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RULES:

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AMEND: 340-012-0054

RULE TITLE: Air Quality Classification of Violations

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Adds failure to submit five-year BAER report as a Class I violation.

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 a vehicle manufacturer in violation of Oregon Low Emission and Zero Emission Vehicle rules set forth in OAR 340 division 257;

(z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;

(aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements, or to meet credit retirement and/or deficit requirements, under OAR 340 division 257;

(bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;

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

(dd) Violating any of the clean fuel standards set forth in OAR 340-253-0100(6) and in Tables 1 and 2 of OAR 340-253-8010;

(ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);

(ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a registered party's true compliance obligation in deficits under such

program;

(gg) Misstating material information or providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450, OAR 340-253-0460, or OAR 340-253-0470, or when submitting an application for advance credits under OAR 340-253-1100;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(aaa) Failing to submit a BAER assessment, updated BAER assessment, or a 5-year BAER report according to OAR 340-271-0310;

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

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

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

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

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

(ggg) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4); or
(hhh) Failing by a fuel producer to inform DEQ if its operational carbon intensity exceeds its certified carbon intensity as described in OAR 340-253-0450(9)(e)(D) when credits generated from those certified carbon intensity values generated illegitimate credits as described in OAR 340-253-1005(7).

(2) Class II:

- (a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP attachment, or registration without first obtaining such permit or registration, unless otherwise classified;
- (b) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;
- (c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;
- (d) Exceeding an opacity limit, unless otherwise classified;
- (e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;
- (f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;
- (g) Failing to timely submit a certification, report, or plan as required by rule, permit or permit attachment, unless otherwise classified;
- (h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;
- (i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;
- (j) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;
- (k) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).
- (l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;
- (m) Failing to provide timely, accurate or complete notification of an asbestos abatement project;
- (n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;
- (o) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620;
- (p) Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;
- (q) Failing to receive Green-e certification for Renewable Energy Certificates used to generate incremental credits when required by OAR 340-253-0470;
- (r) Failing to register as an aggregator or submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c);
- (s) Failing to keep complete and accurate records under OAR 340-253-0600;
- (t) Failing to ensure that a registered party has the exclusive right to the environmental attributes that it has claimed for biomethane, biogas, or renewable electricity either directly as a fuel or indirectly as a feedstock under OAR chapter 340, division 253 by either the registered party, the fuel producer, and/or fuel pathway holder;
- (u) Failing to timely submit a complete and accurate quarterly report under OAR 340-253-0630;
- (v) Violating any requirement under OAR chapter 340, division 272, unless otherwise classified;
- (w) Violating any requirement under OAR chapter 340, division 239, unless otherwise classified;
- (x) Failing to comply with the reporting notification or warranty requirements for new engines, trucks, and trailers set forth in OAR chapter 340, division 261;
- (y) Violating any requirement under the Climate Protection Program, OAR chapter 340, division 271, unless otherwise classified;

- (z) Violating any condition in a permit, Climate Protection Program permit, or Climate Protection Program permit addendum issued according to OAR 340-271-0150, unless otherwise classified;
- (aa) Failing to notify DEQ of a change of ownership or control of a registered party under OAR chapter 340, division 253; or
- (3) Class III:
- (a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;
- (b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;
- (c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;
- (d) Failing to revise a notification of an asbestos abatement project, when necessary, unless otherwise classified;
- (e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project;
- (f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR Chapter 340, division 257;
- (g) Making changes to a submitted quarterly or annual report under OAR Chapter 340, division 253 without DEQ approval under OAR 340-253-0650(4); or
- (h) Failing to upload transactions to a quarterly report by the 45-day deadline under OAR 340-253-0630.

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

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

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

AMEND: 340-012-0135

RULE TITLE: Selected Magnitude Categories

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Makes it a major magnitude violation to fail to timely submit a complete and accurate emissions data report under the Oregon Greenhouse Gas Reporting Program, OAR chapter 340, division 215, where the untimely, incomplete or inaccurate reporting impacts the distribution of compliance instruments under the Climate Protection Program, OAR chapter 340, division 271.

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) Violating the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010: Major

(B) Failing to register under OAR 340-253-0100(1) and (4): Major;

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

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

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

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

(n) Oregon Climate Protection Program violations:

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

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

(C) Failing to comply with a condition in a permit, Climate Protection Program permit, or Climate Protection Program

permit addendum issued according to OAR 340-271-0150 that requires the reduction of greenhouse gas emissions: Major.

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

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

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

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

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

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

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

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

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

(B) Moderate:

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

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

(C) Minor:

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

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

(b) Violating numeric water quality standards:

(A) Major:

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

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

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

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

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

(B) Moderate:

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

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

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

standard;

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

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

(C) Minor:

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

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

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

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

(v) Increased turbidity by 20 NTU or less over background.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Failure to make a hazardous waste determination;

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

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

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

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

(A) Major:

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

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

(B) Moderate:

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

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

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

(A) Major:

- (i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or
- (ii) Hazardous waste management violations involving at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

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

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

(C) Minor: 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: 340-215-0020

RULE TITLE: Definitions

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking updates existing definitions and adds new definitions.

RULE TEXT:

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

(2) "Asset-controlling supplier" or "ACS" means a person that owns or operates inter-connected electricity generating facilities or has exclusive rights to claim electricity from these facilities even though it does not own them, and that has been designated by DEQ as an asset-controlling supplier under OAR 340-215-0120(7) and received a DEQ-published emission factor. Asset controlling suppliers are specified sources.

(3) "Biogas" means gas that is produced from the breakdown of biomass in the absence of oxygen, including anaerobic digestion, anaerobic decomposition, and thermochemical decomposition.

(4) "Biogenic CO₂ emissions" means carbon dioxide emissions generated as the result of biomass or biomass-derived fuel combustion or oxidation.

(5) "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues, and waste from agriculture, forestry, and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(6) "Biomass fuels" or "biofuels" or "biomass-derived fuels" means fuels derived from biomass.

(7) "Biomethane" means refined biogas, or another synthetic stream of methane produced from biomass feedstock, that has been upgraded to meet pipeline quality standards or transportation fuel grade requirements, such that it may blend with, or substitute for, natural gas.

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

(9) "Bulk transfer/terminal system" means a fuel distribution system consisting of one or more of refineries, pipelines, vessels, and terminals. Fuel storage and blending facilities that are not fed by pipeline or vessel are considered outside the bulk transfer system.

(10) "Busbar" means a power conduit of a facility with electricity generating units that serves as the starting point for the electricity transmission system.

(11) "Carbon dioxide supplier" means a facility with production process units or production wells that capture, extract, or produce CO₂ for on-site use, commercial application, or for purposes of supplying CO₂ to another entity or facility, or that capture the CO₂ stream in order to utilize it for geologic sequestration, where capture refers to the initial separation and removal of CO₂ from a manufacturing process or any other process. The definition does not include transportation, distribution, purification, compression, or processing of CO₂.

(12) "Cease to operate" for the purposes of this division means the regulated entity did not operate any GHG-emitting processes for an entire year. Continued operation of space heaters and water heaters as necessary until operations are restarted in a subsequent year does not preclude a source from meeting this definition.

(13) "C.F.R." means Code of Federal Regulations and unless otherwise expressly identified refers to the December 9, 2016 edition.

(14) "Cogeneration unit" means a unit that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy and waste heat recovery.

- (15) "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, (though not to the point of liquefaction), typically to pressures ranging from 2900 to 3600 pounds per square inch.
- (16) "Consumer-owned utility" means a people's utility district organized under ORS Chapter 261, a municipal utility organized under ORS Chapter 225, or an electric cooperative organized under ORS Chapter 62.
- (17) "Data year" means the calendar year in which emissions occurred.
- (18) "Designated representative" means the person responsible for certifying, signing, and submitting a greenhouse gas emissions data report, and any registration or report required to be submitted under this division, on behalf of a regulated entity. For owners or operators of Oregon Title V Operating Permits the designated representative is the responsible official and certification must be consistent with OAR 340-218-0040(5).
- (19) "Direct emissions" means emissions from a stationary source, including but not limited to fuel combustion activities, process related emissions, and fugitive emissions.
- (20) "EIA" means the Energy Information Administration. The Energy Information Administration (EIA) is a statistical agency of the United States Department of Energy.
- (21) "Electricity generating unit" means any combination of physically connected generator(s), reactor(s), boiler(s), combustion turbine(s), or other prime mover(s) operated together to produce electric power.
- (22) "Electricity service supplier" has the meaning given that term in ORS 757.600.
- (23) "Electricity supplier" means persons that import, sell, allocate, or distribute electricity to end users in the state, including but not limited to the following types of entities:
- (a) Investor-owned utilities;
 - (b) Electricity service suppliers; and
 - (c) Consumer-owned utilities.
- (24) "Emissions data report" means the report prepared and submitted to DEQ that provides the information required to be reported under this division. The emissions data report is for the year prior to the year in which the report is due, also known as the data year.
- (25) "Export" means to transport fuel from locations within Oregon to locations outside of the state, by any means of transport, other than in the fuel tank of a vehicle for the purpose of propelling the vehicle.
- (26) "Fuel supplier" means a supplier of petroleum products, liquid petroleum gas, biomass-derived fuels, or natural gas including operators of interstate pipelines, or liquefied natural gas.
- (27) "Fluorinated heat transfer fluids" is a fluorinated GHG that has the meaning given to that term in 40 C.F.R. 98.98.
- (28) "Environmental Attribute," for the purposes of reporting biogas, biomethane, and hydrogen under this division, means any and all environmental claims, credits, benefits, emissions reductions, offsets, and allowances attributable to the production or use of the fuel. The environmental attributes include, but are not limited to, the avoided greenhouse gas emissions associated with the production, transport, and combustion of a quantity of fuel compared with the same quantity of fossil gas.
- (29) "Global warming potential" or "GWP" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of carbon dioxide (the reference gas). The GWPs used for emissions calculation and reporting are specified in 40 C.F.R. part 98, subpart A, Table A-1-Global Warming Potentials.
- (30) "Greenhouse gas" or "GHG" means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases or fluorinated GHG as defined in 40 C.F.R. part 98.
- (31) "Gross generation" or "gross power generated" means the total electrical output of the generating facility or unit, expressed in megawatt hours (MWh) per year.
- (32) "High heat value" or "HHV" means the high or gross heat content of the fuel with the heat of vaporization included. The water vapor is assumed to be in a liquid state.
- (33) "Hydrofluorocarbons" (HFCs) means gaseous chemical compounds containing only hydrogen, carbon, and fluorine

atoms.

(34) "Hydrogen" means diatomic molecular hydrogen.

(35) To "Import" means bringing a product into Oregon from outside of the state.

(36) "Importer" means any person that brings a product into Oregon from outside of the state. Including any person owning electricity or fuel from locations outside of Oregon at the time electricity is brought into this state through transmission equipment or at the time fuel is brought into this state by any means of transport, other than fuel brought into this state in the fuel tank of a vehicle used to propel the vehicle.

(37) "In-state producer" means:

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

(b) With respect to any gaseous biomass-derived fuel, the person who refines, treats, or otherwise produces the fuel in Oregon; or

(c) With respect to any natural gas, the person who owns or operates one or more wells producing natural gas in Oregon.

(38) "Interstate pipeline" means a natural gas pipeline delivering natural gas across state boundaries for use in Oregon and that is subject to rate regulation by the Federal Energy Regulatory Commission (FERC).

(39) "Investor-owned utility" means a utility that sells electricity and that a corporation with shareholders operates.

(40) "Large natural gas end users" means any end user receiving greater than or equal to 460,000 Mscf during the previous year.

(41) "Liquefied natural gas" or "LNG" means natural gas that is liquefied.

(42) "Local distribution company" or "LDC" means a legal entity that owns or operates distribution pipelines and that physically delivers natural gas to end users in the state. This includes public utility gas corporations and intrastate pipelines engaged in the retail sale, delivery, or both of natural gas. This excludes interstate pipelines.

(43) "Multi-jurisdictional utility" means a utility that is an electricity retail provider to customers in a service territory that is at least partially located in Oregon and at least one other state.

44) "Metric ton," "tonne," "metric tonne," or "MT" means a common international measurement for mass, equivalent to 2204.6 pounds or 1.1 short tons.

(45) "MMBtu" means million British thermal units.

(46) "Mscf" means one thousand standard cubic feet.

(47) "Natural gas" means a naturally occurring mixture derived from anthropogenic or fossil sources of gaseous hydrocarbons and other compounds consisting primarily of methane. For the purposes of this division the term includes natural gas in all gaseous and liquid forms.

(48) "Natural gas marketer" means a person that arranges for the purchasing or selling of natural gas but that does not own physical assets in Oregon used in the supply of natural gas such as pipelines.

(49) "Natural gas supplier" means any person that imports, sells, produces, or distributes natural gas to end users in Oregon.

(50) "Net generation" or "net power generated" means the gross generation minus station service or unit service power requirements, expressed in megawatt hours (MWh) per year. In the case of cogeneration, this value is intended to include internal consumption of electricity for the purposes of a production process, as well as power put on the grid.

(51) "Perfluorocarbons" (PFCs) means gaseous chemical compounds containing only carbon and fluorine atoms.

(52) "Position holder" means any person that has an ownership interest in a specific amount of fuel in the inventory of a terminal as reflected in the records of the terminal operator or a terminal operator that owns fuel in its terminal. This does not include inventory held outside of a terminal, retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

(53) "Power contract" as used for the purposes of documenting specified versus unspecified sources of electricity means a written document, including associated verbal or electronic records if included as part of the written power contract, arranging for the procurement of electricity. A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier's system that is designated at the

time the transaction is executed. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, electricity transactions, and tariff provisions, without regard to duration, or written agreements to import or export on behalf of another person.

(54) "Pre-charged equipment" has the meaning in 40 C.F.R. 98.438.

(55) "Preference sales" means power distributed by Bonneville Power Administration to Oregon consumer-owned utilities, other than "surplus" power as that term is defined in 16 U.S.C. 839c(f) (2017).

(56) "Rack" means a mechanism for delivering fuel from a refinery or terminal into a truck, trailer, railroad car, or other means of non-bulk transfer.

(57) "Regulated entity" means any person subject to requirements to register and report under this division, as identified in OAR 340-215-0030.

(58) "Related entity" means any direct or indirect parent company, direct or indirect subsidiary, company that shares ownership of a direct or indirect subsidiary, or company under full or partial common ownership or control.

(59) "Retail sales" means electricity sold to retail end users.

(60) "Shut down" means that the regulated entity has evidence that all industrial operations of a regulated entity are permanently shut down, including but not limited to, decommissioning and cancelling air permits. Permanent shutdown may include continued operations of space heaters and water heaters as necessary to support decommissioning activities.

(61) "Specified source of electricity" or "specified source" means a facility or unit which is allowed to be claimed as the source of electricity delivered. The regulated entity must have either full or partial ownership in the facility or unit, or a written power contract to procure electricity generated by that facility or unit. Specified facilities or units include cogeneration systems. Specified source also means electricity procured from an asset-controlling supplier recognized by DEQ.

(62) "Terminal" means a fuel storage and distribution facility that is supplied by pipeline or vessel, or a facility collocated where the fuel is produced and stored, and from which fuel may be removed at a rack. In-state fuel production facilities that have distribution equipment that allow them to distribute directly to retail sites or end users meet the definition of a terminal.

(63) "Thermal energy" means the thermal output produced by a combustion source used directly as part of a manufacturing process, industrial or commercial process, or heating or cooling application, but not used to produce electricity.

(64) "Transmission loss correction factor" or "TL" means the correction to account for transmission losses between the busbar and receipt, which is either known if measured at the busbar, or is the default factor equal to 1.02.

(65) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity. For the purposes of this division, electricity imported, sold, allocated, or distributed to end users in this state through an energy imbalance market or other centralized market administered by a market operator is considered to be an unspecified source.

(66) "Verification" means a systematic and documented process for evaluation of an emissions data report as conducted by DEQ or in accordance with OAR chapter 340, division 272.

(67) "Year" means calendar year.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0030

RULE TITLE: Applicability

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify reporting applicability, particularly for solid waste landfills.

RULE TEXT:

(1) This division applies to all persons identified in sections (2) through (6) of this rule, except as provided in OAR 340-215-0032 and 340-215-0034.

(2) Stationary sources and electric power system facilities. Any person that owns or operates a source listed in subsections (a) through (c) must register and report in compliance with this division, if the source's direct GHG emissions meet or exceed 2,500 MT CO₂e during the previous year. Once a source's direct GHG emissions meet or exceed 2,500 MT CO₂e during a year, the person that owns or operates the source must annually register and report in each subsequent year, regardless of the amount of the source's direct GHG emissions in future years, except as provided in OAR 340-215-0032 and OAR 340-215-0034.

(a) Any source required to obtain a Title V Operating Permit.

(b) Any source required to obtain an Air Contaminant Discharge Permit.

(c) The following sources not otherwise listed in subsection (a) or (b):

(A) Solid waste disposal facilities required to obtain a permit issued under OAR chapter 340, divisions 93 through 96, excluding facilities that meet all of the following conditions:

(i) Did not accept waste during the previous year; and

(ii) Are not required to report greenhouse gas emissions to EPA under 40 C.F.R. part 98; and

(iii) Are not required to report methane generation rates under OAR chapter 340, division 239.

(B) Wastewater treatment facilities required to obtain an individual National Pollutant Discharge Elimination System permit issued under OAR chapter 340, division 45; and

(C) Electric power system facilities as defined in 40 C.F.R. part 98 subpart DD located in Oregon and owned or operated by investor-owned utilities.

(3) Fuel suppliers and in-state producers.

(a) Except as provided in subsection (b), the following persons that import, sell, or distribute fuel for use in the state, must register and report in compliance with this division:

(A) Any dealer, as that term is defined in ORS 319.010 that is subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax under OAR chapter 735, division 170;

(B) Any seller, as that term is defined in ORS 319.520, that is subject to the Oregon Use Fuel Tax under OAR chapter 735, division 176;

(C) Any person that produces, imports, sells, or distributes at least 5,500 gallons of gasoline, distillate fuel oil, biofuels, or aircraft fuel during a year for use in the state and that is not subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax or the Oregon Use Fuel Tax under OAR chapter 735, divisions 170 and 176; and

(D) Any person that imports propane for use in the state if the person's total imports brought into the state are equal to or more than 10,500 gallons of propane in a year.

(b) Persons listed in paragraphs (3)(a)(B) and (C) are not required to register and report fuel that is separately reported under this division by dealers described in paragraph (3)(a)(A).

(4) Natural gas suppliers. Any person, including but not limited to local distribution companies, interstate pipelines, and owners or operators of facilities, that either produce natural gas, compressed natural gas, or liquefied natural gas in Oregon, or that import, sell, or distribute natural gas, compressed natural gas, or liquefied natural gas to end users in the state, must register and report in compliance with this division.

