer.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.
- (M) Any violation of a hazardous waste statute, rule, permit or related order by:
 - (i) A person that is a large quantity generator or hazardous waste transporter.
 - (ii) A person that has or should have a treatment, storage or disposal facility permit.
- (N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.
- (O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.
- (P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.
- (Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:
 - (i) A person that has or should have a solid waste disposal permit.
 - (ii) A person with a population of 25,000 or more, as determined by the most recent national census.
- (R) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as an importer of blendstocks,
- (S) Any violation of OAR 340-012-0054 (1) (ee), (ff), or (gg).
- (b) The base penalty values for the \$12,000 penalty matrix are as follows:
 - (A) Class I:
 - (i) Major — \$12,000;
 - (ii) Moderate — \$6,000;
 - (iii) Minor — \$3,000.
 - (B) Class II:
 - (i) Major — \$6,000;
 - (ii) Moderate — \$3,000;
 - (iii) Minor — \$1,500.
 - (C) Class III: \$1,000.
- (3) \$8,000 Penalty Matrix:
 - (a) The \$8,000 penalty matrix applies to the following:
 - (A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix.
 - (B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.
 - (C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.
 - (D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.
 - (E) Any violation of a water quality statute, rule, permit or related order committed by:
 - (i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.
 - (ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.
 - (iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.
 - (iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4

Stormwater Discharge Permit.

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

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

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

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

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

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

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

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

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

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

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

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

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

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

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

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

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

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

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

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility

wastewater treatment facility with a permitted flow of less than two million gallons per day.

- (ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.
- (iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.
- (iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.
- (v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.
- (vi) A person that has or should have a WPCF individual stormwater UIC system permit.
- (vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.
- (G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.
- (H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.
- (I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.
- (J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.
- (K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator, unless listed under another penalty matrix.
- (L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.
- (M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.
- (N) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.
- (O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.
- (P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.
- (Q) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 by a person registered as an importer of finished fuels unless the violation is otherwise classified in this rule.
- (b) The base penalty values for the \$3,000 penalty matrix are as follows:
 - (A) Class I:
 - (i) Major — \$3,000;
 - (ii) Moderate — \$1,500;
 - (iii) Minor — \$750.
 - (B) Class II:
 - (i) Major — \$1,500;
 - (ii) Moderate — \$750;
 - (iii) Minor — \$375.
 - (C) Class III: \$250.
- (5) \$1,000 Penalty Matrix:
 - (a) The \$1,000 penalty matrix applies to the following:
 - (A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.
 - (B) Any violation of visible emissions standards by operation of a vehicle.
 - (C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

- (D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.
 - (E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.
 - (F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.
 - (G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.
 - (H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.
 - (I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.
 - (J) Any violation of a statute, rule or order relating to the opportunity to recycle.
 - (K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.
 - (L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.
 - (M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.
- (b) The base penalty values for the \$1,000 penalty matrix are as follows:
- (A) Class I:
 - (i) Major — \$1,000;
 - (ii) Moderate — \$500;
 - (iii) Minor — \$250.
 - (B) Class II:
 - (i) Major — \$500;
 - (ii) Moderate — \$250;
 - (iii) Minor — \$125.
 - (C) Class III: \$100.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468.090 - 468.140

STATUTES/OTHER IMPLEMENTED: ORS 459.995, 459A.655, 459A.660, 459A.685, 468.035

AMEND: 340-012-0150

RULE TITLE: Determination of Economic Benefit

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Adding "(3) For violations of the Clean Fuels Program in OAR 340-253, DEQ will determine economic benefit using the Credit Clearance Market maximum credit price as calculated under OAR 340-253-1040 with interest and other considerations as needed to properly capture the full economic benefit of the violation."

RULE TEXT:

(1) The Economic Benefit (EB) is the approximate dollar value of the benefit gained and the costs avoided or delayed (without duplication) as a result of the respondent's noncompliance. Except as provided in (3), the EB will be determined using the U.S. Environmental Protection Agency's BEN computer model. DEQ may make, for use in the model, a reasonable estimate of the benefits gained and the costs avoided or delayed by the respondent.

(2) Upon request of the respondent, DEQ will provide the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model. The model's standard values for income tax rates, inflation rate and discount rate are presumed to apply to all respondents unless a specific respondent can demonstrate that the standard value does not reflect the respondent's actual circumstance.

(3) For violations of the Clean Fuels Program in OAR Chapter 340, division 253, DEQ will determine economic benefit using the Credit Clearance Market maximum credit price as calculated under OAR 340-253-1040 with interest and other considerations as needed to properly capture the full economic benefit of the violation.

(4) DEQ need not calculate EB if DEQ makes a reasonable determination that the EB is de minimis or if there is insufficient information on which to make an estimate under this rule.

(5) DEQ may assess EB whether or not it assesses any other portion of the civil penalty using the formula in OAR 340-012-0045.

(6) DEQ's calculation of EB may not result in a civil penalty for a violation that exceeds the maximum civil penalty allowed by rule or statute. However, when a violation has occurred or been repeated for more than one day, DEQ may treat the violation as extending over at least as many days as necessary to recover the economic benefit of the violation.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468.090 - 468.140

STATUTES/OTHER IMPLEMENTED: ORS 459.376, 459.995, 465.900, 465.992, 466.210, 466.990, 466.994, 467.050, 467.990, 468.090 - 468.140, 468.996

AMEND: 340-253-0000

RULE TITLE: Overview

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updating the statutory authority.