(5) Electricity suppliers. All investor-owned utilities, multi-jurisdictional utilities, electricity service suppliers, consumer-owned utilities, and other persons that import, sell, allocate, or distribute electricity to end users in the state must

register and report in compliance with this division.

(6) Petroleum and natural gas systems. Any person that owns or operates a facility physically located in Oregon that contains petroleum and natural gas systems industry segments listed in 40 C.F.R. 98.230(a)(1) through (10) must register and report in compliance with this division, as applicable under subsections (a) through (e):

(a) For a facility, as defined in 40 C.F.R. 98.6 that contains the industry segments listed in 40 C.F.R. 98.230(1), (3), (4), (5), (6) or (7), if the facility's greenhouse gas emissions meet or exceed 2,500 MT CO₂e per year.

(b) For a facility with respect to onshore petroleum and natural gas production as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(c) meet or exceed 2,500 MT CO₂e per year.

(c) For a facility with respect to natural gas distribution as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(i) meet or exceed 2,500 MT CO₂e per year.

(d) For a facility with respect to onshore petroleum and natural gas gathering and boosting as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(j) meet or exceed 2,500 MT CO₂e per year.

(e) For a facility with respect to the onshore natural gas transmission pipeline segment as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(m) meet or exceed 2,500 MT CO₂e per year.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0034

RULE TITLE: Changes in Ownership and Cessation of Reporting Requirements

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify reporting and notification requirements when a change of ownership for a regulated entity occurs.

RULE TEXT:

(1) Cessation of reporting for reduced emissions.

(a) A regulated entity is no longer required to report if the regulated entity retains records as required in subsection (b), makes the report required in subsection (c), and if any of the following are applicable:

(A) Direct total reported emissions for stationary sources required to register and report under OAR 340-215-0030(2) are less than 2,500 MT CO₂e per year for a consecutive three year period. If total reported emissions for a stationary source meets or exceeds 2,500 MT CO₂e in any year after the reporting cessation requirements have been met, persons that own or operate the stationary source must resume reporting as required under this division;

(B) Fuel suppliers, including natural gas suppliers, and in-state producers that cease to supply fuel in Oregon after submitting an emissions data report for the year in which they ceased to supply fuel in Oregon, provided that:

(i) Fuel suppliers and in-state producers that cease to have a reporting obligation due to a change in ownership or that cease to do business in Oregon must report emissions from the reportable fuel transactions that occurred up to the date of the change in ownership or up to the date the business ceases to operate in the state; and

(ii) If a fuel supplier or in-state producer supplies fuel in Oregon in any year after the reporting cessation requirements have been met, the fuel supplier must resume reporting as required under this division;

(C) Electricity suppliers that cease to supply electricity in Oregon, after submitting an emissions data report for the year in which they ceased to supply electricity in Oregon. If an electricity supplier provides electricity in Oregon in any year after the reporting cessation requirements have been met, the electricity supplier must resume reporting as required under this division.

(b) Persons that cease reporting under this section and are no longer subject to reporting under this division must retain the records required under OAR 340-215-0042 for a period of five years following the last year that they were subject to reporting, including all production information, fuel use records, emission calculations and other records used to document greenhouse gas emissions. Persons meeting cessation requirements specified in paragraph (1)(a)(A) must retain records for each of the three consecutive years that the person does not meet or exceed the emission threshold for a period of five years following the last year they met the cessation requirements; and

(c) Persons that meet the applicable cessation of reporting requirements of this section must notify DEQ in writing of their reason(s) for ceasing to report no later than the applicable reporting deadline for the year.

(2) Cessation of reporting when a stationary source is permanently shut down. If the operations of a stationary source are changed such that all applicable greenhouse gas emitting processes and operations permanently cease to operate or are shut down, then:

(a) The person that owns or operates the stationary source must submit an emissions data report for the year in which the source's greenhouse gas emitting processes and operations ceased to operate;

(b) The person that owns or operates the stationary source must submit a written notification to DEQ that announces the cessation of reporting and certifies to the cessation of all greenhouse gas emitting processes and operations no later than the reporting deadline of the year following the cessation of operations or permanent shutdown; and

(c) This section does not apply to seasonal operational cessations, other temporary cessation of operations, or solid waste disposal facilities that are required to report under 40 C.F.R. part 98.

(3) Changes in ownership or operational control. If a regulated entity undergoes a change of ownership or operational control, the following requirements apply regarding reporting and providing notice to DEQ:

(a) The new person that owns or operates the regulated entity must notify DEQ in writing of the ownership or operational control change within 30 calendar days of the ownership or operation control change, including providing

the following information:

(A) The name of the previous owner or operator;

(B) The name of the new owner or operator;

(C) The date of ownership or operator change;

(D) The name of a new designated representative;

(E) The name of persons managing data and records required to be reported by this division; and

(F) Any changes to information reported in compliance with OAR 340-215-0040(6).

(b) Reporting responsibilities. The person that owns or operates the regulated entity at the time of a reporting deadline specified in this division has the responsibility for complying with the requirements of this division, and:

(A) Except as specified in paragraph (B), if an ownership change takes place during the year, reported data must not be split or subdivided for the year, based on ownership. A single annual emissions data report must be submitted by the person that owns or operates the regulated entity at the time of the applicable reporting deadline; and

(B) If an ownership change to a fuel supplier or in-state producer takes place during the year, reported data may be subdivided for the year in compliance with OAR 340-215-0034(1)(a)(B)(i) provided that the person that owns or operates the regulated entity at the time of the applicable reporting deadline ensures that all the requirements of this division are met by the prior owner or operator.

(4) Any person specified in OAR 340-215-0030 that has ceased reporting under this rule must resume reporting for any future year during which any of the greenhouse gas emitting processes or operations resume operation and are subject to reporting as required by this division.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0040

RULE TITLE: Greenhouse Gas Registration and Reporting Requirements

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to address requirements for reporting related entity information and clarifies reporting of contractual deliveries of biomethane and hydrogen using book and claim accounting.

RULE TEXT:

(1) Each registration or emissions data report submitted by a regulated entity according to this division must contain certification by a designated representative of the truth, accuracy, and completeness of the submission. This certification and any other certification required under this division must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. The certification must contain the following statement: "Based on information and belief formed after reasonable inquiry, I certify under penalty of perjury that the statements and information submitted are true, accurate and complete."

(2) DEQ may require a regulated entity to submit or make available additional information if the materials submitted with the emissions data report are not sufficient to determine or verify greenhouse gas emissions and related information. Regulated entities must provide within 14 calendar days of notification, unless a different schedule is approved by DEQ, any and all information that DEQ requires for the purposes of assessing applicability, verifying or investigating either or both actual and suspected sources of greenhouse gas emissions, and to ascertain compliance and noncompliance with rules in this division.

(3) Calculating total greenhouse gas emissions. Total carbon dioxide equivalent emissions (CO₂e) must be calculated as the sum of the CO₂, CO₂ from biomass-derived fuels, CH₄, N₂O, and each fluorinated GHG required to be reported in an emissions data report in compliance with this division using equation A-1 in 40 C.F.R. 98.2.

(4) Alternative calculation methods. Regulated entities may petition DEQ to use calculation methods other than those specified in this division. Regulated entities must receive written DEQ approval to use alternative calculation methods prior to reporting.

(5) Third-party verification of emissions data reports. Regulated entities must comply with the requirements of OAR chapter 340, division 272 for third-party verification of emissions data reports, as applicable.

(6) Fuel suppliers and in-state producers must report legal names and addresses of all related entities subject to this division annually by the reporting deadline specified in OAR 340-215-0046(1)(c).

(7) A regulated entity may only use book and claim accounting to report contractual deliveries of biomethane or hydrogen injected into a pipeline when:

(a) The pipeline is part of the natural gas transmission and distribution network connected to Oregon that allows for the transport of biomethane or hydrogen, as applicable; and

(b) No person has used or claimed the environmental attributes of such biomethane or hydrogen in any other program or jurisdiction with the exception of:

(A) The federal Renewable Fuel Standard Program, any reporting required under OAR chapter 340, division 253, or the program under OAR chapter 340, division 271; or

(B) With DEQ written approval, any other program or jurisdiction where DEQ has confirmed that the claim on the environmental attributes can be made for the same use and volume of biomethane or its derivatives as is being claimed under this division.

STATUTORY/OTHER AUTHORITY: ORS 468A.050

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0042

RULE TITLE: Recordkeeping Requirements

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to update the requirements for GHG data monitoring plans for certain entities, expand the requirements for recordkeeping of exported fuel products and adds requirements for recordkeeping related to the reporting of biogas, biomethane and hydrogen. This includes book and claim accounting requirements related to reporting contractual deliveries of certain fuels.

RULE TEXT:

(1) Each regulated entity subject to the requirements under OAR chapter 340, division 272 must retain all records as required by this rule, and any records or other materials maintained under any applicable requirements of 40 C.F.R. part 98, in paper or electronic format, or both, for a period of at least seven years.

(2) Each regulated entity not subject to the requirements under OAR chapter 340, division 272 must retain all records as required by this rule, and any records or other materials maintained under any applicable requirements of 40 C.F.R. part 98, in paper or electronic format, or both, for a period of at least five years.

(3) Each regulated entity must retain records sufficient to document and allow for verification of each emissions data report submitted to DEQ and make such information available for verification upon request. This includes, but is not limited to the following:

- (a) A list of all units, operations, processes, and activities for which GHG emission were calculated, as applicable;
- (b) The data and information used to calculate emissions for each unit, operation, process, and activity, categorized by fuel or material type. These data include, but are not limited to the following:
 - (A) The GHG emissions calculations and methods used;
 - (B) Analytical results for the development of site-specific emissions factors;
 - (C) The results of any analyses for high heat value, carbon content, and other fuel or feedstock parameters conducted or as required under 40 C.F.R. part 98, if applicable; and
 - (D) Any facility operating data or process information used for the GHG emission calculations;
- (c) Records of supporting documentation required by or used to prepare the emissions data report, including but not limited to underlying monitoring and metering data, invoices of receipts or deliveries, fuel use records, production information, sales transaction data, electricity or fuel transaction data, calibration records, and any other relevant information;
- (d) Any annual emissions data report(s) submitted to DEQ, including any revised emissions data report(s);
- (e) Documentation to support any revision(s) made to any emissions data report(s);
- (f) Records of supporting documentation and calculations for any missing data computations according to 40 C.F.R. part 98, or otherwise. Retain a record of the cause of the event and the corrective actions taken to restore malfunctioning monitoring equipment;
- (g) The results of all required certification and quality assurance tests of continuous monitoring systems, fuel flow meters, and other instrumentation used to provide data to calculate emissions reported under this division;
- (h) Maintenance records for all continuous monitoring systems, flow meters, and other instrumentation used to provide data to calculate emissions reported under this division; and
- (i) The GHG data monitoring plan required under OAR 340-215-0042(11).

(4) Regulated entities reporting biomass-derived fuels or hydrogen, as required under OAR 340-215-0044(5), must retain supporting documentation that authenticates the purchase quantity and quality of the hydrogen or gaseous or liquid biomass-derived fuel between parties. This supporting documentation:

- (a) May include, but is not limited to, documentation from each upstream party, invoices, bills of lading, shipping reports, balancing reports, storage reports, in-kind nomination reports, allocation, contracts confirming the source of fuel supplied in the state, attestations, information on the environmental attributes associated with the sale or use of the fuel, renewable thermal credit or certificate records, or any combination therein; and

(b) When reporting biogas, biomethane, or hydrogen, must include attestations from each upstream party collectively demonstrating that no other upstream party can make a claim on environmental attributes that are being reported under this division. The quantity of energy covered by the environmental attributes must match or exceed the energy of fuel reported under this division.

(5) When reporting direct delivery of biogas, biomethane, or hydrogen in Oregon regulated entities must retain documentation that shows the fuel type and quantity directly delivered from the point of origin to the point of use in Oregon.

(6) When reporting contractual deliveries of biomethane or hydrogen using book and claim accounting the regulated entity must retain and make available:

(a) Records demonstrating the specific quantity of gas claimed was injected into a pipeline that is part of the natural gas transmission and distribution network connected to Oregon in the current data year and link those environmental attributes to a corresponding quantity of gas withdrawn for use in Oregon;

(b) Records demonstrating the quality of the fuel reported;

(c) Records documenting the fuel production facility, the facility's production and purification process, facility location and feedstock(s). This may include, but is not limited to, documentation of feedstock production and schemata of the production method;

(d) Records demonstrating the full lifecycle carbon intensity of the reported fuel including all records supporting the estimation of the reported carbon intensity value required under OAR 340-215-0044(5)(b)(I);

(e) If using an electronic tracking system approved by DEQ for book and claim accounting, records demonstrating the retirement of all environmental attributes of that fuel that are being reported under this division. The quantity of energy covered by the environmental attributes must match or exceed the energy of fuel reported under this division;

(f) Records demonstrating that the retired or claimed environmental attribute was generated from gas injected into the pipeline within the same reporting data year; and

(g) Any records used in the reporting of information required under OAR 340-215-0044(5)

(7) Each regulated entity that is an in-state producer or fuel supplier, including a natural gas supplier, must retain records for exported products. Records must demonstrate delivery to a final destination outside Oregon, indicate the amount delivered, type of fuel delivered, delivery date and identify the state the fuel was delivered to. This may include, but is not limited to, product transfer documents, bills of lading, invoices, contracts, meter tickets, and rail inventory sheets.

(8) Each regulated entity that is an electricity supplier must retain documentation supporting claims of specified sources of electricity.

(9) Electricity suppliers that sell wholesale electricity must maintain records for each sale of specified or unspecified source sales.

(10) Each person designated by DEQ as an asset-controlling supplier must retain documentation to confirm that the power sold by the supplier originated from the supplier's fleet of facilities and either that the fleet is under the supplier's operational control or that the supplier has exclusive rights to market electricity for the fleet or facility.

(11) Regulated entities subject to 40 C.F.R. part 98 federal requirements and any entity subject to the requirements under OAR chapter 340, division 272, except electricity suppliers, must complete and retain a written GHG data monitoring plan that meets the requirements of 40 C.F.R. part 98.3(g)(5). The GHG data monitoring plan must be made available for verification upon request. Electricity suppliers subject to OAR chapter 340, division 272 must complete and retain a written GHG data monitoring plan with the following information:

(a) Information to allow the verification team to develop a general understanding of entity boundaries, operations, and electricity transactions;

(b) Reference to management policies or practices applicable to reporting under this division;(c) List of key personnel involved in compiling data and preparing the emissions data report;

(d) Documentation of training practices and policies applicable to reporting under this division for electricity suppliers;

(e) Query data to determine the quantity of electricity (MWh) reported and query description;

- (f) Reference to other independent or internal data management systems and records, including written power contracts and associated verbal or electronic records, full or partial ownership, invoices, and settlements data used to document whether reported transactions are specified or unspecified;
 - (g) Description of steps taken and calculations made to aggregate data into reporting categories;
 - (h) Records of preventive and corrective actions taken to address verifier and DEQ findings of past nonconformances and material misstatements;
 - (i) Log of emissions data report modifications; and
 - (j) A written description of an internal audit program that includes emissions data report review and documents ongoing efforts to improve the GHG data management.
- (12) Regulated entities must make all records required to be created and retained under this division, including all required documentation described in this division, available for review and verification upon written request by DEQ within 14 calendar days of notification, unless a different schedule is approved by DEQ.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0044

RULE TITLE: Emissions Data Reports

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify when individual reports must be submitted by a regulated entity and the information required when reporting biomass-derived fuels or hydrogen. The proposed rules specifically address the reporting of biomethane and hydrogen and the use of book and claim accounting.

RULE TEXT:

- (1) Regulated entities must monitor emissions and submit emissions data reports to DEQ following the requirements specified in this division. Individual emissions data reports are identified as follows:
 - (a) An individual emissions data report must be submitted by and for each stationary source and electric power system facility required to register and report under OAR 340-215-0030(2);
 - (b) An individual emissions data report including emissions from all electric power system facilities located in Oregon must be submitted by an investor-owned utility required to register and report under OAR 340-215-0030(2)(c)(C);
 - (c) An individual emissions data report must be submitted by each fuel supplier and in-state producer required to register and report under OAR 340-215-0030(3);
 - (d) An individual emissions data report must be submitted by each natural gas supplier and in-state producer required to register and report under OAR 340-215-0030(4);
 - (e) An individual emissions data report must be submitted by each electricity supplier required to register and report under OAR 340-215-0030(5) and by any third-party that reports on behalf of a consumer-owner utility. A third-party reporting on behalf of a consumer-owned utility must also include all information described under OAR 340-215-0120(4) and (5), as applicable;
 - (f) An individual emissions data report submitted by each asset-controlling supplier seeking designation by DEQ must include all information described under OAR 340-215-0120(7); and
 - (g) An individual emissions data report must be submitted by the owner or operator of a facility containing petroleum and natural gas systems required to register and report under OAR 340-215-0030(6) and must include all emissions and related information described in OAR 340-215-0125.
- (2) When monitoring emissions and submitting emissions data reports, regulated entities must:
 - (a) Utilize registration and reporting tools approved and issued by DEQ for all certifications and submissions;
 - (b) Submit and certify completed registration and emissions data reports. A separate emissions data report must be submitted for each emission data report type identified in this rule, as applicable, and for each individual stationary source, and must include all data and information as required by OAR 340-215-0105 through OAR 340-215-0125, as applicable; and
 - (c) Submit and certify any revisions to emissions data reports. If a regulated entity identifies an error in a submission, or is notified of such an error, the regulated entity must submit a revision to correct the error within 45 calendar days of discovery. Regulated entities subject to the requirements under OAR chapter 340, division 272 must submit revisions in compliance with division 272.
- (3) Emissions data reports submitted to DEQ must include the following information:
 - (a) Facility name or supplier name (as appropriate), facility or supplier ID number, and physical street address of the facility or supplier, including the city, state, and zip code;
 - (b) Year and months covered by the report;
 - (c) Date of submittal;
 - (d) All information required by this division to calculate and report greenhouse gas emissions;
 - (e) Annual emissions of each greenhouse gas, as required under this division; and
 - (f) A certification from the designated representative as required under OAR 340-215-0040(1).
- (4) Increases or decreases in emissions. If a regulated entity subject to OAR 340-215-0105 submits an emissions data report that indicates emissions equaled or exceeded 25,000 MT CO₂e during the previous year, then the regulated

entity must include the following information in the emissions data report:

- (a) Whether a change in operations or status resulted in an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous data year; and
- (b) If there is an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous year, the regulated entity must provide a brief narrative description of what caused the increase or decrease in emissions. Include in this description any changes to the regulated entity's permit status.
- (5) When reporting biomass-derived fuels and hydrogen, the following requirements also apply:
 - (a) In addition to the requirements of section (3), a regulated entity reporting biomass-derived fuels or hydrogen must retain records as required by OAR 340-215-0042, and separately identify, calculate, and report:
 - (A) All direct emissions of biogenic CO₂ resulting from the combustion of biomass-derived fuels; and
 - (B) For stationary sources direct emissions of biogenic CO₂ resulting from the oxidation of biomass-derived fuels;
 - (b) When reporting fuels where biomass and fossil feedstocks are processed in the same facility to produce the fuel, persons may request DEQ approval of a methodology for the attribution of the biogenic feedstock to determine the amount of the final reported product that may be reported as biogenic. Regulated entities must receive written DEQ approval to use the attribution methodology prior to reporting;
 - (c) When reporting emissions from gaseous biomass-derived fuels or use of hydrogen, report the following information for each contracted delivery:
 - (A) The type and quality of the gas, including the high heating value of the claimed gas;
 - (B) Name and address of all intermediary and direct vendor(s) from which the fuel is purchased;
 - (C) Name, address, and facility type from which the fuel was produced;
 - (D) Annual amount contractually delivered, disaggregated by each vendor, in MMBtu for biomethane, kilograms for hydrogen and standard cubic feet for other gaseous fuels;
 - (E) Feedstock(s) used to produce the gas;
 - (F) Method(s) used to produce the gas;
 - (G) Month and year in which the gas was produced;
 - (H) Method of delivery to Oregon;
 - (I) The lifecycle carbon intensity, as defined in OAR chapter 340, division 253 of the pathway for the contractually delivered biomethane or hydrogen. Lifecycle carbon intensity values must be estimated using the methodology and tools described in OAR chapter 340, division 253. Upon request from a regulated entity showing good cause to use a different method than one described in OAR chapter 340, division 253, DEQ may approve another methodology;
 - (J) Based on the quantity of biomethane or hydrogen reported using book and claim accounting, the equivalent amount of natural gas use in Oregon (MMBtu);
 - (K) Name and air permit source identification number for the final end user of the gas in Oregon, if applicable; and
 - (L) Records demonstrating that no other party can make a claim on environmental attributes that are being reported under this division. The quantity of energy covered by the environmental attributes must match or exceed the volume of fuel reported under this division. Records must demonstrate that the retired renewable thermal credits, certificates or claimed environmental attributes were generated within the same reporting data year; and
 - (d) Regulated entities reporting contractual deliveries of gas using book and claim accounting must also:
 - (A) Report the specific type and volume of gas claimed as injected into a natural gas pipeline and delivered to Oregon in the reporting data year;
 - (B) Report the point of injection into a pipeline connected to Oregon;
 - (C) If using an electronic tracking system approved by DEQ for book and claim accounting, the regulated entity must submit records showing the retirement of all environmental attributes of the gas that are being reported under this division; and
 - (e) Retain and make available sufficient records to allow for verification of all reporting requirements in this section, including but not limited to those described in OAR 340-215-0040(7) and OAR 340-215-0042.
 - (6) Regulated entities subject to the requirements of 40 C.F.R. 98.3(i) must meet those requirements for data used in

developing emissions data reports.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0046

RULE TITLE: Reporting Deadlines

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify when reports must be submitted and the deadlines that apply to new recordkeeping requirements.

RULE TEXT:

(1) Reporting deadlines.

(a) Stationary sources and electric power system facilities required to register and report under OAR 340-215-0030(2) must register and submit annual emissions data reports to DEQ under OAR 340-215-0044 by the due date for the annual report for non-greenhouse gas emissions specified in the source's Title V Operating Permit or Air Contaminant Discharge Permit, or by March 31 of each year, whichever is later.

(b) The following regulated entities must register and submit annual emissions data reports to DEQ by March 31 of each year:

(A) Natural gas suppliers required to register and report under OAR 340-215-0030(4); and

(B) Petroleum and natural gas systems required to register and report under OAR 340-215-0030(6).

(c) Fuel suppliers and in-state producers required to register and report under OAR 340-215-0030(3) must register and submit an annual emissions data report to DEQ by April 30 of each year.

(d) Electricity suppliers required to register and report under OAR 340-215-0030(5) must register and submit an annual emissions data report to DEQ by June 1 of each year.

(2) Electricity suppliers required to register and report under OAR 340-215-0030(5) must retain documentation supporting claims of each specified source of electricity as required by OAR 340-215-0042(6) beginning in 2022 for data year 2021, and in each year thereafter (i.e., those persons do not have to report that information in reports submitted in 2021).

(3) Regulated entities reporting GHG emissions from biomass-derived fuels or hydrogen may request DEQ approval for exemptions from any of the requirements of OAR 340-215-0042(4) through (7) and OAR 340-215-0044(5) for the 2023 data year. DEQ will not approve exemptions that would impact the quantification of emissions reported under this division. DEQ will consider requests for exemptions based on the regulated entity's inability to implement necessary changes in time to comply with those requirements. Regulated entities must submit requests for exemptions under this section no later than February 1, 2024, and must receive written DEQ approval of exemptions prior to filing 2023 data year reports required under this division. Starting in 2025 for data year 2024, and each year thereafter, regulated entities must report and retain records as described in OAR 340-215-0042(4) through (7) and OAR 340-215-0044(5), as applicable, and DEQ will not approve any exemptions to those requirements.

(4) DEQ may extend the reporting deadlines and effective dates described in this rule as DEQ deems necessary and will issue notice of any extension.

(5) If a reporting deadline described in this rule occurs on a Saturday, Sunday, or an Oregon state holiday, the deadline is extended to the following business day.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0105

RULE TITLE: Requirements for Stationary Sources and Electric Power System Facilities

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify quantification methodology requirements and exemptions for reporting by stationary sources. The proposed amendments address reporting by carbon dioxide suppliers, in-state producers of goods containing fluorinated greenhouse gases, and entities reporting biogas, biomethane or hydrogen use.

RULE TEXT:

Regulated entities required to register and report to DEQ under OAR 340-215-0030(2) must:

(1) Unless otherwise specified in this rule, calculate and report all GHG emissions for which there are quantification methodologies described in 40 C.F.R. part 98 subparts C through UU or in this division, using methodologies described in such rules. Such reports must include all data and information described in such rules. This division, however, describes the reporting applicability requirements and the applicability provisions of 40 C.F.R. part 98 subparts C through UU shall not be used. Such reports may exclude emissions from categorically insignificant activities. If categorically insignificant activities cannot be separated from other activities, entities may report aggregate emissions that include categorically insignificant activities. In addition:

(a) Regulated entities that are in-state producers may exclude data and information described in 40 C.F.R. part 98 subpart MM and NN from an individual emissions data report described in OAR 340-215-0044(1)(a) but must comply with OAR 340-215-0110 and OAR 340-215-0115, as applicable; and

(b) Regulated entities that are carbon dioxide suppliers must report data and information described in 40 C.F.R. part 98 subpart PP;

(2) As applicable, separately report fuel types, quantities, and emissions from fuel combustion reported utilizing 40 C.F.R. part 98, subpart H - Cement Production, subpart W - Petroleum and Natural Gas Systems, and subpart AA - Pulp and Paper Manufacturing quantification methodology;

(3) Provide supplemental documentation, including data inputs for equations to describe how emissions are calculated. Data inputs include but are not limited to fuel throughput, emission factors, and production volumes or product usage used to calculate emissions;

(4) For stationary sources and electric power system facilities that include electricity generating units, cogeneration units, or both that meet the applicability requirements of section OAR 340-215-0030(2), follow the requirements of subparts C and D of 40 C.F.R. part 98, as applicable, in reporting emissions and other data from electricity generating and cogeneration. In addition, such regulated entities must report the following information:

(a) Information for each facility as defined in 40 C.F.R. 98.6, including separately for each facility under the same air quality permit: name, address, and contact person and phone number;

(b) If applicable, report facility identification numbers assigned by the U.S. Energy Information Administration, California Air Resources Board and Federal Energy Regulatory Commission's Public Utility Regulatory Policies Act of 1978 ("PURPA") Qualifying Facility program;

(c) Report net and gross electricity generated in megawatt-hours; and

(d) Regulated entities that own or operate a cogeneration unit must report the thermal energy in MMBtu generated by a combustion source that is used directly as part of a manufacturing, industrial or commercial process, or as part of a heating or cooling application, separately for the following categories: generated thermal energy provided to end users outside the stationary source facility boundary and generated thermal energy for on-site industrial applications not related to electricity generation;

(5) An investor-owned utility that owns or operates electric power system facilities as defined in 40 C.F.R. part 98 subpart DD in Oregon must report emissions utilizing calculation methodologies in 40 C.F.R. part 98 subpart DD and must submit an emissions data report including all emissions from electric transmission and distribution equipment and servicing inventory physically located in Oregon for the previous year;

(6) For in-state producers of goods containing fluorinated greenhouse gases in pre-charged equipment or closed-cell foams, report the mass of each fluorinated greenhouse gas in all goods produced in a year and comply with 40 C.F.R. part 98 subpart QQ in reporting emissions to DEQ as modified below:

(a) Report total mass in metric tons of each fluorinated greenhouse gas contained within pre-charged equipment or closed cell foams;

(b) For each type of pre-charged equipment with a unique combination of charge size and charge type, report the identity of the fluorinated greenhouse gas used as a refrigerant or electrical insulator, charge size, holding charge, where applicable and number produced;

(c) For closed-cell foams the identity of the fluorinated greenhouse gas in the foam, the density of the fluorinated GHG in the foam (kilograms of fluorinated greenhouse gas per cubic feet), and the volume of foam produced (tons) for each type of closed-cell foam with a unique combination of F-GHG density and identity;

(d) Calculate greenhouse gas emissions from foam blowing operations using the following equation. When the blowing agent is a blend of gases, emissions must be calculated separately for each constituent of the blowing agent used during the foam manufacturing process:

$$FCO2e = \{[(TFP \times (ATi + ASi) \times BAFi) + (FP \times BAFi \times MFLi)] \times GWPi\} \times 0.907185$$

For the purposes of the calculation in this subsection (d), the following definitions apply:

"FCO2e" means annual total mass of fluorinated greenhouse gas emissions of carbon dioxide equivalent (metric tons);

"TFP" means total amount of foam produced (tons);

"ATi" means average percent blowing agent, i, in trim (tons);

"ASi" means average percent blowing agent, i, in scrap (tons);

"BAFi" means percent of blowing agent, i, constituent in foam (tons);

"FP" means finished product (tons);

"MFLi" means mass fraction loss from off gassing curve for blowing agent, i, approved by DEQ (tons/year);

"GWPi" means global warming potential for each constituent of the blowing agent found in table A-1 of 40 C.F.R. part 98; and

"0.907185" is applied to convert tons to metric tons; and

(e) Regulated entities that use fluorinated gasses described in table A-1 of 40 C.F.R. part 98 as blowing agents in foam blowing operations may request DEQ approval of alternate emissions calculation methods for this operation, process, or activity as described in OAR 340-215-0040(4). Regulated entities must receive written DEQ approval to use the petitioned emissions calculation methods prior to reporting;

(7) Calculate and report emissions of biogenic CO₂ that originate from biomass-derived fuels separately from other greenhouse gas emissions. Report and retain information described in OAR 340-215-0042(4) and OAR 340-215-0044(5), as applicable, and use the following procedures when calculating emissions from biomass-derived fuels that are intermixed with fossil fuels:

(a) When calculating emissions from the combustion of municipal solid waste (MSW) or any other fuel for which the biomass fraction is not known, follow the procedures specified in 40 C.F.R. 98.33(e)(3) to specify a biomass fraction;

(b) When calculating emissions from a biomass-derived gas, reported using book and claim accounting, and natural gas mixture calculate emissions based on contractual deliveries of the biomass-derived gas, with the remainder of emissions being from natural gas, calculated according to the applicable methodology in 40 C.F.R. part 98; and

(c) When calculating emissions from a biogas and natural gas mixture using 40 C.F.R. 98.33(a)(4) or the carbon content method described in 40 C.F.R. 98.33(a)(3) or when calculating those emissions according to subpart D of 40 C.F.R. part 98, calculate biogas emissions using a carbon content method as described in 40 C.F.R. 98.33(a)(3), with the remainder of emissions being from natural gas;

(8) When reporting hydrogen using book and claim accounting, report the energy, volume, and the total emissions that would have resulted from the full combustion or oxidation of the displaced gaseous fuel using the following procedures:

- (a) When reporting hydrogen that displaces a gaseous fuel that is combusted, calculate and report the equivalent energy and volume of the gaseous fuel. Report the emissions that would have resulted from the full combustion of that fuel using applicable methodology in 40 C.F.R. part 98; and
- (b) When reporting hydrogen that displaces a gaseous fuel or feedstock that is used in a non-combustion process, calculate and report the amount of fuel or feedstock that is displaced by the reported amount of hydrogen. A stationary source must receive prior written DEQ approval to use its calculation methods to determine the amount of displaced fuel or feedstock it reports. Report the emissions that would have resulted from the non-combustion use of the fuel that was displaced using applicable methodology in 40 C.F.R. part 98.
- (9) When reporting emissions from the combustion of natural gas, report the name(s) of the supplier(s) of natural gas to the facility, including information identifying the seller of natural gas, natural gas customer account, and the annual MMBtu delivered to each account according to billing statements (10 therms = 1 MMBtu); and
- (10) Report the air permit numbers and NAICS codes according to 40 C.F.R. 98.3(c)(10).

STATUTORY/OTHER AUTHORITY: ORS 468A.050

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0110

RULE TITLE: Requirements for Fuel Suppliers and In-State Producers

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify reporting requirements for position holders and proposes new notification and recordkeeping requirements for exported fuels.

RULE TEXT:

Fuel suppliers and in-state producers including but not limited to gasoline, distillate fuel oil, propane, and aircraft fuel dealers required to register and report under OAR 340-215-0030(3), but not including natural gas suppliers, must:

(1) Report all quantities of fuel disbursed in the state by fuel type, regardless of whether the fuel is intended for transportation or non-transportation use and regardless of whether the fuel is subject to state or federal fuel taxes. Such reports must include the fuel type and quantity imported, sold, or distributed in this state during the previous year and quantities must be reported in standard cubic feet for gaseous fuels and gallons for liquid fuels. In addition:

(a) Fuel suppliers and in-state producers who report biomass-derived fuels must provide supporting documentation as required under OAR 340-215-0044(5); and

(b) Meeting the requirements of this division does not replace the requirements that must be met in order to satisfy the requirements of OAR chapter 340, division 253 for any given fuel supplier subject to the Oregon Clean Fuels Program (CFP);

(2) For reporting of regulated fuels as defined under OAR chapter 340, division 253, comply with OAR chapter 340 division 253 and submit quarterly and annual reports. In annual reports, persons dealing in regulated fuels as defined by OAR 340-253-0200(2) may further report fuel volumes by individual fuel type as defined in 40 C.F.R. part 98 subpart MM. If volumes are not reported by individual fuel type, default emission factors defined in 40 C.F.R. part 98 subpart MM must be used for emissions calculation purposes;

(3) For reporting all other fuels not reported as regulated fuels under section (2) including, but not limited to, importers and producers of opt-in fuels and small importers of finished fuels as defined by OAR 340-253-0040(86), report fuel imported or produced in the state during the previous year by fuel type as defined in 40 C.F.R. part 98 subpart MM.

Report as follows:

(a) For fuel imported outside of the bulk system report the type and quantity in temperature corrected (net) gallons of fuel the fuel supplier held title to or owned at the time the fuel is brought into Oregon from out of state or produced in Oregon that is delivered directly to intermediate storage, retail, or end users. Exclude fuel imported outside of the bulk system and delivered to a terminal storage facility in Oregon;

(b) Oregon position holders must report the type and quantity in temperature corrected (net) gallons of fuel owned and dispersed from terminals in Oregon as reflected in the records of the terminal operator. Exclude fuel that is transferred:

(A) From one terminal storage facility in Oregon to another terminal storage facility in Oregon; and

(B) Between entities within the terminal. Regulated entities must only report fuel that is owned as it is disbursed from the terminal;

(c) If formulations are unknown for a given quantity of gasoline, report that quantity of gasoline using the fuel type "Gasoline formulation unknown." If distillate or residual fuel oil numbers are unknown for a given quantity of distillate fuel oil, report that quantity using the fuel type "Diesel type unknown;" and

(d) Regulated entities must exclude ; gallons that the regulated entity imported or dispensed as a position holder in Oregon and that were subsequently exported out of state. Exported volumes must be excluded based on documentation that meets the requirements of this division, as typically provided in a bill of lading or product transfer document. Regulated entities must report all volumes of fuel imported or dispensed from a position holder in Oregon that are not documented as exported;

(4)(a) Fuel suppliers exporting fuel dispensed from a terminal in Oregon (each an "exporter") must notify the position holder owning title to that fuel as it was dispensed if the product transfer documents issued at the terminal do not accurately reflect the state where the fuel was ultimately delivered. The notification must:

- (A) Occur 30 calendar days prior to the reporting deadline; and
- (B) Include fuel types, volumes and delivery destination, based on documentation;
- (b) For fuel that was (i) delivered from the terminal to an intermediate storage location and then exported after being dispensed from intermediate storage, (ii) commingled with the same type of fuel, and (iii) purchased from multiple position holders, the exporter must inform position holders of the exports using the following method: The exporter must calculate the total exports from that intermediate storage tank by calendar quarter and fully tabulate which position holders it purchased fuel from and that was delivered to intermediate storage for that quarter. The exporter must then apportion the exported gallons to the position holders based on the percentage of fuel that the exporter purchased from each of the position holders in the calendar quarter. The entity exporting the fuel must provide written documentation to the position holder that it used this method to apportion the exports. Documentation must be made available to DEQ and the impacted position holder within 14 calendar days of a request from either DEQ or the position holder; and
- (5) For all fuel suppliers and in-state producers, calculate and report the CO₂, CO₂ from biomass-derived fuels, CH₄, N₂O, and CO₂e emissions in metric tons that would result from the complete combustion or oxidation of the annual quantity of fuel imported, sold, or distributed for use in this state. In such reports, GHG emissions must be calculated as follows:
 - (a) Utilize emission quantification methodology prescribed in 40 C.F.R. part 98 subpart MM and equation MM-1 as specified in 40 C.F.R. 98.393(a)(1) to calculate the CO₂ emissions and CO₂ from biomass-derived fuels that would result from the complete combustion of the fuel reported under this division;
 - (b) Calculate CH₄ and N₂O emissions using equation C-8 and Table C-2 as required in 40 C.F.R. 98.33(c)(1); and
 - (c) Utilize a DEQ assigned emission factor for fuel and emission types not listed in 40 C.F.R. part 98.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0115

RULE TITLE: Requirements for Natural Gas Suppliers and In-State Producers

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify the reporting and recordkeeping requirements for reporting contractual deliveries of biomethane and hydrogen by natural gas suppliers using book and claim accounting.