RULE TEXT:

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

(2) Purpose. The purpose of the Oregon Clean Fuels Program is to reduce the amount of lifecycle greenhouse gas emissions per unit of energy by a minimum of 10 percent below 2010 levels by 2025. 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0040

RULE TITLE: Definitions

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added the following terms to the definitions: Alternative Jet Fuel, Electric Transport Refrigeration Units, Fuel pathway holder, Fuel Supply Equipment, Renewable Propane, Substitute Fuel Pathway Code, Simplified Calculators, Import, Used in exempt fuel uses,

RULE TEXT:

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 Fuel Portal" or "AFP" means the portion of the CFP Online System where fuel producers can register their production facilities and submit fuel pathway code applications and physical pathway demonstrations.
- (6) "Alternative Jet Fuel" means a fuel, made from petroleum or non-petroleum sources, which can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure. The fuel must have a lower carbon intensity than the applicable annual standard under Table 3 under OAR 340-253-8030. This includes alternative jet fuel derived from co-processed feedstocks at a conventional petroleum refinery.
- (7) "Application" means the type of vehicle where the fuel is consumed, shown as either LDV/MDV or HDV.
- (8) "B5" means diesel fuel containing 5 percent biodiesel.
- (9) "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.
- (10) "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.
- (11) "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.
- (12) "Bill of lading" means a document issued that lists goods being shipped and specifies the terms of their transport.
- (13) "Bio-based" means a fuel produced from non-petroleum, biogenic renewable resources.
- (14) "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.
- (15) "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.
- (16) "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.
- (17) "Biomethane" or "Renewable Natural Gas" means refined biogas, or another synthetic stream of methane from

renewable resources, that has been upgraded to a near-pure methane content product. Biomethane can be directly injected into natural gas pipelines or combusted in natural gas-fueled vehicles.

(18) "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.

(19) "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.

(20) "Buy/Sell Board" means a section of the CFP Online System where registered parties can post that they are interested in buying or selling credits.

(21) "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).

(22) "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.

(23) "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.

(24) "CFP Online System reporting deadlines" means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

(25) "Clean fuel" means a transportation fuel whose carbon intensity is lower than the applicable clean fuel standard which is either:

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

(b) For diesel and diesel substitutes and alternatives, listed in Table 2 under OAR 340-253-8020; or,

(c) For alternative jet fuel, listed in Table 3 under OAR 340-253-8030.

(26) "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.

(27) "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.

(28) "Clear gasoline" means gasoline derived from crude oil that has not been blended with a renewable fuel.

(29) "Compliance period" means each calendar year(s) during which regulated parties must demonstrate compliance under OAR 340-253-0100.

(30) "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.

(31) "Co-processing" means the processing and refining of renewable or alternative low-carbon feedstocks intermingled with crude oil and its derivatives at petroleum refineries.

(32) "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.

(33) "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.

(34) "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.

(35) "Crude oil" means any naturally occurring flammable mixture of hydrocarbons found in geologic formations.

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

468A.274.

(37) "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.

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

(39) "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.

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

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

(42) "Energy economy ratio" or "EER" means the dimensionless value that represents:

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

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

(43) "Electric Transport Refrigeration Units (eTRUs)" means refrigeration systems powered by electricity designed to refrigerate or heat perishable products that are transported in various containers, including semi-trailers, truck vans, shipping containers, and rail cars.

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

(45) "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.

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

(47) "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.

(48) "Fossil" means any naturally occurring flammable mixture of hydrocarbons found in geologic formations such as rock or strata. When used as an adjective preceding a type of fuel (e.g., "fossil gasoline," or "fossil LNG"), it means the subset of that type of fuel that is derived from a fossil source.

(49) "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.

(50) "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.

(51) "Fuel pathway holder" means the entity that has applied for and received a certified fuel pathway code from DEQ, or who has a certified fuel pathway code from the California Air Resources Board that has been approved for use in Oregon by DEQ.

(52) "Fuel Supply Equipment" refers to equipment registered in the CFP Online System that dispenses alternative fuel into vehicles, including but not limited to electric vehicle chargers, hydrogen fueling stations, and natural gas fueling equipment.

(53) "Gasoline" means a fuel suitable for spark ignition engines and conforming to the specifications of ASTM D4814.

- (54) "Gasoline substitute" means a liquid fuel, other than gasoline, suitable for use as a spark-ignition engine fuel.
- (55) "Heavy duty motor vehicle" or "HDV" means any motor vehicle rated at more than 10,000 pounds gross vehicle weight.
- (56) "Illegitimate credits" means credits that were not generated in compliance with this division.
- (57) "Import" means to have ownership title to transportation fuel at the time it is brought into Oregon from outside the state by any means of transport other than in the fuel tank of a motor vehicle for the purpose of propelling that motor vehicle.
- (58) "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.
- (59) "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 the California Air Resources Board.
- (60) "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.
- (61) "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.
- (62) "Light-duty motor vehicle" or "LDV" means any motor vehicle rated at 8,500 pounds gross vehicle weight or less.
- (63) "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.
- (64) "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.
- (65) "Liquefied natural gas" or "LNG" means natural gas that has been liquefied.
- (66) "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.
- (67) "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.
- (68) "Medium duty vehicle" or "MDV" means any motor vehicle rated between 8,501 pounds and 10,000 pounds gross vehicle weight.
- (69) "Motor vehicle" means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is self-propelled.
- (70) "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.

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

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

(73) "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.

(74) "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.

(75) "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.

(76) "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.

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

(78) "Public transit agency" means an entity that operates a public transportation system.

(79) "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.

(80) "Regulated fuel" means a transportation fuel identified under OAR 340-253-0200(2).

(81) "Regulated party" means a person responsible for compliance with requirements listed under OAR 340-253-0100(1).

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

(83) "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.

(84) "Renewable gasoline" means a spark ignition engine fuel that substitutes for fossil gasoline and that is produced from renewable resources.

(85) "Renewable propane" means liquefied petroleum gas (LGP or propane) that is produced from non-petroleum renewable resources.

(86) "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.

(87) "Substitute fuel pathway code" means a fuel pathway code that is used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use when the seller

of a fuel does not pass along the credits or deficits to the buyer and the buyer does not have accurate information on the carbon intensity of the fuel or its blendstocks.

(88) "Tier 1 calculator", "Simplified calculator" or "OR-GREET 3.0 Tier 1 calculator" means the tools used to calculate lifecycle emissions for commonly produced fuels, including the instruction manuals on how to use the calculators. DEQ will make available copies of these simplified calculators on its website

(<https://www.oregon.gov/deq/Pages/index.aspx>). The simplified calculators used in the program are:

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

(89) "Tier 2 calculator" or "OR-GREET 3.0 model" means the tool used to calculate lifecycle emissions for next-generation fuels, including the instruction manual on how to use the calculator. Next-generation fuels include, but are not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first-generation fuels produced using innovative production processes. DEQ will make available a copy of the Tier 2 calculator on its website

(<https://www.oregon.gov/deq/Pages/index.aspx>).