RULE TEXT:

Natural gas suppliers and in-state producers required to register and report under OAR 340-215-0030(4) must:

(1) Report the information required including the volume (Mscf), energy (MMBtu), type of natural gas, biomethane or hydrogen and associated emissions for all gas imported, sold, produced or distributed for use in the state for the previous year, and:

(a) If the regulated entity has developed reporter-specific emission factors or high heating values, then report the following:

(A) Information used to develop the reporter-specific emission factor(s) and/or higher heating value(s);

(B) The developed emission factor(s); and

(C) The developed higher heating value(s);

(b) For the purposes of this section large natural gas end users are end users receiving greater than or equal to 460,000 Mscf of natural gas during the year;

(c) Report biomethane contractually delivered to Oregon as specified under OAR 340-215-0044(5); and

(d) Natural gas suppliers contractually delivering hydrogen to end users in Oregon must also report information as specified under OAR 340-215-0044(5);

(2) For local distribution companies, calculate and report greenhouse gas emissions using quantification methodologies and report data and information described in 40 C.F.R. part 98 subpart NN for suppliers of natural gas and natural gas liquids, as applicable, unless otherwise specified in this rule including the following:

(a) In addition to submitting all information needed to meet the requirements of 40 C.F.R. 98.406(b)(1) through (b)(7), report the annual MMBtu of natural gas associated with the volumes reported;

(b) Report the amount of natural gas delivered to each large natural gas end user separately in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number if available; and

(c) Report identifying information for each natural gas marketer contracting use of the distribution system during the year including company name and address;

(3) For interstate pipeline owners and operators, report the total amount of natural gas delivered to end users in the state for use in the state, excluding gas delivered to an Oregon local distribution company, and:

(a) Report the annual amount of natural gas delivered to each large natural gas end user separately in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number(s) if available. In instances where multiple end users are downstream of a delivery point that registers at least 460,000 Mscf annually report the total gas delivered and identifying information for each user downstream of the delivery point; and

(b) Report identifying information for each natural gas marketer contracting use of the distribution system during the year including company name, and address;

(4) Importers of natural gas, by any means other than a pipeline distribution system or interstate pipeline, and in-state producers of natural gas or biomethane must separately report:

(a) The total amount of natural gas, compressed natural gas, liquefied natural gas and biomethane imported or produced and delivered or sold for use in the state, excluding volumes delivered to an Oregon local distribution company or injected into an interstate pipeline; and

(b) The total amount of natural gas, compressed natural gas, liquefied natural, or biomethane delivered to each large natural gas end user in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number if available; and

(5) For all natural gas suppliers, calculate and report the CO₂, biogenic CO₂ from any reported biomass-derived fuel,

CH₄, N₂O, and CO₂e emissions in metric tons that would result from the complete combustion or oxidation of the annual quantity of natural gas imported, sold, or distributed for use in this state. Calculate and report greenhouse gas emissions for the previous year utilizing emission quantification methodology prescribed in 40 C.F.R. part 98 and as follows:

- (a) Calculate greenhouse gas emissions separately for natural gas, compressed natural gas liquefied natural gas and biomethane;
- (b) Calculate and report CO₂ emissions as follows:
 - (A) Local distribution companies must utilize quantification methodologies and report all data elements as required by 40 C.F.R. 98 subpart NN - Suppliers of Natural Gas and Natural Gas liquids for the total volume of gas supplied in the state; and
 - (B) All other natural gas suppliers including interstate pipeline owners or operators, importers of natural gas, in-state producers must calculate and report using calculation methodology 1 as specified in 40 C.F.R. 98.403(a)(1);
 - (c) Calculate and report CH₄ and N₂O emissions from natural gas imported, sold, or distributed for use in this state using equation C-8 and table C-2 as required in 40 C.F.R. 98.33(c)(1) for all fuels subject to reporting;
 - (d) CO₂ emissions from biomass-derived fuel are based on the fuel the natural gas supplier contractually delivered. Emissions from biomethane are calculated using the methods for natural gas required by this section, including the use of the emission factor for natural gas in 40 C.F.R. 98.408, table NN-1. Natural gas suppliers who report emissions from biomethane must report information required by OAR 340-215-0044(5) and retain supporting documentation as required under OAR 340-215-0042; and
 - (e) Not report data or emissions for exported products.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-215-0120

RULE TITLE: Requirements for Electricity Suppliers

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify that a cost allocation methodology approved by the Oregon Public Utility Commission must be used for multijurisdictional electricity supplier reporting. Amendments also propose requirements for identifying Public Utilities Regulatory Policies Act Qualifying Facilities reported to DEQ.

RULE TEXT:

Electricity suppliers required to register and report under OAR 340-215-0030(5) must report information and emissions related to the generation of electricity delivered or distributed to end users in this state during the previous year, regardless of whether the electricity was generated in this state or imported. Such reports must;

(1) Report the megawatt-hours (MWh) and greenhouse gas emissions from the generation of electricity from unspecified sources and from each specified source delivered or distributed to end users in Oregon during the previous year, as follows:

(a) For unspecified sources, report the MWh of electricity and calculate and report the associated GHG emissions according to section (5)(a). Separately identify the MWh for power purchased from any energy imbalance market(s) or other centralized market(s);

(b) For specified sources of electricity, report as follows:

(A) Report specified sources when one of the following applies:

(i) The electricity supplier is a facility or unit operator, full or partial owner, party to a power contract for a fixed percentage of generation from the facility or generating unit, party to a tolling agreement and rents a facility or unit from the owner or is an exclusive power deliverer that is not a retail provider and that has prevailing rights to claim electricity from the specified source; or

(ii) The electricity supplier has a power contract for electricity from a DEQ-approved asset-controlling supplier (ACS) or generated by a facility or unit, subject to meeting all other specified source requirements and can provide documentation that the contract was designated at the time the transaction was executed; and

(B) Electricity suppliers reporting specified sources must:

(i) Report the MWh of electricity disaggregated by facility or unit, and by fuel type or ACS, as measured at the busbar. If not measured at the busbar, report the amount of electricity delivered in Oregon, including estimated transmission losses using the default transmission loss correction factor of 1.02;

(ii) Report the GHG emissions associated with the electricity calculated according to subsection (5)(b); and

(iii) Report details about each specified facility, unit, or ACS, including fuel type or types and information about the seller, including company name and contact information;

(c) For electricity suppliers that are multi-jurisdictional utilities that deliver or distribute electricity in Oregon, report total MWh and greenhouse gas emissions from the generation of electricity from specified and unspecified sources in the utility's service territory or power system as required by subsections (a) and (b), and also report the following:

(A) Wholesale electricity purchased and taken from specified sources (MWh);

(B) Wholesale electricity purchased from unspecified sources (MWh);

(C) Wholesale electricity sold from specified sources (MWh); and

(D) Retail sales (MWh) to customers in Oregon's portion of the utility's service territory or power system;

(d) For electricity suppliers that are not multi-jurisdictional utilities, proportionally adjust all resources on an annual basis to account for the sale of power to the wholesale market that is not known to be just specified or unspecified; and

(e) Electric companies and electricity service suppliers as defined in ORS 757.600 subject to ORS 469A.210 must report and identify electricity (MWh) and greenhouse gas emissions associated with electricity acquired from net metering of customer resources or a qualifying facility under the terms of the Federal Energy Regulatory Commission's Public Utility Regulatory Policies Act of 1978 ("PURPA") Qualifying Facility program;

(i) Power acquired from net metering of customer resources includes the surplus electricity fed back into the electric

grid by a net metered generator; and

(ii) Greenhouse gas emissions and electricity acquired from net metering resources may be reported in aggregate by resource type.

(2) Use DEQ approved and published emission factors for calculating and reporting GHG emissions, including;

(a) The emission factor for calculating emissions from unspecified power is 0.428 MT CO₂e/MWh;

(b) Electricity suppliers reporting specified source power provided by a multi-jurisdictional utility or DEQ-approved ACS must calculate emissions using a system emission factor published by DEQ, which will be calculated by DEQ according to subsection (6)(b);

(c) Electricity suppliers reporting specified source power from a specific facility or unit must calculate emissions using emission factors published by DEQ, which will be calculated according to subsection (6)(a); and

(d) For reporting emissions from specified sources for which DEQ has not published an approved emission factor, electricity suppliers may propose facility-specific or unit-specific anthropogenic and biogenic emission factors expressed as metric tons of carbon dioxide equivalent (MT CO₂e) per megawatt-hour of generation. Such a proposal to DEQ must include documentation describing how the proposed facility-specific or unit-specific emission factors are derived, including the necessary information for verification of these calculations. DEQ may adopt the proposed emission factors or may develop and assign facility-specific or unit-specific emission factors for the specified source.

The regulated entity may use such an emission factor only if approved by DEQ;

(3) For utilities that do not receive electricity from other sources and who serve load exclusively in Oregon, a third-party report from the Bonneville Power Administration (BPA), reporting the preference sales provided to Oregon consumer-owned utilities may satisfy such regulated party's obligations under this division. If BPA does not report this information to DEQ, those consumer-owned utilities must report the information as required by this division;

(4) For a consumer-owned utility, a third-party may submit the registration and report, and the report may include information for more than one consumer-owned utility, provided that the report contains all information required under this division for each individual consumer-owned utility, and:

(a) The consumer-owned utility must notify DEQ at least 30 calendar days prior to the reporting deadline that a third-party will be reporting on its behalf. This notification must include the name and contact information for the third-party;

(b) This notification may include notice that the third-party will report on behalf of the consumer-owned utility for future years;

(c) For any future year in which there is a change in the third-party reporting on behalf of the consumer-owned utility, the consumer-owned utility must provide notification to DEQ at least 30 calendar days prior to the reporting deadline;

(d) Third-parties reporting on behalf of a consumer-owned utility must notify DEQ and request authorization from DEQ prior to submitting any reports. This notification must include identifying information of the consumer-owned utility;

and
(e) Each consumer-owned utility must ensure that reports submitted on its behalf meet all requirements of this division;

(5) Calculate and report greenhouse gas emissions as follows:

(a) Emissions reported for electricity associated with unspecified sources must be calculated using the following equation:

$$\text{CO}_2\text{e} = \text{MWh} \times \text{TL} \times \text{EF}_{\text{unsp}}$$

For the purposes of this calculation, "EF_{unsp}" means default emission factor for unspecified electricity equal to 0.428 MT CO₂e/MWh;

(b) Emissions reported for electricity associated with specified sources must be calculated using the following equation:

$$\text{CO}_2\text{e} = \text{MWh} \times \text{TL} \times \text{EF}_{\text{sp}}$$

For the purposes of this calculation, "EF_{sp}" means facility-specific, unit-specific, or ACS system emission factor published by DEQ; and

(c) Emissions reported by a multi-jurisdictional utility may be calculated according to a cost allocation methodology approved by the Oregon Public Utility Commission (OPUC) using the following equation:

$$\text{CO}_2\text{e} = \text{MWhMJOR} \times \text{TL} \times \text{EFMJ}$$

For the purposes of this calculation, the following definitions apply:

“MWhMJOR” means total megawatt-hours of electricity delivered to retail customers in Oregon;

“EFMJ” means multi-jurisdictional utility system emission factor calculated according to equation (6)(c) (MT CO₂e/MWh);

(6) For electricity suppliers, use emission factors calculated and published by DEQ for calculating and reporting emissions, as follows:

(a) DEQ will calculate facility-specific or unit-specific emission factors using the following equation:

$$\text{EFsp} = \text{Esp} / \text{EG}$$

For the purposes of this calculation, the following definitions apply:

“EFsp” means the facility-specific or unit specific emission factor;

“Esp” means CO₂e emissions for a specified facility or unit for the report year (MT CO₂e);

“EG” means net generation from a specified facility or unit for the report year;

(b) DEQ will calculate asset-controlling supplier system emission factors using the following equations:

$$\text{EFSYS} = \text{Sum of System Emissions MT CO}_2\text{e} \div \text{Sum of System MWh}$$

$$\text{Sum of System Emissions MT CO}_2\text{e} = \text{Esp} + (\text{PEsp} \times \text{EFsp}) + (\text{PEunsp} \times \text{EFunsp}) - (\text{SEsp} \times \text{EFsp})$$

$$\text{Sum of System MWh} = \text{EGsp} + \text{PEsp} + \text{PEunsp} - \text{SEsp}$$

For the purposes of the calculations, the following definitions apply:

“Esp” means Emissions from Owned Facilities. Sum of CO₂e emissions from each specified facility/unit in the supplier’s fleet, consistent with section (5)(b) (MT CO₂e);

“EGsp” means Net Generation from Owned Facilities. Sum of net generation for each specified facility/unit in the supplier’s fleet for the data year as reported to DEQ under this division (MWh);

“PEsp” means Electricity Purchased from Specified Sources. Amount of electricity purchased wholesale and taken from specified sources by the supplier for the data year as reported to DEQ under this division (MWh);

“PEunsp” means Electricity Purchased from Unspecified Sources. Amount of electricity purchased wholesale from unspecified sources by the supplier for the data year as reported to DEQ under this division (MWh);

“SEsp” means Electricity Sold from Specified Sources. Amount of wholesale electricity sold from specified sources by the supplier for the data year as reported to DEQ under this division (MWh);

“EFsp” means CO₂e emission factor as defined for each specified facility or unit calculated consistent with section (5)(b) (MT CO₂e/MWh);

“EFunsp” means default emission factor for unspecified sources calculated consistent with section (5)(a) (MT CO₂e/MWh); and

(c) DEQ will calculate multi-jurisdictional utility system emission factors consistent with a cost allocation methodology approved by the Oregon Public Utility Commission using the following equation:

$$\text{EFMJ} = \text{Sum of System Emissions MT CO}_2\text{e} \div \text{Sum of System MWh}$$

$$\text{Sum of System Emissions MT CO}_2\text{e} = \text{Esp} + (\text{PEsp} \times \text{EFsp}) + (\text{PEunsp} \times \text{EFunsp}) - (\text{SEsp} \times \text{EFsp})$$

$$\text{Sum of System MWh} = \text{EGsp} + \text{PEsp} + \text{PEunsp} - \text{SEsp}$$

For the purposes of the calculations, the following definitions apply:

“Esp” means Emissions from Owned Facilities allocated to serve retail customers in Oregon pursuant to a cost allocation methodology approved by the Oregon Public Utility Commission. Sum of CO₂e emissions from each specified facility/unit in the supplier’s fleet, consistent with section (5)(b) (MT CO₂e);

“EGsp” means Net Generation from Owned Facilities allocated to serve retail customers in Oregon pursuant to a cost allocation methodology approved by the Oregon Public Utility Commission. Sum of net generation for each specified facility/unit in the supplier’s fleet for the data year as reported to DEQ under this division (MWh);

“PEsp” means Electricity Purchased from Specified Sources allocated to serve retail customers in Oregon pursuant to a cost allocation methodology approved by the Oregon Public Utility Commission. Amount of electricity purchased wholesale and taken from specified sources by the supplier for the data year as reported to DEQ under this division (MWh);

“PEunsp” means Electricity Purchased from Unspecified Sources allocated to serve retail customers in Oregon pursuant to a cost allocation methodology approved by the Oregon Public Utility Commission. Amount of electricity purchased wholesale from unspecified sources by the supplier for the data year as reported to DEQ under this division (MWh);

“SEsp” means Electricity Sold from Specified Sources consistent with a cost allocation methodology approved by the Oregon Public Utility Commission. Amount of wholesale electricity sold from specified sources by the supplier for the data year as reported to DEQ under this division (MWh);

“EFsp” means CO₂e emission factor as defined for each specified facility or unit calculated consistent with section (5)(b) (MT CO₂e/MWh);

“EFunsp” means default emission factor for unspecified sources calculated consistent with section (5)(a) (MT CO₂e/MWh); and

(7) For a person that owns or operates inter-connected electricity generating facilities or has exclusive rights to claim electricity from these facilities even though it does not own them may request that DEQ designate them as an asset-controlling supplier, and:

(a) Persons seeking designation by DEQ as an asset-controlling supplier must annually adhere to the requirements of this division, or be removed from asset-controlling supplier designation;

(b) In addition to submitting the applicable information as required by this rule, persons seeking designation by DEQ as an asset-controlling supplier must also submit the following by June 1 of each year:

(A) General business information, including business name and contact information;

(B) A list of officer names and titles;

(C) Wholesale electricity purchased and taken from specified sources (MWh);

(D) Wholesale electricity purchased from unspecified sources (MWh);

(E) Wholesale electricity sold from specified sources (MWh); and

(F) An attestation, in writing and signed by designated representative of the applicant that the information submitted is true, accurate, and complete; and

(c) DEQ will calculate and publish a supplier-specific system emission factor according to subsection (6)(b) for designated asset-controlling suppliers.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

ADOPT: 340-215-0130

RULE TITLE: Separate Violations

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes a new rule that would identify each metric ton of emissions misreported by a covered fuel supplier that impacted applicability determinations, compliance instrument distribution, or compliance obligations under Division 271, as a separate violation under Division 215.

RULE TEXT:

Each metric ton of greenhouse gas emissions not reported according to the requirements of this division by a covered fuel supplier, as defined in OAR 340-271-0020, that affects applicability determinations, compliance instrument distribution, or compliance obligations under the Oregon Climate Protection Program, OAR Chapter 340 Division 271, is a separate violation of this division.

STATUTORY/OTHER AUTHORITY: ORS 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468, 468A

AMEND: 340-216-0025

RULE TITLE: Types of Permits

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Include OAR chapter 340, divisions 269-272 in the reference to the rules that a source with a Basic ACDP must comply with.

RULE TEXT:

(1) Construction ACDP:

(a) A Construction ACDP may be used for approval of Type 3 changes specified in OAR 340-210-0225 at a source subject to the ACDP permit requirements in this division.

(b) A Construction ACDP is required for Type 3 changes specified in OAR 340-210-0225 at sources subject to the Oregon Title V Operating Permit requirements.

(2) General ACDP. A General ACDP is a permit for a category of sources for which individual permits are unnecessary in order to protect the environment, as determined by DEQ. An owner or operator of a source may be assigned to a General ACDP if DEQ has issued a General ACDP for the source category and:

(a) The source meets the qualifications specified in the General ACDP;

(b) DEQ determines that the source has not had ongoing, recurring, or serious compliance problems; and

(c) DEQ determines that a General ACDP would appropriately regulate the source.

(3) Short Term Activity ACDP. A Short Term Activity ACDP is a letter permit that authorizes the activity and includes any conditions placed upon the method or methods of operation of the activity. DEQ may issue a Short Term Activity ACDP for activities included in OAR 340-216-0054.