(90) "Transaction date" means the title transfer date as shown on the PTD.

(91) "Transaction quantity" means the amount of fuel reported in a transaction.

(92) "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 moved from a location inside of Oregon to a location 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 used in an application unrelated to the movement of goods or people, such as process heat at an industrial facility, home or commercial building heating, or electric power generation.;
- (j) "EV charging" means providing electricity to recharge EVs including BEVs and PHEVs;
- (k) "Import" means the transportation fuel was moved into Oregon from a location outside of Oregon;
- (l) "LPGV fueling" means the dispensing of liquefied petroleum gas at a fueling station designed for fueling liquefied petroleum gas vehicles;
- (m) "NGV fueling" means the dispensing of natural gas at a fueling station designed for fueling natural gas vehicles; or
- (n) "Used in exempt fuel uses" means that the fuel was delivered or sold into vehicles or fuel users that are exempt under OAR 340-253-0250.

(93) "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.

(94) "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.

(95) "Unit of measure" means either:

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

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

(c) Commodity Specific Units defined in either:

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

(B) OAR chapter 603 division 027; or

(C) OAR chapter 340 division 340.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0060

RULE TITLE: Acronyms

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated AFP and added CA-GREET.

RULE TEXT:

The following acronyms apply to this division:

- (1) "AFP" means Alternative Fuel Portal.
- (2) "ASTM" means ASTM International (formerly American Society for Testing and Materials).
- (3) "BEV" means battery electric vehicle.
- (4) "CARB" means the California Air Resources Board.
- (5) "CA-GREET" means the California Air Resources Board adopted version of GREET.
- (6) "CFP" means the Clean Fuels Program established under OAR chapter 340, division 253.
- (7) "CNG" means compressed natural gas.
- (8) "CO₂e" means carbon dioxide equivalents.
- (9) "DEQ" means Oregon Department of Environmental Quality.
- (10) "EER" means energy economy ratio.
- (11) "EN" means a European Standard adopted by one of the three European Standardization Organizations.
- (12) "EQC" means Oregon Environmental Quality Commission.
- (13) "EV" means electric vehicle.
- (14) "FEIN" means federal employer identification number.
- (15) "FFV" means flex fuel vehicle.
- (16) "FPC" means fuel pathway code.
- (17) "gCO₂e/MJ" means grams of carbon dioxide equivalent per megajoule of energy.
- (18) "HDV" means heavy-duty vehicle.
- (19) "HDV-CIE" means a heavy-duty vehicle compression ignition engine.
- (20) "HDV-SIE" means a heavy-duty vehicle spark ignition engine.
- (21) "L-CNG" means liquefied-compressed natural gas.
- (22) "LDV" means light-duty vehicle.
- (23) "LNG" means liquefied natural gas.
- (24) "LPG" means liquefied petroleum gas.
- (25) "LPGV" means liquefied petroleum gas vehicle.
- (26) "MDV" means medium-duty vehicle.
- (27) "mmBtu" means million British Thermal Units.
- (28) "NGV" means natural gas vehicle.
- (29) "PHEV" means partial hybrid electric vehicle.
- (30) "PTD" means product transfer document.
- (31) "REC" means Renewable Energy Certificate.
- (32) "RFS" means the Renewable Fuel Standard implemented by the US Environmental Protection Agency.
- (33) "scf" means standard cubic foot.
- (34) "ULSD" means ultralow sulfur diesel.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0100

RULE TITLE: Oregon Clean Fuels Program Applicability and Requirements

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added "(D) OAR 340-253-0350 for alternative jet fuel." and other clarifying language. Updated statutory authority.

RULE TEXT:

(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;

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

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

(b) Any person eligible to be a credit generator, and that is not a regulated party, is not required to participate in the program. Any person who chooses voluntarily to participate in the program in order to generate credits must comply with sections (4), (5), (7), 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. An eligible credit generator may designate an aggregator for its credit generation. The only exception to that designation by a credit generator is the backstop aggregator designated under OAR 340-253-0330(7). 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 quarterly reports 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0200

RULE TITLE: Regulated and Clean Fuels

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added (i) Fossil LPG, (j) Renewable LPG, and (k) Alternative jet fuel. Also updated statutory authority.

RULE TEXT:

(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 include:

(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 include::

(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; (i) Fossil LPG;

(j) Renewable LPG, and

(k) Alternative jet fuel.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0250

RULE TITLE: Exemptions

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority and made minor edits for clarity.

RULE TEXT:

(1) Exempt fuels. The following fuels are exempt from the list of regulated fuels under OAR 340-253-0200(2):

(a) Fuels used in small volumes. A single type of transportation fuel supplied for use in Oregon if the producer or importer documents that all providers supply an aggregate volume of less than 360,000 gallons of liquid fuel per year.

(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.

(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 meet all of the following conditions:

(i) Not designed primarily to transport persons or property;

(ii) Operated on highways only incidentally; and

(iii) Used primarily for construction work.

(b) To be 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0310

RULE TITLE: Regulated Parties: Providers of Gasoline, Diesel, Ethanol, Biodiesel, Renewable Diesel, and Blends Thereof

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Made minor edits and updated statutory authority.

RULE TEXT:

(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 or otherwise registered under this program. 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0320

RULE TITLE: Credit Generators: Providers of Compressed Natural Gas, Liquefied Natural Gas, Liquefied Compressed Natural Gas, and Liquefied Petroleum Gas

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added LPG categories eligible to generate credits and updated statutory authority.

RULE TEXT:

(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 each in the blend.

(3) Liquefied natural gas. For LNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil LNG. For fuel that is solely fossil LNG, the person that is eligible to generate credits is the owner of the fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based LNG. For fuel that is solely bio-based LNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil LNG and bio-based LNG. For fuel that is a blend of fossil LNG and bio-based LNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of each in the blend.

(4) Liquefied compressed natural gas. For L-CNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil L-CNG. For fuel that is solely fossil L-CNG, the person that is eligible to generate credits is the owner of the compressor at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based L-CNG. For fuel that is solely bio-based L-CNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil L-CNG and bio-based L-CNG. For fuel that is a blend of fossil L-CNG and bio-based L-CNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of each in the blend.