(4) Basic ACDP. A Basic ACDP is a permit that authorizes the regulated source to operate in conformance with the rules contained in OAR chapter 340, divisions 200 to 272.

(a) Owners and operators of sources and activities listed in Part A of OAR 340-216-8010 must at a minimum obtain a Basic ACDP.

(b) Any owner or operator of a source required to obtain a Basic ACDP may choose to obtain either a Simple or Standard ACDP.

(5) Simple ACDP.

(a) Owners and operators of sources and activities listed in OAR 340-216-8010 Part B that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP. The owner or operator of a source required to obtain a Simple ACDP may choose to obtain a Standard ACDP.

(b) A Simple ACDP is a permit that contains:

(A) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;

(B) PSEs at less than the SER for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222; and

(C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary.

(6) Standard ACDP:

(a) Applicability.

(A) The owner or operator of a source listed in Part C of OAR 340-216-8010 must obtain a Standard ACDP;

(B) The owner or operator of a source listed in Part B of OAR 340-216-8010 that does not qualify for a General ACDP or Simple ACDP must obtain a Standard ACDP;

(C) The owner or operator of a source not required to obtain a Standard ACDP may choose to apply for a Standard ACDP.

(b) A Standard ACDP is a permit that contains:

(A) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;

(B) PSEs for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222; and

(C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary.

(7)(a) Notwithstanding the other provisions of this division that establish the eligibility of a source for different types of ACDPs, DEQ may determine, pursuant to the standards described in subsection (b), that the owner or operator of a source is ineligible for certain types of ACDP and must be issued a different type of ACDP;

(b) DEQ will make a determination about which type of ACDP that the owner or operator of source must obtain based upon the following considerations:

(A) The nature, extent, toxicity and impact on human health and the environment of the source's emissions;

(B) The complexity of the source and the rules applicable to that source;

(C) The complexity of the emission controls, potential threat to human health and the environment if the emission controls fail, and the source's capacity;

(D) The location of the source and its proximity to places where people live and work; and

(E) The compliance history of the source, including by the source's:

(i) Current corporate officers, managers, members of the board of directors, general partners or similar persons, provided that the person exercises or will exercise substantial control on behalf of or over the facility that is the subject of the application or permit;

(ii) Parent corporations, or similar business entities, that exercise substantial control over the facility that is the subject of the application or permit; and

(iii) Subsidiary corporations, or similar business entities, over which the applicant or permittee exercises substantial control.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.]

[NOTE: All tables are found in OAR 340-216-8010, -8020, -8030.]

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.310

STATUTES/OTHER IMPLEMENTED: ORS 468A.025, 468A.040, 468A.310

AMEND: 340-216-8010

RULE TITLE: Table 1 — Activities and Sources

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Add new Basic ACDP source category for facilities with capacity to emit covered emissions > 25,000 metric tons CO₂e per year, and that are not otherwise required to obtain an air quality permit.

RULE TEXT:

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

[NOTE: For the history of these tables prior to 2014 see the history under OAR 340-216-0020]

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.310

STATUTES/OTHER IMPLEMENTED: ORS 468A



OAR 340-216-8010

Table 1

Activities and Sources

The following source categories must obtain a permit as required by OAR 340-216-0020 Applicability and Jurisdiction.

Part A: Basic ACDP

- 1 Autobody repair or painting shops painting more than 25 automobiles in a year and that are located inside the Portland AQMA.
- 2 Concrete manufacturing including redi-mix and CTB, both stationary and portable, more than 5,000 but less than 25,000 cubic yards per year output.
- 3 Crematory incinerators with less than 20 tons/year material input.
- 4 Individual natural gas or propane-fired boilers with heat input rating between 9.9 and 29.9 MMBTU/hour, constructed after June 9, 1989, that do not use more than 9,999 gallons per year of #2 diesel oil as a backup fuel.
- 5 Prepared feeds for animals and fowl and associated grain elevators more than 1,000 tons/year but less than 10,000 tons per year throughput.
- 6 Rock, concrete or asphalt crushing, both stationary and portable, more than 5,000 tons/year but less than 25,000 tons/year crushed.
- 7 Surface coating operations whose actual or expected usage of coating materials is greater than 250 gallons per month but does not exceed 3,500 gallons per year, excluding sources that exclusively use non-VOC and non-HAP containing coatings, e.g., powder coating operations.
- 8 Sources subject to permitting under Part B of this table, number 85 if all of the following criteria are met:
 - a. The source is not subject to any category listed on this table other than Part B number 85;
 - b. The source has requested an enforceable limit on their actual emissions, if the source were to operate uncontrolled, to below Part B number 85 of this table as applicable depending on the source's location through one or both

of the following:

- i. A limit on hours of operation;
 - ii. A limit on production;
 - c. Control devices are not required to be used or otherwise accounted for to maintain emissions levels compliant with 8.b above;
 - d. The source is not subject to and does not have any affected emissions units subject to a 40 C.F.R. part 60, part 61, or part 63 standard (NSPS or NESHAP);
 - e. The source is not subject to any specific industry or operation standard in OAR chapter 340, divisions 232, 234, or 236.
 - f. DEQ has determined that the source is not required to conduct source testing and source testing for emission factor verification will not be required.
- 9 All stationary sources not listed elsewhere in this table that have the capacity to emit 25,000 metric tons of CO₂e or more of covered emissions as defined at OAR 340-271-0020 in a year.

Part B: General, Simple or Standard ACDP

- 1 Aerospace or aerospace parts manufacturing subject to RACT under OAR chapter 340, division 232.
- 2 Aluminum, copper, and other nonferrous foundries subject to an area source NESHAP under OAR chapter 340, division 244.
- 3 Aluminum production – primary.
- 4 Ammonia manufacturing.
- 5 Animal rendering and animal reduction facilities.
- 6 Asphalt blowing plants.
- 7 Asphalt felts or coating manufacturing.
- 8 Asphaltic concrete paving plants, both stationary and portable.
- 9 Bakeries, commercial over 10 tons of VOC emissions per year.
- 10 Battery separator manufacturing.
- 11 Lead-acid battery manufacturing and re-manufacturing.
- 12 Beet sugar manufacturing.
- 13 Oil-fired boilers and other fuel burning equipment whose total heat input rating at the source is over 10 MMBTU/hour; or individual natural gas, propane, or butane-fired boilers and other fuel burning equipment 30 MMBTU/hour or greater heat input rating.
- 14 Building paper and building board mills.
- 15 Calcium carbide manufacturing.
- 16 Can or drum coating subject to RACT under OAR chapter 340, division 232.²
- 17 Cement manufacturing.
- 18 Cereal preparations and associated grain elevators 10,000 or more tons/year throughput.¹
- 19 Charcoal manufacturing.
- 20 Chlorine and alkali manufacturing.
- 21 Chrome plating and anodizing subject to a NESHAP under OAR chapter 340, division

- 244.
- 22 Clay ceramics manufacturing subject to an area source NESHAP under OAR chapter 340, division 244.
 - 23 Coffee roasting, roasting 30 or more green tons per year.
 - 24 Concrete manufacturing including redi-mix and CTB, both stationary and portable, 25,000 or more cubic yards per year output.
 - 25 Crematory incinerators 20 or more tons/year material input.
 - 26 Degreasing operations, halogenated solvent cleanings subject to a NESHAP under OAR chapter 340, division 244.
 - 27 Electrical power generation from combustion, excluding units used exclusively as emergency generators and units less than 500 kW.
 - 28 Commercial ethylene oxide sterilization, excluding facilities using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996.
 - 29 Ferroalloy production facilities subject to an area source NESHAP under OAR chapter 340, division 244.
 - 30 Flatwood coating subject to RACT under OAR chapter 340, division 232.²
 - 31 Flexographic or rotogravure printing subject to RACT under OAR chapter 340, division 232.²
 - 32 Flour, blended and/or prepared and associated grain elevators 10,000 or more tons/year throughput.¹
 - 33 Galvanizing and pipe coating, except galvanizing operations that use less than 100 tons of zinc/year.
 - 34 Bulk gasoline plants, bulk gasoline terminals, and pipeline facilities.
 - 35 Gasoline dispensing facilities, excluding gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline per month³.
 - 36 Glass and glass container manufacturing subject to a NSPS under OAR chapter 340, division 238 or a NESHAP under OAR chapter 340, division 244.
 - 37 Grain elevators used for intermediate storage 10,000 or more tons/year throughput.¹
 - 38 Reserved.
 - 39 Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/year metal charged, not elsewhere identified.

- 40 Gypsum products manufacturing.
- 41 Hardboard manufacturing, including fiberboard.
- 42 Hospital sterilization operations subject to an area source NESHAP under OAR chapter 340, division 244.
- 43 Incinerators with two or more tons per day capacity.
- 44 Lime manufacturing.
- 45 Liquid storage tanks subject to RACT under OAR chapter 340, division 232.²
- 46 Magnetic tape manufacturing.
- 47 Manufactured home, mobile home and recreational vehicle manufacturing.
- 48 Marine vessel petroleum loading and unloading subject to RACT under OAR chapter 340, division 232.
- 49 Metal fabrication and finishing operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding facilities that meet all the following:
- a. Do not perform any of the operations listed in OAR 340-216-0060(3)(b)(V)(i) through (iii);
 - b. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and
 - c. Use less than 100 pounds of MFHAP containing welding wire and rod per year.
- 50 Millwork manufacturing, including kitchen cabinets and structural wood members, 25,000 or more board feet/maximum 8 hour input.
- 51 Molded plastic container manufacturing, using extrusion, molding, lamination, and foam processing and molded fiberglass container manufacturing, excluding injection molding.
- 52 Motor coach, travel trailer, and camper manufacturing.
- 53 Motor vehicle and mobile equipment surface coating operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, mobile equipment surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, and motor vehicle

- surface coating operations registered pursuant to OAR 340-210-0100(2).
- 54 Natural gas and oil production and processing and associated fuel burning equipment.
 - 55 Nitric acid manufacturing.
 - 56 Nonferrous metal foundries 100 or more tons/year of metal charged.
 - 57 Organic or inorganic chemical manufacturing and distribution with ½ or more tons per year emissions of any one criteria pollutant, sources in this category with less than ½ ton/year of each criteria pollutant are not required to have an ACDP.
 - 58 Paint and allied products manufacturing subject to an area source NESHAP under OAR chapter 340, division 244.
 - 59 Paint stripping and miscellaneous surface coating operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and also using less than 20 gallons of methylene chloride containing paint stripper per year.
 - 60 Paper or other substrate coating subject to RACT under OAR chapter 340, division 232.²
 - 61 Particleboard manufacturing, including strandboard, flakeboard, and waferboard.
 - 62 Perchloroethylene dry cleaning operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding perchloroethylene dry cleaning operations registered pursuant to OAR 340-210-0100(2).
 - 63 Pesticide manufacturing 5,000 or more tons/year annual production.
 - 64 Petroleum refining and re-refining of lubricating oils and greases including asphalt production by distillation and the reprocessing of oils and/or solvents for fuels.
 - 65 Plating and polishing operations subject to an area source NESHAP under OAR chapter 340, division 244.
 - 66 Plywood manufacturing and/or veneer drying.
 - 67 Prepared feeds manufacturing for animals and fowl and associated grain elevators 10,000 or more tons per year throughput.
 - 68 Primary smelting and/or refining of ferrous and non-ferrous metals.
 - 69 Pulp, paper and paperboard mills.
 - 70 Rock, concrete or asphalt crushing, both stationary and portable, 25,000 or more tons/year crushed.

- 71 Sawmills and/or planing mills 25,000 or more board feet/maximum 8 hour finished product.
- 72 Secondary nonferrous metals processing subject to an Area Source NESHAP under OAR chapter 340, division 244.
- 73 Secondary smelting and/or refining of ferrous and nonferrous metals.
- 74 Seed cleaning and associated grain elevators 5,000 or more tons/year throughput.¹
- 75 Sewage treatment facilities employing internal combustion engines for digester gasses.
- 76 Soil remediation facilities, both stationary and portable.
- 77 Steel works, rolling and finishing mills.
- 78 Surface coating in manufacturing subject to RACT under OAR chapter 340, division 232.²
- 79 Surface coating operations with actual emissions of VOCs, if the source were to operate uncontrolled, of 10 or more tons/year.
- 80 Synthetic resin manufacturing.
- 81 Tire manufacturing.
- 82 Wood furniture and fixtures 25,000 or more board feet/maximum 8 hour input.
- 83 Wood preserving (excluding waterborne).
- 84 All other sources, both stationary and portable, not listed herein that DEQ determines an air quality concern exists or one which would emit significant malodorous emissions.
- 85 All other sources, both stationary and portable, not listed herein which would have the capacity of 5 or more tons per year of direct PM2.5 or PM10 if located in a PM2.5 or PM10 nonattainment or maintenance area, or 10 or more tons per year of any single criteria pollutant .⁴
- 86 Chemical manufacturing facilities subject to 40 C.F.R. part 63 subpart VVVVVV.
- 87 Stationary internal combustion engines if:
 - a. For emergency generators and firewater pumps, the aggregate engine horsepower rating is greater than 30,000 horsepower; or
 - b. For any individual non-emergency or non-fire pump engine, the engine is subject to 40 CFR part 63, subpart ZZZZ and is rated at 500 horsepower or more, excluding two stroke lean burn engines, engines burning exclusively landfill or digester gas, and four stroke engines located in remote areas; or

- c. For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart IIII and:
 - A. The engine has a displacement of 30 liters or more per cylinder; or
 - B. The engine has a displacement of less than 30 liters per cylinder and is rated at 500 horsepower or more and the engine and control device are either not certified by the manufacturer to meet the NSPS or not operated and maintained according to the manufacturer’s emission-related instructions; or
- d. For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart JJJJ and is rated at 500 horsepower or more and the engine and control device are either not certified by the manufacturer to meet the NSPS or not operated and maintained according to the manufacturer’s emission-related instructions.

88 All sources subject to RACT under OAR chapter 340, division 232, BACT or LAER under OAR chapter 340, division 224, a NESHAP under OAR chapter 340, division 244, a NSPS under OAR chapter 340, division 238, or State MACT under OAR 340-244-0200(2), except sources:

- a. Exempted in any of the categories above;
- b. For which a Basic ACDP is available; or
- c. Registered pursuant to OAR 340-210-0100(2).

89 Pathological waste incinerators.

90 Landfills with more than 200,000 tons of waste in place and calculated methane generation rate is less than 664 metric tons per year which are subject to the requirements in OAR 340 division 239.

¹ Applies only to Special Control Areas

² Portland AQMA, Medford-Ashland AQMA or Salem-Keizer in the SKATS only

³ “monthly throughput” means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the month, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the previous 11 months, and then dividing that sum by 12

⁴ A source subject to permitting from this category may be able to obtain a Basic ACDP under Part A number 8 of this table. For sources that meet the criteria of Part A number 8 of this table, the enforceable production or hours limitation in an issued ACDP may be used to demonstrate a permit is not required by Part B number 85 of this table irrespective of the term ‘uncontrolled’.

Part C: Standard ACDP

- 1 Incinerators for PCBs, other hazardous wastes, or both.
- 2 All sources that DEQ determines have emissions that constitute a nuisance.
- 3 All sources electing to maintain the source's netting basis.
- 4 All sources that request a PSEL equal to or greater than the SER for a regulated pollutant.
- 5 All sources having the potential to emit 100 tons or more of any regulated pollutant, except GHG, in a year.
- 6 All sources having the potential to emit 10 tons or more of a single hazardous air pollutant in a year.
- 7 All sources having the potential to emit 25 tons or more of all hazardous air pollutants combined in a year.
- 8 Landfills with more than 200,000 tons of waste in place and calculated methane generation rate is greater than or equal to 664 metric tons per year which are subject to the requirements in OAR 340 division 239.

NOTE: For the history of these tables prior to 2014 see the history under OAR 340-216-0020. This history is also shown below:

DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 14-2011, f. & cert. ef. 7-21-11
DEQ 13-2011, f. & cert. ef. 7-21-11
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef. 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 7-2007, f. & cert. ef. 10-18-07
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720
DEQ 22-1996, f. & cert. ef. 10-22-96

DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 22-1994, f. & cert. ef. 10-4-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1991, f. & cert. ef. 11-29-91
DEQ 12-1987, f. & cert. ef. 6-15-87
DEQ 3-1986, f. & cert. ef. 2-12-86
DEQ 11-1983, f. & cert. ef. 5-31-83
DEQ 23-1980, f. & cert. ef. 9-26-80
DEQ 20-1979, f. & cert. ef. 6-29-79
DEQ 125, f. & cert. ef. 12-16-76
DEQ 107, f. & cert. ef. 1-6-76, Renumbered from 340-020-0033
DEQ 63, f. 12-20-73, cert. ef. 1-11-74
DEQ 47, f. 8-31-72, cert. ef. 9-15-72

AMEND: 340-216-8020

RULE TITLE: Table 2 — Air Contaminant Discharge Permits

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Specify that fees for the new Basic ACDP source category would be the same as for Basic category type #8.

RULE TEXT:

(1) Sources referred to in Table 1 of OAR 340-216-8010 are subject to air contaminant discharge permit fees in Table 2. Title V sources may be subject to the Cleaner Air Oregon annual fees and the specific activity permit fees in Table 2, if applicable.

(2) Requests for waiver of fees must be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

[NOTE: For the history of these tables prior to 2014 see the history under OAR 340-216-0020.]

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.310

STATUTES/OTHER IMPLEMENTED: ORS 468A



OAR 340-216-8020 Table 2 Air Contaminant Discharge Permits

| Part 1. Initial Permitting Application Fees: (in addition to first annual fee) | | |
|---|--|-------------|
| Short Term Activity ACDP | | \$4,500.00 |
| Basic ACDP | | \$180.00 |
| Assignment to General ACDP ¹ | | \$1,800.00 |
| Simple ACDP | | \$9,000.00 |
| Construction ACDP | | \$14,400.00 |
| Standard ACDP | | \$18,000.00 |
| Standard ACDP (Major NSR or Type A State NSR) | | \$63,000.00 |
| <p>1. DEQ may waive the assignment fee for an existing source requesting to be assigned to a General ACDP because the source is subject to a newly adopted area source NESHAP as long as the existing source requests assignment within 90 days of notification by DEQ.</p> | | |
| Part 2. Annual Fees: (Due date 12/1¹ for 1/1 to 12/31 of the following year) (applicable July 1, 2022) | | |
| Registration – Motor vehicle surface coating operations | | \$288.00 |
| Registration - Dry cleaners using perchloroethylene | | \$216.00 |
| Short Term Activity ACDP | | \$0 |
| Basic ACDP | (A) #1-7 OAR 340-216-8010 Table 1 Part A | \$648.00 |
| | (B) #8-9 OAR 340-216-8010 Table 1 Part A | \$1,469.00 |
| General ACDP | (A) Fee Class One | \$1,469.00 |
| | (B) Fee Class Two | \$2,644.00 |
| | (C) Fee Class Three | \$3,818.00 |
| | (D) Fee Class Four | \$734.00 |
| | (E) Fee Class Five | \$245.00 |
| | (F) Fee Class Six | \$490.00 |
| Simple ACDP | (A) Low Fee | \$3,917.00 |



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Table 2
Air Contaminant Discharge Permits

| | | |
|--|--------------|---|
| | (B) High Fee | \$7,834.00 |
| Standard ACDP | | \$15,759.00 |
| Greenhouse Gas Reporting, as required by OAR chapter 340, Division 215 | | 7.31% of the applicable ACDP annual fee in Part 2 |

Part 3. Cleaner Air Oregon Annual Fees: (Due date 12/1¹ for 1/1 to 12/31 of the following year)

| | | |
|---------------|---|------------|
| Basic ACDP | (A) #1-7 OAR 340-216-8010 Table 1 Part A | \$151.00 |
| | (B) #8-9 OAR 340-216-8010 Table 1 Part A | \$302.00 |
| General ACDP | (A) Fee Class One | \$302.00 |
| | (B) Fee Class Two | \$544.00 |
| | (C) Fee Class Three | \$786.00 |
| | (D) Fee Class Four | \$151.00 |
| | (E) Fee Class Five | \$50.00 |
| | (F) Fee Class Six | \$100.00 |
| Simple ACDP | (A) Low Fee | \$806.00 |
| | (B) High Fee | \$1,612.00 |
| Standard ACDP | | \$3,225.00 |

1. DEQ may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.

Part 4. Specific Activity Fees:

| | | |
|---|---------------------|----------|
| Notice of Intent to Construct Type 2 ¹ | | \$720.00 |
| Permit Modification | (A) Non-Technical | \$432.00 |
| | (B) Basic Technical | \$540.00 |



OAR 340-216-8020
Table 2
Air Contaminant Discharge Permits

| | | |
|---|------------------------|----------------|
| | (C) Simple Technical | \$1,800.00 |
| | (D) Moderate Technical | \$9,000.00 |
| | (E) Complex Technical | \$18,000.00 |
| Toxic Air Contaminant Permit Addendum Modification | (A) Non-Technical | \$432.00 |
| | (B) Basic Technical | \$432.00 |
| | (C) Simple Technical | \$1,440.00 |
| | (D) Moderate Technical | \$7,200.00 |
| | (E) Complex Technical | \$14,440.00 |
| Major NSR or Type A State NSR Permit Modification | | \$63,000.00 |
| Modeling Review (outside Major NSR or Type A State NSR) | | \$9,000.00 |
| Public Hearing at Source's Request | | \$3,600.00 |
| State MACT Determination | | \$9,000.00 |
| Compliance Order Monitoring ² | | \$180.00/month |
| Part 5. Late Fees: | | |
| 8-30 days late | | 5% |
| 31-60 days late | | 10% |
| 61 or more days late | | 20% |
| <p>1. The Type 2 Notice of Intent to Construct does not apply to existing Basic ACDP or General ACDP sources.</p> <p>2. This is a one-time fee payable when a compliance order is established in a permit or a DEQ order containing a compliance schedule becomes a final order of DEQ and is based on the number of months DEQ will have to oversee the order.</p> <p>NOTE: See history of this table under OAR 340-216-0020.</p> | | |

AMEND: 340-271-0010

RULE TITLE: Purpose and Scope

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Adding "(6) If any dates under this division occur on a Saturday, Sunday, or a state holiday, the deadline is extended to the following business day."

RULE TEXT:

(1) This division establishes rules and requirements for the Climate Protection Program for certain air contamination sources that emit greenhouse gases or that cause greenhouse gases to be emitted.

(2) Climate change caused by anthropogenic greenhouse gas emissions has detrimental effects on the overall public welfare of the State of Oregon. Reducing greenhouse gas emissions and mitigating climate change will improve the overall public welfare of Oregon. In particular, reducing greenhouse gas emissions will improve the welfare of environmental justice communities.

(a) Fuel combustion and industrial processes result in emissions of greenhouse gases, which are air contaminants that cause climate change;

(b) Reducing greenhouse gas emissions may also reduce emissions of other air contaminants, which may improve air quality for Oregon communities; and

(c) Environmental justice communities in Oregon are disproportionately burdened by air contamination, including through disproportionate risk of the impacts of climate change.

(3) The purposes of the Climate Protection Program are to reduce greenhouse gas emissions from sources in Oregon, achieve co-benefits from reduced emissions of other air contaminants, and enhance public welfare for Oregon communities, particularly environmental justice communities disproportionately burdened by the effects of climate change and air contamination. To support these purposes, this division:

(a) Requires that covered entities reduce greenhouse gas emissions;

(b) Supports reduction of emissions of other air contaminants that are not greenhouse gases;

(c) Prioritizes reduction of greenhouse gases and other air contaminants in environmental justice communities;

(d) Provides covered entities with compliance options to minimize disproportionate business and consumer economic impacts associated with meeting the Climate Protection Program requirements; and

(e) Allows covered fuel suppliers to comply with the Climate Protection Program requirements in part through contributing community climate investment funds to support projects that reduce greenhouse gas emissions and prioritize benefits for environmental justice communities in Oregon.

(4) DEQ administers this division in all areas of the State of Oregon and subject to the requirements in this division and OAR 340-200-0010(3), LRAPA is designated by the EOC to implement OAR 340-271-0150(3) of this division within its area of jurisdiction.

(5)(a) Whenever the DEQ Director has good cause to believe that any person is engaged or is about to engage in any acts or practices which constitute a violation of this division, the Director may authorize DEQ to institute actions or proceedings for legal or equitable remedies to enforce compliance thereto or to restrain further violations.

(b) The proceedings authorized by subsection (a) may be instituted without the necessity of prior DEQ notice, hearing and order.

(c) The provisions of this section are in addition to and not in substitution of any other civil or criminal enforcement provisions available to DEQ. This includes, without limitation, the authority to impose civil penalties and issue orders according to ORS Chapter 468.090 to 468.140 and OAR chapter 340, divisions 11 and 12.

(6) If any dates under this division occur on a Saturday, Sunday, or a state holiday, the deadline is extended to the following business day.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.050, 468A.135, 468.100

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468A.050, 468A.135, 468.035, 468A.010,

468A.015, 468A.045, 468.100

AMEND: 340-271-0020

RULE TITLE: Definitions

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Update definition of "New source" for BAER, add definition of "Existing source". Delete definition of "Evaluation period". Edit definition of "Best available emissions reduction order". Delete definition for "Related Entity".

RULE TEXT:

The definitions in OAR 340-200-0020, OAR 340-215-0020, and this rule apply to this division. If the same term is defined in this rule and either or both OAR 340-200-0020 and OAR 340-215-0020, the definition in this rule applies to this division. If the same term is defined in OAR 340-200-0020 and OAR 340-215-0020, but not in this rule, then the definition in OAR 340-215-0020 applies to this division.

(1) "Air contamination source" has the meaning given the term in ORS 468A.005. Air contamination sources include, without limitation, stationary sources, fuel suppliers, in-state producers, and local distribution companies.

(2) "Best available emissions reduction order" or "BAER order" means a DEQ order establishing required actions the owner or operator of a covered stationary source must take to limit covered emissions from the covered stationary source.

(3) "Biomass-derived fuels" has the meaning given the term in OAR 340-215-0020. Biomass-derived fuels include, without limitation, biomethane, biodiesel, renewable diesel, renewable propane, woody biomass, and ethanol.

(4) "Cap" means the total number of compliance instruments generated by DEQ for each calendar year.

(5) "Climate Protection Program permit addendum" or "CPP permit addendum" means written authorization that incorporates the requirements of this division into a permit by amending an Air Contaminant Discharge Permit or a Title V Operating Permit.

(6) "Climate Protection Program permit" or "CPP permit" means a permit issued to a covered fuel supplier according to this division.

(7) "Community climate investment credit" or "CCI credit" or "credit" means an instrument issued by DEQ to track a covered fuel supplier's payment of community climate investment funds, and which may be used in lieu of a compliance instrument, as further provided and limited in this division.

(8) "Community climate investments," "community climate investment funds" or "CCI funds" means money paid by a covered fuel supplier to a community climate investment entity to support implementation of community climate investment projects and any interest that accrues on the money while it is held by a CCI entity or subcontractor.

(9) "Community climate investment entity" or "CCI entity" means a nonprofit organization that has been approved by DEQ as a CCI entity and that has entered into a written agreement with DEQ consistent with OAR 340-271-0920 to implement projects supported by community climate investment funds.

(10) "Compliance instrument" means an instrument issued by DEQ that authorizes the emission of one MT CO₂e of greenhouse gases. Compliance instruments may not be divided into fractions.

(11) "Compliance obligation" means the total quantity of covered emissions from a covered fuel supplier rounded to the nearest metric ton of CO₂e.

(12) "Compliance period" means a period of multiple consecutive calendar years, as described in OAR 340-271-0440.

(13) "Covered emissions" means the greenhouse gas emissions described in any of subsections OAR 340-271-0110(3)(b), (4)(b) and (5)(b), for which covered entities may be subject to the requirements of this division.

(14) "Covered entity" means an air contamination source subject to the requirements of this division. A covered entity may be either a covered fuel supplier, a covered stationary source, or both.

(15) "Covered fuel supplier" means an air contamination source that is either:

(a) A fuel supplier or in-state producer as described in OAR 340-271-0110(3); or

(b) A local distribution company as described in OAR 340-271-0110(4).

(16) "Covered stationary source" means an air contamination source described in OAR 340-271-0110(5).

(17) "Designated representative" means the person responsible for certifying, signing, and submitting any registration,

report, or form required to be submitted according to this division, on behalf of a covered entity. For the owner or operator of a covered stationary source with an Oregon Title V Operating Permit, the designated representative is the responsible official and certification must be consistent with OAR 340-218-0040(5).

(18) "Environmental justice communities" means communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including seniors, youth and persons with disabilities.

(19) "Existing source" means a source that is operating under the authority of either a current Air Contaminant Discharge Permit or Title V Operating Permit or, when the term of an issued permit has expired, under the authority of OAR 340-216-0082(1) or OAR 340-218-0120(2) and 340-218-0130(2).

(20) "New source" means a source that is not operating under the authority of either a current Air Contaminant Discharge Permit or Title V Operating Permit or, when the term of an issued permit has expired, under the authority of OAR 340-216-0082(1) or OAR 340-218-0120(2) and 340-218-0130(2).

(21) "Nominal electric generating capacity" has the meaning given in ORS 469.300.

(22) "Shut down" means that all operations of a covered entity are permanently shut down, including but not limited to decommissioning and cancelling air permits. Permanent shutdown may include continued operations of space heaters and water heaters as necessary to support decommissioning activities.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.050

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468A.050, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0110

RULE TITLE: Covered Entity and Covered Emissions Applicability

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Revisions to covered emissions for local distribution companies. Paragraph (4)(b)(B) revised to remove emissions from non-combustion related processes and replace with emissions avoided where the use of natural gas results in greenhouse gas emissions captured and stored, if sufficiently documented by information provided to DEQ.

Revisions to covered emissions for stationary sources. Subsection (5)(a) revised primarily to identify that existing stationary sources undertaking some modifications are covered stationary sources.

RULE TEXT:

(1) Calculations of covered emissions, compliance obligations and distribution of compliance instruments will be based on emissions data and information in emissions data reports submitted by a person described in this rule and required according to OAR chapter 340, division 215, which may be subject to verification according to OAR chapter 340, division 272. For any person that does not submit sufficient information in compliance with OAR chapter 340, divisions 215 and 272, calculations will be informed by additional best data available to DEQ. For any person that has not registered and reported according to division 215, such calculations will be based on the best data available to DEQ, following all reporting requirements and assumptions that would be applicable had the person reported according to that division.

(2) A covered entity is subject to the requirements of this division for its covered emissions described in this rule. A person remains a covered entity until cessation is met according to OAR 340-271-0130.

(3) Applicability for fuel suppliers and in-state producers. A person is a covered fuel supplier if the person is described in subsection (a) and has annual covered emissions described in subsection (b) in any applicability determination calendar year that equal or exceed the threshold for applicability listed in Table 1 in OAR 340-271-9000. All persons that are related entities must aggregate their emissions together to determine applicability and each becomes a covered fuel supplier if applicability is met. When applicability is met, each person is a covered fuel supplier beginning with the calendar year a person becomes a covered fuel supplier, as provided in Table 1 in OAR 340-271-9000. Once a person is a covered fuel supplier, the person remains a covered fuel supplier until the person has met the cessation requirements according to OAR 340-271-0130.

(a) The person is a fuel supplier or in-state producer that imports, sells, or distributes fuel for use in Oregon, and is one or more of the following:

(A) A dealer, as that term is defined in ORS 319.010 that is subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax in OAR chapter 735, division 170;

(B) A seller, as that term is defined in ORS 319.520, that is subject to the Oregon Use Fuel Tax in OAR chapter 735, division 176;

(C) A person that produces, imports, sells, or distributes gasoline or distillate fuel oil for use in Oregon and that is not subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax or the Oregon Use Fuel Tax in OAR chapter 735, divisions 170 and 176; or

(D) A person that either produces propane in Oregon or imports propane for use in the state.

(b) Except as provided in paragraph (B), covered emissions include emissions described in paragraph (A).

(A) Covered emissions include emissions of anthropogenic greenhouse gases in metric tons of CO₂e that would result from the complete combustion or oxidation of the annual quantity of propane and liquid fuels (including, for example and without limitation, gasoline and petroleum products) imported, sold, or distributed for use in this state.

(B) Covered emissions do not include:

(i) Emissions that are from the combustion of biomass-derived fuels;

(ii) Emissions that are from the combustion of fuels used for aviation including, for example and without limitation, aviation gasoline, kerosene-type jet fuel, and alternative jet fuel; and

(iii) Emissions described in 40 CFR part 98 subpart W – Petroleum and Natural Gas Systems.

(4) Applicability for local distribution companies. A person is a covered fuel supplier if the person is described in subsection (a) and has annual covered emissions described in subsection (b) in 2018 or any subsequent calendar year, unless the person has met the cessation requirements according to OAR 340-271-0130.

(a) The person is a local distribution company that either produces natural gas, compressed natural gas, or liquefied natural gas in Oregon, or that imports, sells, or distributes natural gas, compressed natural gas, or liquefied natural gas to end users in the state.

(b) Except as provided in paragraph (B), covered emissions include emissions described in paragraph (A).

(A) Covered emissions include emissions of anthropogenic greenhouse gases in metric tons of CO₂e that would result from the complete combustion or oxidation of the annual quantity of natural gas imported, sold, or distributed for use in this state.

(B) Covered emissions do not include:

(i) Emissions that are from the combustion of biomass-derived fuels;

(ii) Emissions described in 40 CFR part 98 subpart W – Petroleum and Natural Gas Systems;

(iii); Emissions avoided where the use of natural gas results in greenhouse gas emissions captured and stored, if sufficiently documented by information provided to DEQ; and

(iv) Emissions from natural gas delivered to an air contamination source that is an electric power generating plant with a total nominal electric generating capacity greater than or equal to 25 megawatts.

(5) Applicability for stationary sources. A person is a covered stationary source if the person is described in subsection (a), unless the person has met the cessation requirements according to OAR 340-271-0130.

(a) The person is one or more of the following:

(A) The person owns or operates an existing source that has actual covered emissions described in subsection (b) that equal or exceed 25,000 MT CO₂e in 2018 or in any subsequent calendar year;

(B) The person owns or operates a new source, or proposes to own or operate a new source, that has a potential to emit covered emissions described in subsection (b) that will equal or exceed 25,000 MT CO₂e per calendar year; or

(C) The person owns or operates an existing source that is not a covered stationary source under (A), proposes to make a modification under OAR 340-216-0040(3), OAR 340-218-0170, OAR 340-218-0180, or OAR 340-218-0190, or a Type 2, 3 or 4 change under OAR 340-210-0225 to their source and:

(i) The modification would increase the source's potential to emit covered emissions described in subsection (b) by 10,000 MT CO₂e per calendar year or more; and;

(ii) After the modification, the source's potential to emit covered emissions described in subsection (b) would equal or exceed 25,000 MT CO₂e per calendar year.

(b) Except as provided in paragraph (B), covered emissions include emissions described in paragraph (A).

(A) Covered emissions include emissions of anthropogenic greenhouse gases in metric tons of CO₂e that are from either or both processes or the combustion of solid or gaseous fuels, including emissions from combustion for both energy production and processes.

(B) Covered emissions do not include:

(i) Emissions that are from the combustion of biomass-derived fuels;

(ii) Biogenic CO₂ emissions from solid fuels;

(iii) Emissions that are from the combustion of liquid fuels or propane;

(iv) Emissions from natural gas, compressed natural gas, or liquefied natural gas used on-site that was delivered by a local distribution company;

(v) Emissions described in 40 CFR part 98 subpart HH – Municipal Solid Waste Landfills;

(vi) Emissions described in 40 CFR part 98 subpart TT – Industrial Waste Landfills;

(vii) Emissions from an air contamination source that is owned or operated by an interstate natural gas pipeline that is operating under authority of a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission; and

(viii) Emissions from an air contamination source that is an electric power generating plant with a total nominal electric generating capacity greater than or equal to 25 megawatts.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.050

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468A.050, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0120

RULE TITLE: Changes in Covered Entity Ownership and Changes to Related Entities

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Revisions to limit some requirements to liquid fuels and propane suppliers (covered fuel suppliers that are not local distribution companies).

RULE TEXT:

(1) Changes in ownership or operational control.

(a) If a covered entity undergoes a change in ownership or operational control, the new person that owns or operates the covered entity must notify DEQ in writing within 30 days of the ownership or operational control change. The person must submit a complete and accurate notification, including providing the following information:

(A) The name of the previous owner or operator;

(B) The name of the new owner or operator;

(C) The date of ownership or operator change;

(D) Name of the designated representative;

(E) If the covered entity is a covered fuel supplier that is not a local distribution company information about each person that was a related entity prior to the change in ownership or operational control and that was required to report emissions according to OAR chapter 340, division 215, including legal name, full mailing address, and whether each is a covered fuel supplier and holds a CPP permit; and

(F) If the covered entity is a covered fuel supplier that is not a local distribution company, information about each person that is a related entity after the change in ownership or operational control and that is required to report emissions according to OAR chapter 340, division 215, including legal name, full mailing address, and whether each is a covered fuel supplier and holds a CPP permit.