(5) Liquefied petroleum gas. For LPG used as a transportation fuel, subsections (a) through (d) determine the person who is eligible to generate credits.

(a) Fossil LPG.

(i) For fossil LPG that is dispensed for use in a motor vehicle, the person that is eligible to generate credits is the owner of the fueling equipment at the facility .

(ii) For fossil LPG that is dispensed for use in a forklift, the person that is eligible to generate credits is the forklift fleet owner or operator. The fleet owner or operator may also designate an aggregator.

(b) Renewable LPG. The producer or importer of the renewable LPG is eligible to generate credits.

(c) Blend of fossil and renewable LPG. For fuel that is a blend of fossil and renewable LPG, the generated credits will be split between the person eligible to generate credits under subsections (a) and (b) based on the actual amounts of each in the blend.

(6) Responsibilities to generate credits. Any person specified in sections (2) through (5) may generate clean fuel credits by complying with the registration, recordkeeping, reporting, and attestation requirements of this division - for the fuel.

(7) For bio-based or renewable fuels under this rule, the ability to generate credits for the fuel may be transferred along with the fuel to another recipient of the fuel in the state so long as it is documented in a written contract.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0330

RULE TITLE: Credit Generators: Providers of Electricity

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added forklifts and transportation refrigeration units as potential credit generators. Updated statutory authority.

RULE TEXT:

(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.

(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.

(5) Forklifts. For electricity used to power forklifts, the forklift fleet owner or fleet operator may generate the credits. Only one entity may generate credits from each piece of equipment. The fleet owner has precedence to generate credits or designate an aggregator.

Transportation Refrigeration Units. The fleet owner or fleet operator of the electric transportation refrigeration unit may generate credits for electricity used in transport refrigeration units. Only one entity may generate credits from each piece of equipment. The fleet owner has precedence to generate credits or designate an aggregator.

(7) Responsibilities to generate credits. Any person specified under sections (2) through (6) may generate clean fuel credits by complying with the registration, recordkeeping and reporting requirements of this division.

(8) 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0340

RULE TITLE: Credit Generators: Providers of Hydrogen Fuel or a Hydrogen Blend

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added hydrogen powered forklifts as potential credit generators. Updated statutory authority.

RULE TEXT:

(1) Applicability. This rule applies to providers of hydrogen fuel and a hydrogen blend for use as a transportation fuel in Oregon.

(2) Credit generation. For a hydrogen fuel or a hydrogen blend, the person who owns the finished hydrogen fuel where the fuel is dispensed for use into a motor vehicle is eligible to generate credits.

(3) Forklifts. For hydrogen forklifts, the forklift fleet owner or fleet operator is the credit generator eligible to generate credits. Only one entity may generate credits from each piece of equipment. The fleet owner has precedence to generate credits or designate an aggregator. (4) Responsibilities to generate credits. Any person specified in section (2) or (3) may generate clean fuel credits by complying with the registration, recordkeeping and reporting requirements under of this division.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

ADOPT: 340-253-0350

RULE TITLE: Credit Generators: Alternative Jet Fuel

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Adding new rule for Credit Generators: Alternative Jet Fuel

RULE TEXT:

(1) Applicability. This rule applies to importers and producers of alternative jet fuel that is being fueled into planes in Oregon.

(2) Credit Generation. The initial entity eligible to generate credits under this rule is the importer or producer of the alternative jet fuel. The ability to generate credits for the alternative jet fuel may be transferred when the fuel is sold to another entity so long as the transfer is documented in the written contract between the buyer and seller.

(3) Responsibilities to generate credits. A person specified in section (2) may generate clean fuel credits by complying with the registration, recordkeeping and reporting requirements of this division.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0400

RULE TITLE: Carbon Intensities

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added language for hydrogen suppliers, alternative jet fuel, and renewable propane. Added language to transition to OR GREET 3.0. Updated statutory authority.

RULE TEXT:

(1) OR-GREET. Carbon intensities for fuels must be calculated using OR-GREET 3.0 or a model approved by DEQ. If a party wishes to use a modified or different lifecycle carbon intensity model, it must be approved by DEQ in advance of an application under OAR 340-253-0450.

(2) DEQ review of carbon intensities. Every three years, or sooner if DEQ determines that new information becomes available that warrants an earlier review, DEQ will review the carbon intensities used in the CFP and must consider, at a minimum, changes to:

(a) The sources of crude and associated factors that affect emissions such as flaring rates, extraction technologies, capture of fugitive emissions, and energy sources;

(b) The sources of natural gas and associated factors that affect emissions such as extraction technologies, capture of fugitive emissions, and energy sources;

(c) Fuel economy standards and energy economy ratios;

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

(e) Methods to calculate lifecycle greenhouse gas emissions;

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

(g) Methods to quantify other indirect effects.

(3) Statewide carbon intensities.

(a) Regulated 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 suppliers,

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

(B) Credit generators or aggregators 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).

(c) A hydrogen supplier may use the applicable value in the lookup table in OAR 340-253-8040, or apply for a specific carbon intensity under OAR 340-253-0450.

(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, as adjusted for fuel transportation distances and indirect land use change, and that has been reviewed and approved by DEQ as being consistent with OR-GREET 3.0; or

(b) Matches the description of a fuel pathway listed in the lookup table in Table 4 under OAR 340-253--8040. For Hydrogen produced using biomethane or renewable power, the producer of the hydrogen will have to demonstrate to

DEQ that the lookup table value is appropriate for its production facility and must submit attestations on an annual basis that the renewable power and biomethane attributes, as applicable, were not claimed in any other program except for the federal RFS.

(5) Transition to OR-GREET 3.0.

(a) Pathways certified under OR-GREET or CA-GREET 2.0 will be deactivated by DEQ in the CFP Online System for reporting after the fourth quarter of 2020. Fuel pathway holders with pathways certified under OR-GREET or CA-GREET 2.0 that wish to keep generating credits from those fuels from January 1, 2021 onward must follow the pathway application and certification process in this rule to obtain a new pathway under OR-GREET 3.0, or request DEQ approval of a CARB-certified CA-GREET 3.0 pathway.