(b) The covered entity continues to be a covered entity following a change in ownership or operational control, until it meets the cessation requirements in OAR 340-271-0130. Any other covered entity that was a related entity also continues to be a covered entity following the change in ownership or operational control, until it meets the cessation according to OAR 340-271-0130.

(c) Following a change in ownership or operational control, a covered fuel supplier that holds a compliance instrument or CCI credit according to OAR 340-271-0430 or OAR 340-271-0830 continues to hold the compliance instrument or CCI credit according to each rule, as applicable.

(2) Changes to related entities of covered fuel suppliers.

(a) If a person subject to any regulations in OAR chapter 340, division 215, becomes a new related entity to a covered fuel supplier that is not a local distribution company due to a change in ownership or operational control, the designated representative of the covered fuel supplier must notify DEQ in writing, on a form approved by DEQ, within 30 days of the ownership or operational control change. The designated representative must submit a complete and accurate notification, including providing the following information:

(A) Information about the new related entity, including legal name, full mailing address, and whether the person is a covered fuel supplier and holds a CPP permit;

(B) The name of the previous owner or operator of the new related entity;

(C) The name of the new owner or operator of the new related entity;

(D) The date of ownership or operator change for the new related entity; and

(E) Information about all other related entities subject to any regulations in OAR chapter 340, including legal names, full mailing addresses, and whether each is a covered fuel supplier and holds a CPP permit.

(b) If the person that is the new related entity to a covered fuel supplier identified in paragraph (a)(A) is not already a covered fuel supplier, the person:

(A) Becomes a covered fuel supplier beginning with the date of ownership or operator change;

(B) Must apply to DEQ for a CPP permit according to OAR 340-271-0150(1)(a)(B); and

(C) If the person is a covered fuel supplier, the person will have compliance obligations beginning with covered emissions from the calendar year in which the ownership or operator change occurred.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.050

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468A.050, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0130

RULE TITLE: Cessation of Covered Entity Applicability

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Cessation requirements for related entities revised to apply only to liquid fuels and propane suppliers (covered fuel suppliers that are not local distribution companies).

RULE TEXT:

(1) Cessation for covered fuel suppliers.

(a) A person that is a covered fuel supplier as described in OAR 340-271-0110 remains a covered fuel supplier until the person receives written notification from DEQ after either or both:

(A) The person's annual covered emissions are 0 (zero) MT CO₂e for six consecutive calendar years. If the person is not a local distribution company, the covered emissions of the person's related entities must also be 0 (zero) MT CO₂e for the same six consecutive calendar years; or

(B) The person was designated a covered fuel supplier in OAR 340-271-0110(3), the sum of its annual covered emissions and the annual covered emissions of its related entities are less than 25,000 MT CO₂e for six consecutive calendar years and the person applies to DEQ according to subsection (c).

(b) After a covered fuel supplier identified according to paragraph (a)(A) demonstrates compliance with compliance obligations for the years up to and including the years described in paragraph (a)(A), DEQ will notify the designated representative of the covered fuel supplier in writing that cessation is met.

(c) In order for cessation according to paragraph (a)(B) to take effect, a covered fuel supplier must apply to cease being a covered fuel supplier by submitting the following information to DEQ on a form approved by DEQ:

(A) Information about the covered fuel supplier, including:

(i) Name and full mailing address, and website; and

(ii) Designated representative's contact information including name, title or position, phone number, and email address;

(B) If the person is not a local distribution company information about each related entity required to report emissions according to OAR chapter 340, division 215, for each of the six consecutive calendar years, including legal name, full mailing address, and whether each is a covered fuel supplier and holds a CPP permit;

(C) Information about remaining requirements that must be met according to this division at the time the application is submitted to DEQ; and

(D) The following attestation, signed by the designated representative of the covered fuel supplier:

I certify under penalty of perjury under the laws of the State of Oregon that to the best of my knowledge and belief, the information provided in this form is true, accurate, and complete. [Covered fuel supplier] meets the eligibility for cessation as a covered fuel supplier according to Oregon Administrative Rules chapter 340, division 271. I understand that ceasing to be a covered fuel supplier means that [covered fuel supplier] will also cease to hold any compliance instruments and CCI credits.

(d) After the covered fuel supplier applying for cessation according to paragraph (a)(B) and subsection (c) demonstrates compliance with compliance obligations for the years up to and including the years described in paragraph (a)(B), DEQ will notify the designated representative of the covered fuel supplier in writing that the application for cessation is approved and that cessation is met.

(e) A person that ceases to be a covered fuel supplier according to this section must comply with all remaining applicable recordkeeping requirements of this division from the last date on which the person was a covered fuel supplier.

(f) When a person ceases to be a covered fuel supplier:

(A) The cessation does not change the compliance obligation for any year for which the person has already demonstrated compliance;

(B) Any remaining compliance instruments held by the person will be retired, held in reserve, or distributed by DEQ according to OAR 340-271-0430(3); and

(C) Any remaining community climate investment credits held by the person will be canceled according to OAR 340-

271-0830(1)(c).

(2) Cessation for covered stationary sources.

(a) A person that is a covered stationary source as described in OAR 340-271-0110 remains a covered stationary source until either of the following occur:

(A) The person's operations are changed such that all greenhouse gas emitting processes and operations cease to operate or are shut down. In order for cessation to take effect, the person must submit a written notification to DEQ certifying the cessation of all greenhouse gas emitting processes and operations; or

(B) The person's covered emissions are less than 25,000 MT CO₂e for five consecutive calendar years and the person has fully complied with any applicable BAER order and any related reporting requirements and has submitted any remaining required BAER assessment and five-year BAER report. In order for cessation to take effect, DEQ will notify the covered stationary source that cessation is met.

(b) This section does not apply to seasonal operational cessations or other temporary cessation of operations.

(c) A person that ceases to be a covered stationary source according to this section must comply with all remaining applicable recordkeeping requirements of this division from the last date on which the person was a covered stationary source.

(3) Any person that ceases to be a covered entity according to this rule must resume meeting the requirements of this division for any future year in which applicability is met.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.050

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468A.050, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0150

RULE TITLE: Covered Entity Permit Requirements

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: For a covered fuel supplier, revisions to dates to apply to DEQ for a CPP permit. Revisions to limit some requirements to liquid fuels and propane suppliers (covered fuel supplier that are not local distribution companies). For BAER, if modification triggers BAER process, facility can't construct the modification or emit covered emissions from the modification before receiving a BAER order. Clarification of how BAER permit conditions get incorporated into ACDP and Title V permits.

RULE TEXT:

(1) A person described in either or both OAR 340-271-0110(3) or (4) must apply for a CPP permit as provided in this section.

(a) The person must apply for a CPP permit according to subsections (b) and (c) by the following deadlines:

(A) If DEQ notifies the person in writing that the person is a covered fuel supplier, then the person must apply to DEQ for a CPP permit within 30 days of the notification or by another date DEQ specifies in the notification that is at least 30 days after the date of the notification;

(B) If DEQ does not provide a notification according to paragraph (A), then the person must apply to DEQ for a CPP permit by April 15 of the year after the calendar year that the person becomes a covered fuel supplier; or

(C) If there was a change in ownership or operational control according to OAR 340-271-0120(2), then the person must apply to DEQ for a CPP permit within 45 days of the change in ownership or operational control.

(b) A person that submits a CPP permit application to DEQ must submit a complete and accurate application. The application for a CPP permit must be submitted to DEQ using a form approved by DEQ and include:

(A) Identifying information about the covered fuel supplier including name, full mailing address, and website, and designated representative's contact information including name, title or position, phone number, and email address;

(B) If the person is a covered fuel supplier that is not a local distribution company, information about each related entity required to report emissions according to OAR chapter 340, division 215, including legal name, full mailing address, and whether each is a covered fuel supplier and holds a CPP permit; and

(C) The following attestation, signed by the designated representative of the person considered a covered fuel supplier;

I certify under penalty of perjury under the laws of the State of Oregon that to the best of my knowledge and belief, the information provided in this form is true, accurate, and complete. [Covered entity] meets the Climate Protection Program applicability requirements described in OAR 340-271-0110 and requests a permit with the understanding that [covered entity] must comply with such permit as provided in Oregon Administrative Rules chapter 340, division 271.

(c) DEQ may issue a CPP permit to a covered fuel supplier that submits a complete and accurate application. The permit may contain all applicable provisions of this division and such other conditions as DEQ determines are necessary to implement, monitor and ensure compliance with this division.

(2) New and modified stationary sources

(a) The owner or operator of a new source that is a covered stationary source may not emit any covered emissions prior to being issued a BAER order and a permit as described in subsection (3)(c).

(b) The owner or operator of an existing source that is proposing a modification and is required to complete a BAER assessment under OAR 340-271-0310(1)(c) may not construct the modification or emit any covered emissions from the modification prior to being issued a BAER order and approved permit modification as described in subsection (3)(d).

(3)(a) The owner or operator of an existing covered stationary source required to apply for a CPP permit addendum according to OAR 340-271-0330(1) must submit a complete and accurate application to DEQ or LRAPA, as applicable, that complies with and includes information identified in this section. The application must include the following:

(A) Identifying information about the covered stationary source, including name and the name of the person that owns

or operates the covered stationary source, full mailing address, the physical address of the covered stationary source, and a description of the nature of business being operated, the name, phone number and email address of the designated representative who is responsible for compliance with the permit, the permit number for an existing source, and the SIC or NAICS code of the covered stationary source;

(B) The name of a person authorized to receive requests from DEQ for additional data and information;

(C) The date DEQ notified the owner or operator of the covered stationary source of the BAER order established according to OAR 340-271-0320;

(D) A BAER implementation plan that includes the following:

(i) Identification of the actions that the owner or operator of the covered stationary source will take to comply with the BAER order; and

(ii) The schedule for implementing the requirements in the BAER order, consistent with any deadlines provided by DEQ in the BAER order, if applicable, and including an estimate of when all requirements from the BAER order will be completed;

(E) Any other information requested by DEQ; and

(F) The following attestation, signed by the designated representative of the covered stationary source;

I certify under penalty of perjury under the laws of the State of Oregon that to the best of my knowledge and belief, the information provided in this form is true, accurate, and complete. [Covered entity] meets the Climate Protection Program applicability requirements described in OAR 340-271-0110 and requests a permit with the understanding that [covered entity] must comply with such permit as provided in Oregon Administrative Rules chapter 340, division 271.

(b) DEQ or LRAPA, as applicable, may issue a CPP permit addendum to the owner or operator of a covered stationary source that submits a complete and accurate permit modification application under subsection (a), consistent with the requirements of OAR chapter 340, divisions 216 and 218, as applicable. The CPP permit addendum will be issued as a Category II permit action according to OAR chapter 340, division 209. A CPP permit addendum will amend the covered stationary source's Air Contaminant Discharge Permit or Title V Operating Permit. The CPP permit addendum will contain all applicable provisions of this division and such other conditions as DEQ or LRAPA, as applicable, determines are necessary to implement, monitor and ensure compliance with the permit and this division.

(c) If DEQ or LRAPA approves an application for an Air Contaminant Discharge Permit or Title V Operating Permit submitted by the owner or operator of a new source, then DEQ or LRAPA, as applicable, will incorporate the CPP conditions into the new Air Contaminant Discharge Permit or Title V Operating Permit and will not issue a separate CPP permit addendum. Such CPP conditions will include all applicable provisions of this division and such other conditions as DEQ or LRAPA, as applicable, determines are necessary to implement, monitor and ensure compliance with the permit and this division.

(d) If DEQ or LRAPA approves an application for a modification of an Air Contaminant Discharge Permit or Title V Operating Permit submitted by the owner or operator of an existing source that is required to undertake a BAER assessment described in OAR 340-271-0310(1)(c), then DEQ or LRAPA, as applicable, will incorporate the CPP conditions into the modified Air Contaminant Discharge Permit or Title V Operating Permit and will not issue a separate CPP permit addendum. Such CPP conditions will include all applicable provisions of this division and such other conditions as DEQ or LRAPA, as applicable, determines are necessary to implement, monitor and ensure compliance with the permit and this division.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.135

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468A.135, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0310

RULE TITLE: Best Available Emissions Reduction Assessments for Covered Stationary Sources

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Additional criteria that determine when a stationary source modification is required to go through BAER. Edits to list of information that must be included in a BAER assessment. Restriction that source cannot be required to go through BAER more than once every five years doesn't apply to modifications.

RULE TEXT:

(1) Requirement to conduct a BAER assessment.

(a) When notified in writing by DEQ, the owner or operator of a covered stationary source described in OAR 340-271-0110(5)(a)(A) must submit a complete and accurate BAER assessment according to this rule. The owner or operator of the covered stationary source must submit a complete BAER assessment to DEQ not later than nine months following the date of DEQ's notice, unless DEQ has identified a later deadline in its notice or DEQ approves an extension according to section (6).

(b) The owner or operator of a new source described in OAR 340-271-0110(5)(a)(B) must submit a complete and accurate BAER assessment completed according to this rule with its permit application submitted according to OAR chapter 340, division 216, or its notice of construction application submitted according to OAR chapter 340, division 210.

(c) Modifications.

(A) A source that is a covered stationary source described in OAR 340-271-0110(5)(a)(C) must complete a BAER assessment if notified in writing by DEQ. DEQ will require a BAER assessment at the time of the modification only if DEQ determines that the modification represents a significant change to the equipment or processes that emit covered emissions at the source.

(B) If the modification described in OAR 340-271-0110(5)(a)(C) is a notice of construction for a Type 2 change required under OAR 340-210-0230, DEQ will notify the source not later than 60 days after submittal of the notice of construction if a BAER assessment is required. Upon receipt of that notification, the owner or operator of the source must submit a complete and accurate BAER assessment completed according to this rule and an application for a permit modification submitted according to OAR chapter 340, division 216 or 218, as applicable. Notwithstanding OAR 340-210-0225(2) and (3), such permit modification application is a Type 3 change as described in OAR chapter 340, division 210.

(2) BAER assessment requirements. BAER assessments submitted to DEQ must include the following:

(a) A description of the covered stationary source's production processes and a flow chart of each process;

(b) Identification of all fuels, processes, equipment, and operations that contribute to the covered stationary source's covered emissions, including:

(A) Estimates of annual average covered emissions identified in OAR 340-271-0110(5)(b). For existing covered stationary sources, estimates must be of current annual average covered emissions. For new sources and existing sources proposing a modification, estimates must be of annual potential to emit covered emissions. Emissions must be identified in MT CO₂e, following methodologies identified in OAR chapter 340, division 215. This must also include and distinguish quantities and covered emissions of each fuel used to control air contaminants that are not greenhouse gases; and

(B) Estimates of current and anticipated type and annual quantity of all fuels used or proposed to be used by the covered stationary source;

(c) Identification and description of all available fuels, processes, equipment, technology, systems, actions, and other strategies, methods and techniques for reducing covered emissions described in OAR 340-271-0110(5)(b). Strategies considered must include but are not limited to the strategies used by other sources in this state or in other jurisdictions that produce goods of comparable type, quantity, and quality; and

(d) An assessment of each of the following for each strategy identified in subsection (c):

- (A) An estimate of annual average covered emissions reductions achieved if the strategy were implemented compared to the emissions estimated in paragraph (b)(A);
 - (B) Environmental and health impacts, both positive and negative, if the strategy were implemented, including any impacts on air contaminants that are not greenhouse gases and impacts to nearby communities;
 - (C) Energy impacts if the strategy were implemented, including whether and how the strategy would change energy consumption at the covered stationary source, including impacts related to any fuel use that results in anthropogenic greenhouse gas emissions. Any energy-related costs must be included in the economic impacts assessment in paragraph (D), not the energy impacts assessment;
 - (D) Economic impacts if the strategy were implemented, including operating costs and the costs of changing existing processes or equipment or adding to existing processes and equipment. Any energy-related costs must be included in the economic impacts assessment, not the energy impacts assessment in paragraph (C). The economic impacts assessment must include both costs and cost savings (benefits);
 - (E) An estimate of the time needed to fully implement the strategy at the covered stationary source; and
 - (F) A list of the information, resources, and documents used to support development of the BAER assessment, including, if available, links to webpages that provide public access to supporting documents.
- (3) Upon receipt of a BAER assessment described in section (2), DEQ will review the submittal and if DEQ determines that any additional information, corrections, or updates are required then DEQ may provide the owner or operator of the covered stationary source with a written request to provide such information by a certain date or DEQ may issue the BAER order based on the information it has available. If DEQ requests that the owner or operator of the covered stationary source revise its BAER assessment according to this section, the owner or operator must provide such information no later than the deadline provided by DEQ.
- (4) Five year BAER reports.
- (a) Every five years following the date that DEQ issued a BAER order, the owner or operator of a covered stationary source must submit to DEQ a five year BAER report that includes an update of the information described in subsections (2)(a) through (c).
- (b) If one or more new strategies are identified in a five year BAER report required in subsection (a) that have not previously been evaluated in a BAER assessment, DEQ may notify the owner or operator of the covered stationary source and require that it conduct a complete BAER assessment according to section (2) and submit it to DEQ. Such complete BAER assessment must also include:
- (A) Evaluation of any new strategies identified and any previously identified strategies using any new information available at the time the assessment is being conducted; and
 - (B) Current status and analysis of the implementation of requirements in any prior BAER order(s).
- (5) When notified in writing by DEQ, the owner or operator of a covered stationary source identified in section (1) may be required to conduct and submit an updated complete BAER assessment conducted according to this rule, in accordance with the following:
- (a) DEQ may not require the owner or operator of a covered stationary source to complete an updated BAER assessment within five years of the date of submission of the most recently completed BAER assessment unless the source is proposing a modification and is required to complete a new BAER assessment under OAR 340-271-0310(1)(c). However, if DEQ determines the owner or operator of a covered stationary source submitted information that it knew or should have known was false, inaccurate, or incomplete to DEQ, then DEQ may require the owner or operator of the covered stationary source to complete an updated BAER assessment within five years of the date of submission of the most recently completed BAER assessment;
 - (b) The updated BAER assessment must include assessment of new strategies and previously identified strategies and any new information available at the time the assessment is being conducted;
 - (c) The owner or operator of the covered stationary source must include current status and analysis of the implementation of requirements in any prior BAER order; and
 - (d) The owner or operator of the covered stationary source must submit the updated BAER assessment to DEQ not

later than nine months following the date of DEQ's notice, unless DEQ has identified a later deadline in the notice or DEQ approves an extension according to section (6).

(6) The owner or operator of a covered stationary source required to conduct a BAER assessment as described in sections (1) or (5) may request an extension of time to complete the BAER assessment by providing DEQ with a written request no fewer than 30 days prior to the submittal deadline. DEQ may grant an extension based on the following criteria:

- (a) The owner or operator of the covered stationary source has demonstrated progress in completing the submittal; and
- (b) A delay is necessary, for good cause shown by the owner or operator of the covered stationary source, related to obtaining more accurate or new data, performing additional analyses, or addressing changes in operations or other key parameters, any of which are likely to have a substantive impact on the outcomes of the BAER assessment.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040, 468A.050

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468A.050, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0320

RULE TITLE: Best Available Emissions Reduction Order

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Specify that DEQ will provide 30 day public notice and public comment period when draft BAER assessment is received and when DEQ publishes draft BAER order.