(b) Lookup table pathways. Entities reporting fuels under the lookup table pathways that do not require an application under subsection (a) will have those pathways automatically updated to the OR-GREET 3.0 values on January 1, 2019 for first quarter 2019 reporting.

(c) New pathway applications. DEQ will not consider new applications using OR-GREET 2.0.

(6) Primary alternative fuel pathway classifications. If it is not possible to identify an applicable carbon intensity under either section (3) or (4), then the regulated party, credit generator, or aggregator has the option to develop its own fuel pathway and apply for it to be certified under 340-253-0450. Fuel pathway applications fall into one of two tiers:

(a) Tier 1. Conventionally-produced alternative fuels of a type that have been well-evaluated in the Oregon and California low carbon fuel standards. Tier 1 fuels include:

(A) Starch- and sugar-based ethanol;

(B) Biodiesel produced from conventional feedstocks (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 landfills; anaerobic digestion of dairy and swine manure or wastewater sludge; and food, vegetative or other organic waste.

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

(A) Cellulosic alcohols;

(B) Biomethane from other sources;

(C) Hydrogen;

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

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

(F) Alternative Jet Fuel;

(G) Renewable propane; and

(H) Tier 1 fuels using innovative methods, including but not limited to carbon capture and sequestration or a process that cannot be accurately modeled using the simplified calculators.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0450

RULE TITLE: Obtaining a Carbon Intensity

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added clarifying language and changed GREET 2.0 to GREET 3.0. Added: (C) For CARB-approved fuel pathways being approved for use in Oregon, if at any time the pathway's approval is revoked by CARB then the fuel pathway holder must inform DEQ within 7 days of the revocation and provide any documentation related to that decision. DEQ may, at its discretion, revoke the pathway's approval in Oregon. If the pathway's approval is modified by CARB then the fuel pathway holder has 14 days to notify DEQ of the change and provide any accompanying documentation. Based on the underlying facts that led to the modification of the pathway's status, within 30 days DEQ may modify its approval, take no action, or revoke its approval and must provide the fuel pathway holder with a notice of its decision. Updated statutory authority.

RULE TEXT:

- (1) Fuel producers can apply to obtain a carbon intensity by following the process to obtain a carbon intensity under this rule.
- (2) Applicants seeking approval to use a carbon intensity that is currently approved by the CARB must provide:
 - (a) The application package submitted to CARB;
 - (b) The CARB-approved Tier 1 or Tier 2 CA-GREET 3.0 calculator, and the OR-GREET 3.0 equivalent with the fuel transportation 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 for a Tier 1 or Tier 2 fuel.
- (4) In addition to the items in section (3), applicants seeking to obtain a carbon intensity for a Tier 1 fuel using one of the simplified calculators must submit the following:
 - (a) The applicable simplified calculator with all necessary inputs completed, following the instructions in the applicable manual for that calculator;
 - (b) The invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, along with a summary

of those invoices and receipts; and

(c) The most recent RFS third party engineering report, if one has been conducted for the facility.

(5) In addition to the items in section (3), applicants seeking to obtain a carbon intensity for a Tier 2 fuel using the full OR-GREET 3.0 model must submit the following:

(a) The invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, and a summary of those invoices and receipts;

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

(c) A completed Tier 2 model;

(d) Process flow diagrams that depict the complete fuel production process;

(e) Applicable air permits issued for the facility;

(f) A copy of the RFS third party engineering report, if available;

(g) A copy of the RFS fuel producer co-products report; and

(h) A lifecycle analysis report that describes the fuel pathway and describes in detail the calculation of carbon intensity for the fuel. The report shall contain sufficient detail to allow staff to replicate the carbon intensity the applicant calculated. The applicant must describe all inputs to, and outputs from, the fuel production process that are part of the fuel pathway.

(6) Applicants seeking a provisional carbon intensity. If a fuel production facility has been in full commercial production for at least 90 days but less than 24 months, it can apply for a provisional carbon intensity.

(a) The applicant shall submit operating records covering all periods of full commercial operation in accordance with sections (2) through (5).

(b) DEQ may approve the provisional carbon intensity under section (9).

(c) At any time before the plant reaches a full 24 months of full commercial production, DEQ may revise as appropriate the operational carbon intensity based on the required ongoing submittals or other information it learns.

(d) If, after a plant has been in full commercial production for more than 24 months of full commercial production, the facility's operational carbon intensity is higher than the provisionally-certified carbon intensity, DEQ will replace the certified carbon intensity with the operational carbon intensity in the 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 3.0; and
- (B) Review the materials submitted under subsection (2).
- (b) For applications proposing to use the Tier 1 or Tier 2 calculators, DEQ may approve the application if it can:
- (A) Replicate the calculator outputs; and
- (B) Verify the energy consumption and other inputs.
- (c) If DEQ has approved or denied 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, adherence to protocols to assure carbon reduction or sequestration claims, 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.
- (C) For a CARB-approved fuel pathway that DEQ has approved for use in Oregon, if at any time the pathway's approval is revoked by CARB then the fuel pathway holder must inform DEQ within 7 days of the revocation and provide DEQ with documentation related to that decision. Upon DEQ request, the fuel pathway holder must provide to DEQ additional documentation. DEQ may at its discretion revoke its approval of the pathway's use in Oregon at any time. If CARB modifies its approval of the pathway then the fuel pathway holder must notify DEQ of the modification not later than 14 days after CARB's modification and must provide to DEQ any accompanying documentation the fuel pathway holder received from CARB. Based on the underlying facts that led to CARB's modification of the pathway's status, within 30 days DEQ may modify its approval, take no action, or revoke its approval and will provide the fuel pathway holder with written notice of its decision.
- (e) The producer of any fuel that has received a carbon intensity under section (9) must:
- (A) Register with the AFP; 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. Upon request, DEQ may grant an extension of up to 30 additional days.

(d) If the applicant submits supplemental information, DEQ has 30 calendar days to 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0470

RULE TITLE: Determining the Carbon Intensity of Electricity

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Made minor edits and updated statutory authority.

RULE TEXT:

(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 under OAR 340-253-8030 for solar-generated or wind-generated electricity can only be used for the portion of the electricity dispensed from the charger that is generated by that dedicated renewable energy system;

(c) Any grid electricity dispensed from the charger must be reported separately under the statewide electricity mix or utility-specific fuel pathway codes; and

(d) RECs are not generated from the renewable generation system or, if they are, then an equal number of RECs generated from that facility to the number of MWh reported in the CFP online system from that facility must be retired in the REC tracking system.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0500

RULE TITLE: Registration

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Made minor edits and updated statutory authority.

RULE TEXT:

(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 AFP 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 AFP portion of the CFP Online System and comply with the requirements of this division and any conditions placed upon the fuel pathway codes that it holds.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0600

RULE TITLE: Records

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added "(8) Attestations regarding environmental attributes" section and updated statutory authority.

RULE TEXT:

(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.

(5) 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.

(6) Initial 2016 Inventory. All regulated fuels held in bulk storage in the state on January 1, 2016 are subject to the program and must be reported as the initial inventory of fuels by regulated parties.

(7) 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.

(8) Attestations regarding environmental attributes. An entity reporting any biomethane as a transportation fuel in the Clean Fuels Program, and a fuel pathway holder using biogas or biomethane as process energy, must obtain and keep attestations from each upstream party collectively demonstrating that (a) the entity claiming the environmental attributes has the exclusive right to claim environmental attributes associated with the sale or use of the biogas or biomethane, and (b) the environmental attributes have not been used or claimed in any other program or jurisdictions

with the exception of the federal RFS. The attestations must be made available to DEQ upon request. The inability to promptly produce the attestations constitutes ground for credit invalidation pursuant to OAR 340-253-0670.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0620

RULE TITLE: CFP Online System

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority.

RULE TEXT:

(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 AFP portion of the CFP Online System and must designate an administrator for their account. The fuel producer may:

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

- (b) Submit fuel pathway code applications through the AFP for each of its facilities for DEQ approval; and
- (c) Submit the physical transport mode demonstration package through the AFP for DEQ approval, once a fuel pathway code has been approved.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0630

RULE TITLE: Quarterly Reports

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Made minor edits and updated statutory authority.

RULE TEXT:

(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.

(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."

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0640

RULE TITLE: Specific Requirements for Reporting

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added reporting requirements and updated statutory authority.

RULE TEXT:

(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 4 under OAR 340-253-8040.

(d) For biomethane-based CNG, LNG, and L-CNG, the carbon intensity as approved under OAR 340-253-0450 and the EPA production company identification number and facility identification number. Additionally, the registered party must submit the following attestation at the time of filing the annual report: "I certify that to the extent that the gas used in the fuel pathway or supplied as transportation fuel is characterized as biomethane, _____ (registered party name) owns the exclusive rights to the corresponding environmental attributes. _____ (registered party name) has not sold, transferred, or retired those environmental attributes in any program or jurisdiction other than the federal RFS. Based on diligent inquiry and review of contracts and attestations from our business partners, I certify under penalty of perjury under the laws of the State of Oregon that no other party has or will sell, transfer, or retire the environmental attributes corresponding to the biomethane for which _____ (registered party name) claims credit in the CFP program."

(2) For electricity, any registered party must report the following as applicable:

(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.

(4) Temperature Correction. All liquid fuel volumes reported in the CFP Online System must be adjusted to the standard temperature conditions of 60 degrees Fahrenheit as follows:

(a) For ethanol, using the formula: Standardized Volume = Actual volume * ((-0.0006301 * T) + 1.0378), where standardized volume refers to the volume of ethanol in gallons at 60°F, actual volume refers to the measured volume in gallons, and T refers to the actual temperature of the batch in °F.

(b) For Biodiesel, one of the following two methodologies must be used:

(A) Standardized Volume = Actual Volume * ((-0.00045767 * T) + 1.02746025), where Standardized Volume refers to the volume in gallons at 60°F, Actual Volume refers to the measured volume in gallons, and T refers to the actual temperature of the batch in °F; or

(B) The standardized volume in gallons of biodiesel at 60°F, as calculated using the American Petroleum Institute Refined Products Table 6B, as referenced in ASTM 1250-08.

(c) For other liquid fuels, the volume correction to standard conditions must be calculated by the methods described in the American Petroleum Institute Manual of Petroleum Measurement Standards Chapter 11 – Physical Properties Data, the ASTM Standard Guide for the Use of Petroleum Measurement Tables (ASTM D1250-08), or the API Technical Data Book, Petroleum Refining Chapter 6 – Density.

(d) If a registered party believes the methods in (a) through (c) are inappropriate, they may request to use a different method and DEQ may approve that method if it finds that it is at least as accurate as the methods in (a) through (c).

(5) Reporting Exempt Gallons. When a registered party is reporting that it sold gallons of fuel to exempt fuel users as defined in OAR 340-253-0250, the registered party must designate in the transaction description field of the CFP Online System the categories of exempt fuel users to which the registered party delivered fuel and the number of gallons delivered. For blended fuels, all components must be reported as exempt.

(6) Reporting “Not For Transportation” Gallons. When reporting that fuel was sold as not for transportation in the CFP Online System, the registered party must report in the transaction description field of the CFP Online System which stationary source or category of stationary fuel combustion the fuel was sold to and the number of gallons sold. For blended fuels, all components must be reported as not being used for transportation.

STATUTORY/OTHER AUTHORITY: OAR 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: OAR 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0650

RULE TITLE: Annual Compliance Reports

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority.

RULE TEXT:

(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 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-0670

RULE TITLE: Authority to Suspend, Revoke, or Modify

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority.

RULE TEXT:

(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 AFP; 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-1000

RULE TITLE: Credit and Deficit Basics

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added (1)(d) and made minor edits. Updated statutory authority.

RULE TEXT:

(1) Carbon intensities.

(a) Except as provided in subsections (b),(c), or (d), 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.

(d) If a registered party purchases a blended finished fuel and the seller does not provide carbon intensity information, then the registered party must use the applicable substitute fuel pathway code in Table 8 of OAR 340-253-8080 if the fuel is exported, not used for transportation, or used in an exempt fuel use. If the finished fuel blend is not listed, the registered party must report the volume using the applicable lookup table fuel pathway code for the fossil fuel and the applicable substitute fuel pathway code for the biofuel or biofuels.

(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, for diesel fuel and diesel substitutes in Table 2 under 340-253-8020, or for alternative jet fuel in Table 3 under 340-253-8030. 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 registered party that possesses credits must retire a sufficient number of credits such that:

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

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

(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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-1005

RULE TITLE: Transacting Credits

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority.

RULE TEXT:

(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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-1010

RULE TITLE: Fuels to Include in Credit and Deficit Calculation

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Made edits for clarity and updated statutory authority.

RULE TEXT:

(1) Fuels included. Credits and deficits must be calculated for all regulated fuels and clean fuels, except that:

(a) Credits may be generated only for B100 that complies with an oxidation stability induction period of not less than 8 hours as determined by the test method described in the European standard EN 15751;

(b) B100 that does not comply with subsection (a) can still be imported into Oregon and must be reported, but cannot generate credits for the CFP.

(2) Fuels exempted. Except as provided in sections (3), (4), and (5), credits and deficits may not be calculated for fuels exempted under OAR 340-253-0250.

(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 fuels listed on the same invoice.

(4) Fuels that are exported from Oregon. Any bulk quantity fuel that is exported must be reported by the person who holds title to the fuel when it is exported. Exported fuels will not incur compliance obligations or generate credits, unless the exporter has purchased the fuel without the compliance obligation or the credits or deficits have already been generated and separated from the fuel such as through a transfer without obligation or if the fuel was imported in one quarter and exported in the next. In those cases, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits detached from the fuel.

(5) Alternative jet fuel. Alternative jet fuel may be reported by the producer or importer of the fuel and any registered parties that hold title to it, so long as the fuel is loaded into planes in Oregon. If a gallon of alternative jet fuel that has been reported to the Clean Fuels Program as imported or produced is later exported, lost, or otherwise not used for transportation it must be reported as such.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-1020

RULE TITLE: Calculating Credits and Deficits

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Added forklifts as possible credit generators and updated statutory authority.

RULE TEXT:

(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 and forklifts, 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-1030

RULE TITLE: Demonstrating Compliance

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority.

RULE TEXT:

(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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-1040

RULE TITLE: Credit Clearance Market

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority.

RULE TEXT:

(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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-1055

RULE TITLE: Public Disclosure

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority.

RULE TEXT:

(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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-2000

RULE TITLE: Emergency Deferrals

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Made minor edits and updated statutory authority.

RULE TEXT:

(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 (6)(c)(A); or
 - (B) 30 calendar days for a method described in (6)(c)(B), (C) or (D); 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-2100

RULE TITLE: Forecasted Fuel Supply Deferral

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated statutory authority.

RULE TEXT:

(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.

(2) 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.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277

AMEND: 340-253-8010

RULE TITLE: Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated table.

RULE TEXT:

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

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



Table 1 – 340-253-8010

Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO₂e per MJ)	Percent Reduction
2015	None (Gasoline Baseline is 98.62 for 2016-2017, 98.64 for 2018, and 98.06 for 2019 and beyond)	
2016*	98.37	0.25 percent
2017	98.13	0.50 percent
2018	97.66	1.00 percent
2019	96.59	1.50 percent
2020	95.61	2.50 percent
2021	94.63	3.50 percent
2022	93.15	5.00 percent
2023	91.68	6.50 percent
2024	90.21	8.00 percent
2025 and beyond	88.25	10.0 percent

*Initial compliance period is a two-year period for 2016 and 2017.

AMEND: 340-253-8020

RULE TITLE: Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated Table.

RULE TEXT:

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

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



Table 2 – 340-253-8020

Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO₂e per MJ)	Percent Reduction
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond)	
2016*	99.39	0.25 percent
2017	99.14	0.50 percent
2018	98.61	1.00 percent
2019	97.26	1.50 percent
2020	96.27	2.50 percent
2021	95.29	3.50 percent
2022	93.81	5.00 percent
2023	92.32	6.50 percent
2024	90.84	8.00 percent
2025 and beyond	88.87	10.00 percent

*Initial compliance period is a two-year period for 2016 and 2017.

AMEND: 340-253-8030

RULE TITLE: Table 3 — Oregon Clean Fuel Standard for Alternative Jet Fuel

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Changed table to Oregon Clean Fuel Standard for Alternative Jet Fuel

RULE TEXT:

Table 3 — Oregon Clean Fuel Standard for Alternative Jet Fuel

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



Table 3 – 340-253-8030

Oregon Clean Fuel Standard for Alternative Jet Fuel

Calendar Year	Oregon Clean Fuel Standard (gCO ₂ e per MJ)
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond. The fossil jet baseline is 90.97.)
2019	90.80
2020	90.80
2021	90.80
2022	90.80
2023	90.80
2024	90.80
2025 and beyond	88.87

AMEND: 340-253-8040

RULE TITLE: Table 4 — Oregon Carbon Intensity Lookup Table

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated table and statutory authority.

RULE TEXT:

Table 4 — Oregon Carbon Intensity Lookup Table

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



Table 4 – 340-253-8040

Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO ₂ e/MJ)
			Total Lifecycle Emissions
Gasoline	ORGAS001	Clear gasoline - based on a weighted average of gasoline supplied to Oregon	100.14
	ORGAS002	Imported blended gasoline (E10) – 90% clear gasoline & 10% corn ethanol based on Midwest average. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.06
Diesel	ORULSD001	Clear diesel, based on a weighted average of diesel fuel supplied to Oregon	100.74
	ORULSD002	Imported blended diesel (B5) – 95% clear diesel & 5% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.74
	ORULSD003	Imported blended diesel (B20) – 80% clear diesel & 20% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	92.68
Compressed Natural Gas	ORCNG001	North American NG delivered via pipeline; compressed in OR	79.98
Liquefied Natural Gas	ORLNG001	North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency	86.88
Liquefied Petroleum Gas	ORLPG001	Liquefied petroleum gas	80.88



Table 4 – 340-253-8040

Oregon Carbon Intensity Lookup Table

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
	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
Hydrogen	ORHYF	Compressed H2 produced in Oregon from central steam methane reformation of North American fossil-based NG	120.68
	ORHYFL	Liquefied H2 produced in Oregon from central steam methane reformation of North American fossil-based NG	157.29
	ORHYB	Compressed H2 produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	116.76
	ORHYBL	Liquefied H2 produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	149.70
	ORHYEG	Compressed H2 produced in Oregon from electrolysis using Oregon average grid electricity	205.38
	ORHYEB	Compressed H2 produced in Oregon from electrolysis using BPA average grid electricity	31.65
	ORHYER	Compressed H2 produced in Oregon from electrolysis using solar- or wind-generated electricity	13.11

AMEND: 340-253-8050

RULE TITLE: Table 5 - Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated table.

RULE TEXT:

Table 5 - Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



State of 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



State of 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

AMEND: 340-253-8060

RULE TITLE: Table 6 - Oregon Energy Densities of Fuels

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated Table

RULE TEXT:

Table 6 - Oregon Energy Densities of Fuels

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



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)
Compressed natural gas (therm)	105.5 (MJ/therms)
Electricity (kilowatt hour)	3.60 (MJ/kilowatt hour)
Denatured ethanol (gallon)	81.51 (MJ/gallon)
Clear biodiesel (gallon)	126.13 (MJ/gallon)
Liquefied natural gas (gallon)	78.83 (MJ/gallon)
Hydrogen (kilogram)	120.00 (MJ/kilogram)
Liquefied petroleum gas (gallon)	89.63 (MJ/gallon)
Renewable hydrocarbon diesel (gallon)	129.65 (MJ/gallon)
Undenatured anhydrous ethanol (gallon)	80.53 (MJ/gallon)
Alternative Jet Fuel (gal)	126.37 (MJ/gallon)

AMEND: 340-253-8070

RULE TITLE: Table 7 - Oregon Energy Economy Ratio Values

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated Table.

RULE TEXT:

Table 7 - Oregon Energy Economy Ratio Values

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



State of Oregon
Department of
Environmental
Quality

Table 7 – 340-253-8070

Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	EER Value Relative to Gasoline	Fuel/Vehicle Combination	EER Value Relative to Diesel	Fuel/Vehicle Combination	EER Value relative to conventional jet
Gasoline (including E10) or any other gasoline-ethanol blend	1	Diesel fuel (including B5) or any other blend of diesel and biodiesel or renewable hydrocarbon diesel	1	Alternative Jet Fuel	1
CNG Internal Combustion Engine Vehicle (ICEV)	1	CNG, LNG, or LPG (Spark-Ignition Engines)	0.9		
Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	3.4	CNG,LNG, or LPG(Compression-Ignition Engines)	1		
Electricity/On-Road Electric Motorcycle	4.4	Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	5		
Propane/Propane Forklift	0.9	Electricity/Battery Electric or Plug-in Hybrid Transit Bus	5		
Hydrogen/Fuel Cell Vehicle	2.5	Electricity/Fixed Guideway Light Rail	3.3		
		Electricity/Fixed Guideway Streetcar	2.1		
		Electricity/Fixed Guideway Aerial Tram	2.6		



State of Oregon
Department of
Environmental
Quality

Table 7 – 340-253-8070
Oregon Energy Economy Ratio Values for Fuels

	Electricity/Electric Forklift	3.8	
	Electricity/Electric TRU (eTRU)	3.4	
	Hydrogen/Fuel Cell Vehicle	1.9	
	Hydrogen/Fuel Cell Forklift	2.1	

AMEND: 340-253-8080

RULE TITLE: Table 8 – Oregon Substitute Fuel Pathway Codes

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated Table.

RULE TEXT:

Table 8 – Oregon Substitute Fuel Pathway Codes

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



**Table 8 – 340-253-8080
Oregon Substitute Fuel Pathway Codes**

Fuel	Fuel Pathway code	CI (gCO ₂ e/MJ)
Substitute CI for Ethanol. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ETH0116	40
Substitute CI for Biodiesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	BIOD0116	15
Substitute CI for Renewable Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	RNWD0116	15
Substitute CI for E10 Gasoline. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORGAS0116	For 2019: 96.59 For 2020 and beyond: 96.00
Substitute CI for B5 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not	ORULSD01165	For 2019: 97.26 For 2020 and beyond: 96.71



**Table 8 – 340-253-8080
Oregon Substitute Fuel Pathway Codes**

<p>for transportation use, and exempt fuel use.</p>		
<p>Substitute CI for B20 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.</p>	<p align="center">ORULSD011620</p>	<p align="center">84.45</p>

AMEND: 340-253-8090

RULE TITLE: Table 9 – Oregon Temporary Fuel Pathway Codes

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated Table.

RULE TEXT:

Table 9 – Oregon Temporary Fuel Pathway Codes

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



Table 9 – 340-253-8090

Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO _{2e} /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	100.14
	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	100.74
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



Table 9 – 340-253-8090

Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

	Any feedstock	Any	ORRNWD302T	100.74
Biomethane CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORCNG500T	63.96
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORCNG501T	50
Biomethane LNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLNG501T	80.44
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLNG502T	65
Biomethane L-CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLCNG502T	84.65
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLCNG503T	70
Biomethane CNG, LNG, L-CNG	Dairy Manure	Grid electricity, natural gas, and/or parasitic load	ORLCNG504T	-150
Electricity	Coal, Natural Gas, Hydroelectric Dams, Wind Mills, etc.	Oregon average electricity mix	ORELEC600T	135.00



Table 9 – 340-253-8090
Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate Cls

Any Gasoline Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSG800T	100.14
Any Diesel Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSD801T	100.74

AMEND: 340-253-8100

RULE TITLE: Table 10 – Indirect Land-Use Change Values

NOTICE FILED DATE: 08/29/2018

RULE SUMMARY: Updated table and statutory authority.

RULE TEXT:

Table 10 – Indirect Land-Use Change Values

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.268, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468.020, ORS 468A.265 through 468A.277



Table 10 – 340-253-8100

Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels

Feedstock	ILUC Value (gCO₂e/MJ)
Corn Ethanol	7.60
Sorghum Ethanol	19.40
Sugarcane Ethanol	11.80
Soybean Biodiesel or Renewable Diesel	29.10
Canola Biodiesel or Renewable Diesel	14.50
Palm Biodiesel or Renewable Diesel	71.40