RULE TEXT:

- (1) DEQ may issue a BAER order for each owner or operator of a covered stationary source that must submit a BAER assessment as provided in OAR 340-271-0310. A BAER order will establish the actions that the owner or operator of a covered stationary source must take to reduce covered emissions and the timeline on which the actions must be taken.
- (2) In establishing the requirements in a BAER order for a covered stationary source, DEQ may consider any information it deems relevant, and must consider the following:
 - (a) Information submitted in a BAER assessment;
 - (b) The fuels, processes, equipment, technology, systems, actions, and other strategies, methods and techniques that maximize covered emissions reductions;
 - (c) The fuels, processes, equipment, technology, systems, actions, and other strategies, methods and techniques for reducing covered emissions used by sources in this state or in other jurisdictions that produce goods of comparable type, quantity, and quality;
 - (d) A reasonable schedule and amount of time necessary to implement a strategy under consideration by DEQ to reduce covered emissions;
 - (e) Environmental, public health, and energy impacts of a strategy under consideration by DEQ to reduce covered emissions, including but not limited to air quality impacts for nearby communities and impacts related to switching to cleaner energy resources, zero-emissions energy resources, or renewable fuels;
 - (f) Economic impacts of a strategy under consideration by DEQ to reduce covered emissions including, but not limited to, costs so great that a new source could not be built or an existing source could not be operated, and cost-effectiveness of different strategies that would achieve similar covered emissions reductions;
 - (g) Processes and operations currently in use by and at the covered stationary source and the remaining useful life of the covered stationary source;
 - (h) Whether a strategy under consideration by DEQ to reduce covered emissions is achievable, technically feasible, commercially available, and cost-effective;
 - (i) Whether a strategy under consideration by DEQ to reduce covered emissions has an impact on the type or quality of good(s) produced by and at the covered stationary source, if applicable; and
 - (j) Input from the public and community organizations from nearby the covered stationary source. Upon receipt of a BAER assessment, DEQ will provide public notice with a copy of the BAER assessment and a minimum of 30 days to submit written comments. DEQ also will provide public notice with a copy of DEQ's draft BAER order and a minimum of 30 days to submit written comments.
- (3) For the owner or operator of a covered stationary source required to register and report according to OAR chapter 340, division 215, DEQ will consider emissions data reports to assess whether covered emissions reductions are being achieved when establishing the requirements in a BAER order or for determining when to notify the owner or operator of a covered stationary source to conduct and submit an updated complete BAER assessment as described in OAR 340-271-0310(5).
- (4) DEQ may verify information submitted in a BAER assessment.
- (5) DEQ may consult with industry experts and third-party organizations before issuing a BAER order.
- (6) DEQ will notify the owner or operator of a covered stationary source of a BAER order in writing. A BAER order is effective 30 days from the date of the notification unless, within that time, DEQ receives a written request for a hearing from the owner or operator of the covered stationary source according to section (7).
- (7) The owner or operator of a covered stationary source may file with DEQ a written request for a contested case

hearing to challenge a BAER order issued according to section (6). The request must be filed in writing within 30 days of the date that DEQ issued the BAER order and must state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR chapter 340, division 11.

(8) DEQ will provide a public status update if DEQ has not yet issued a BAER order after 18 months of the date on which DEQ notified the owner or operator of a covered stationary source that it must conduct a BAER assessment.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0330

RULE TITLE: Compliance with a BAER Order

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: For existing sources going through BAER, extend deadline to submit a permit modification application from 30 days to 90 days (or longer if specified in the BAER order) after DEQ issues the final BAER order

RULE TEXT:

(1) The owner or operator of a covered stationary source for which DEQ has issued a BAER order according to OAR 340-271-0320 must:

(a) Comply with the requirements in the BAER order; and

(b) For an existing source that is required to complete a BAER assessment under OAR 340-271-0310(1)(a), submit to DEQ or LRAPA, as applicable, a complete permit modification application for a CPP permit addendum according to OAR 340-271-0150(3) not later than 90 days after the date that the BAER order is final and effective, or a later date specified in the BAER order.

(2) Reporting requirements.

(a) The owner or operator of a covered stationary source that has been issued a CPP permit addendum or operating permit that includes provisions related to a BAER order must submit an annual progress report to DEQ describing the progress in implementing the requirements in the BAER order. The annual progress reports are due to DEQ on or before February 15 of each year following the date that the notice of the BAER order is final and effective. The annual progress report must include:

(A) A description of the progress achieved in implementing the requirements in any BAER order;

(B) A schedule indicating dates for future increments of progress;

(C) A description of any increases or decreases in covered emissions that have occurred at the covered stationary source since the submission date of the most recently conducted complete BAER assessment; and

(D) An estimate of when all implementation of requirements of the BAER order will be complete.

(b) The owner or operator of a covered stationary source must submit a BAER order completion report to DEQ no later than 60 days after implementation of all requirements in the BAER order are complete, except for items related to continuous and ongoing requirements. The report must include:

(A) The final increments of progress achieved in fully implementing the requirements in the BAER order and the date the final increments of progress were achieved;

(B) A summary of the actions taken to fully implement the requirements in the BAER order; and

(C) An estimate of the resulting covered emissions reductions that will be achieved now that the requirements in the BAER order are being implemented.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0420

RULE TITLE: Distribution of Compliance Instruments to Covered Fuel Suppliers

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: DEQ will distribute compliance instruments from an annual cap no later than June 30 of the calendar year of that cap. Revisions to the annual compliance instrument distribution methodology for covered fuel suppliers that are not local distribution companies include using unverified emission data from the prior calendar year as reported by covered fuel suppliers under OAR chapter 340, division-215, in place of the current three-year evaluation periods. Each subsequent annual compliance instrument distribution from the applicable cap will then be adjusted as needed in the following year using verified information (the verified emissions data corrections factor). For the 2024 compliance distribution year only, for each liquid fuels and propane supplier, DEQ will use the higher of either the 2022 verified emissions or unverified 2023 emissions for the annual compliance instrument methodology. The verified emissions data correction factor would still apply for unverified 2023 emissions. Proposed additions describe how DEQ would incorporate any individual fuel supplier compliance instrument holding limit reductions into the annual compliance instrument distribution. Revisions to remove the maximum limit on the number of compliance instruments DEQ can distribute from the reserve per fuel supplier per year. Revisions to clarify how DEQ will determine the number of compliance instruments to distribute from the reserve to each fuel supplier making a request and when. Revisions to the eligibility for a distribution from the compliance instrument reserve for related entities to a covered fuel supplier.

RULE TEXT:

- (1) DEQ will distribute compliance instruments according to this rule. DEQ will distribute compliance instruments from a cap according to sections (2), (3), (4), and (6) no later than June 30 of the calendar year of that cap.
- (2) Annual distribution of compliance instruments to covered fuel suppliers that are local distribution companies. DEQ will annually distribute to each local distribution company, or to its successor(s) due to a change in ownership or operation, the number of compliance instruments from the calendar year's cap stated in Table 4 in OAR 340-271-9000.
- (3) DEQ will establish a compliance instrument reserve for covered fuel suppliers that are new to the program and are not local distribution companies. DEQ will hold, according to subsection (4)(a), a subset of compliance instruments in the reserve from the caps identified in Table 2 in OAR 340-271-9000. Once a compliance instrument is held in the reserve, it remains in the reserve until DEQ determines, at its discretion, to undertake one of the following actions:
 - (a) DEQ distributes the compliance instrument according to section (5) to a covered fuel supplier that is not a local distribution company;
 - (b) DEQ retires the compliance instrument because the compliance instrument reserve exceeds the size described in Table 3 OAR 340-271-9000, provided that after such retirement the size of the compliance instrument reserve will equal or exceed the reserve size described in Table 3; or
 - (c) DEQ distributes the compliance instrument to a covered fuel supplier that is not a local distribution company because the size of the compliance instrument reserve exceeds the reserve size described in Table 3 in OAR 340-271-9000. DEQ will only distribute compliance instruments from the reserve according to this subsection if there are at least 10,000 compliance instruments to distribute and if the remaining size of the reserve after this distribution will equal or exceed the reserve size described in Table 3 in OAR 340-271-9000. DEQ will calculate the number of compliance instruments to distribute to each covered fuel supplier that is not a local distribution company according to subsection (4)(b), except "total compliance instruments to distribute" means the total number of compliance instruments DEQ is distributing from the reserve according to this subsection.
- (4) Annual distribution of compliance instruments to covered fuel suppliers that are not local distribution companies. DEQ will annually distribute compliance instruments from the applicable calendar year's cap to covered fuel suppliers that are not local distribution companies as follows:
 - (a) If the size of the compliance instrument reserve is less than the reserve size described in Table 3 in OAR 340-271-9000 for the calendar year, then DEQ will calculate the difference and hold in the compliance instrument reserve that quantity of compliance instruments. Otherwise, the number of compliance instruments in the reserve will not be

changed.

(b) Except for compliance instruments identified in Table 4 in OAR 340-271-9000 for distribution according to section (2) and the compliance instruments held in the reserve according to section (3) and subsection (4)(a), DEQ will calculate the number of compliance instruments to distribute to each covered fuel supplier that is not a local distribution company as described in this subsection, based on emissions data from the prior calendar year as reported by each covered fuel supplier as required by OAR chapter 340, division 215, and subject to DEQ's initial review for errors, but prior to completion of third-party verification as required by OAR chapter 340, division 272. A person that becomes a covered fuel supplier after DEQ has distributed the compliance instruments for that year will not receive a distribution under this subsection.

(A) Prior to each calculation of compliance instrument distribution in OAR 340-271-0420(4)(b)(B), DEQ will apply a "Verified emissions data correction factor" to the annual compliance instrument distribution of each covered fuel supplier. DEQ will recalculate the compliance instrument distribution from the previous year using third-party verified emissions data. If DEQ determines that the reported emission data used for the previous year's compliance instrument distribution resulted in a lesser or greater number of compliance instruments being distributed to a covered fuel supplier, when compared to the recalculation using the third-party verified data, DEQ will increase or reduce, respectively, the number of compliance instruments distributed to the covered fuel supplier by an equal amount in the current compliance instrument distribution.

(B) DEQ will use the following formula to calculate the number of compliance instruments to distribute to each covered fuel supplier:

Number of Compliance Instruments = (Total compliance instruments to distribute * ((Covered fuel supplier covered emissions + covered fuel supplier biofuel emissions) / Total emissions)) ± Verified emissions data correction factor – Compliance instrument holding limit reduction

(C) As used in the formula in paragraph (B):

(i) "Total compliance instruments to distribute" means the cap for the calendar year, according to Table 2 in OAR 340-271-9000, minus the number of compliance instruments identified in Table 4 in OAR 340-271-9000; and minus the number of compliance instruments held in the compliance instrument reserve;

(ii)(I) For the 2025 and all subsequent annual distributions, "covered fuel supplier covered emissions" means the sum of a covered fuel supplier's covered emissions for the prior calendar year;

(II) For the 2024 annual distribution of compliance instruments, each covered fuel supplier's "covered fuel supplier covered emissions" will be either the sum of the covered fuel supplier's verified covered emissions for the 2022 calendar year or the sum of the covered fuel supplier's unverified covered emissions for the 2023 calendar year. The verified 2022 data will be used if the sum of a covered fuel supplier's verified 2022 covered emissions plus the verified emissions described in OAR 340-271-0110(3)(b)(B)(i) that result from the complete combustion or oxidation of all biomass-derived fuels that the covered fuel supplier imported, sold, or distributed for use in the state in 2022 is greater than the sum of a covered fuel supplier's unverified 2023 covered emissions plus the unverified emissions described in OAR 340-271-0110(3)(b)(B)(i) that result from the complete combustion or oxidation of all biomass-derived fuels that the covered fuel supplier imported, sold, or distributed for use in the state in 2023. The unverified 2023 data will be used if the sum of a covered fuel supplier's unverified 2023 covered emissions plus the unverified emissions described in OAR 340-271-0110(3)(b)(B)(i) that result from the complete combustion or oxidation of all biomass-derived fuels that the covered fuel supplier imported, sold, or distributed for use in the state in 2023 is greater than the sum of a covered fuel supplier's verified 2022 covered emissions plus the verified emissions described in OAR 340-271-0110(3)(b)(B)(i) that result from the complete combustion or oxidation of all biomass-derived fuels that the covered fuel supplier imported, sold, or distributed for use in the state in 2022;

(iii)(I) For the 2025 and all subsequent annual distributions, "covered fuel supplier biofuel emissions" means emissions described in OAR 340-271-0110(3)(b)(B)(i) that result from the complete combustion or oxidation of the annual quantity of biomass-derived fuels that the covered fuel supplier imported, sold, or distributed for use in the state for the prior calendar year;

(II) For the 2024 annual distribution of compliance instruments, if a covered fuel supplier's covered fuel supplier covered emissions, as determined under sub-subparagraph (ii)(II), are its verified 2022 calendar year emissions, then its "covered fuel supplier biofuel emissions" will be based on verified 2022 calendar year emissions data, but if a covered fuel supplier's covered fuel supplier covered emissions, as determined under sub-subparagraph (ii)(II), are its unverified 2023 calendar year emissions, then its "covered fuel supplier biofuel emissions" will be based on unverified 2023 calendar year emissions data;

(iv) "Total emissions" means the sum of "covered fuel supplier covered emissions" and "covered fuel supplier biofuel emissions" for the prior calendar year for all covered fuel suppliers whose compliance instrument distribution is calculated according to this section; and

(v) "Verified emissions data correction factor" means a correction applied as a result of changes to reported data since the previous distribution of compliance instruments, as described in OAR 340-271-0420(4)(b)(A); and

(vi) "Compliance instrument holding limit reduction" means the number of compliance instruments described in OAR 340-271-0430(2). If the compliance instrument holding limit reduction exceeds the number of compliance instruments that a covered fuel supplier would have received in the distribution before subtracting the compliance instrument holding limit reduction, then the covered fuel supplier will not receive any compliance instruments in the distribution, and a compliance instrument holding limit reduction equal to the amount by which it exceeded the number of compliance instruments that a covered fuel supplier would have received in the distribution before subtracting the compliance instrument holding limit will be applied in the following year.

(D) DEQ will distribute a number of compliance instruments to each covered fuel supplier using the formula in paragraph (B) and rounded down to the nearest whole number.

(E) Any remaining compliance instruments not distributed due to rounding will be held in the compliance instrument reserve.

(5) Distribution from compliance instrument reserve for new covered fuel suppliers that are not local distribution companies.

(a) A covered fuel supplier is eligible for a distribution from the compliance instrument reserve if it is not a local distribution company and if the person was not included in the distribution of compliance instruments for that year according to section (4).

(b) For all calendar years after 2024, a covered fuel supplier meeting the requirements of subsection (a) is not eligible for a distribution of compliance instruments from the reserve if the person is a related entity to a covered fuel supplier that received a distribution of compliance instruments under section (4)(c). A covered fuel supplier identified according to subsection (a) and not ineligible under subsection (b) may request a distribution of compliance instruments from the reserve by submitting an application to DEQ, on a form approved by DEQ, that includes the information described in paragraphs (A) through (D), no later than June 1 of the year after the calendar year of the annual distribution of compliance instruments from which the covered fuel supplier was not included. The covered fuel supplier must submit a separate application for each year for which it is seeking distribution of compliance instruments from the reserve.

(A) Information about the covered fuel supplier, including:

(i) Name and full mailing address; and

(ii) Designated representative's contact information including name, title or position, phone number, and email address;

(B) The calendar year of covered emissions for which compliance instruments are requested;

(C) The reason for the request, including description of eligibility according to subsection (a); and

(D) The following attestation, signed by the designated representative of the covered fuel supplier:

I certify under penalty of perjury under the laws of the State of Oregon that I am a representative of [covered fuel supplier], am authorized to submit this application on its behalf, and that, to the best of my knowledge and belief, the information provided in this form is true, accurate, and complete. [Covered fuel supplier] is a covered fuel supplier in the year indicated in this application and requests compliance instruments from the reserve according to the information included in this application.

(c) DEQ will review an application submitted according to subsection (b) to ensure that it meets the requirements of this section. DEQ will inform the applicant either that the submitted application is complete or that additional specific information is required to make the application complete. If the application is incomplete, DEQ will not consider the application further until the applicant provides the additional information requested by DEQ.

(d) If DEQ approves an application, DEQ will distribute one or more compliance instruments to the covered fuel supplier from the reserve no later than June 15 of the year after the calendar year of the annual distribution of compliance instruments from which the covered fuel supplier was not included. DEQ will distribute compliance instruments from the reserve to the covered fuel supplier, as follows:

(A) A maximum distribution amount that will not exceed the covered fuel supplier's covered emissions in that calendar year using emissions data from the prior calendar year as reported by each covered fuel supplier as required by OAR 340, division 215, and subject to DEQ's initial review for errors, but prior to completion of third-party verification as required by OAR 340, division 272; and

(B) If there are fewer compliance instruments in the reserve at the time of distribution than have been requested by all covered fuel suppliers who are approved for a reserve distribution for a calendar year, DEQ shall allocate compliance instruments in the reserve according to the ratio of each covered fuel supplier's covered emissions in that calendar year to the total covered emissions from all covered fuel suppliers in that calendar year.

(6) Each year, the sum of all compliance instruments that are not distributed to fuel suppliers in the distribution under section OAR 340-271-0420(4) as a result of compliance instrument holding limit reductions will be distributed to all covered fuel suppliers that did not have any compliance instrument holding limit reduction using the formula described in paragraph OAR 340-271-0420(4)(b)(B), except that, for purposes of such redistribution, "total compliance instruments to distribute" means the total number of compliance instruments that DEQ did not distribute to fuel suppliers in the general distribution under section OAR 340-271-0420(4) as a result of compliance instrument holding limit reductions. Such additional distribution of compliance instruments shall be made at the same time as the distribution described in section OAR 340-271-0420(4). Any remaining compliance instruments not distributed due to rounding will be held in the compliance instrument reserve.

(7) Upon distribution of compliance instruments according to sections (2), (4), (5), and (6), DEQ will notify the designated representative of each covered fuel supplier in writing of the availability of compliance instruments.

(8) DEQ will track distributed compliance instruments.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0430

RULE TITLE: Holding Compliance Instruments

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Revisions to include a compliance instrument holding limit reduction to be assessed following the end of a compliance period, but prior to demonstration of compliance. Compliance instrument holding limit reduction is the number of compliance instruments above one and a half times the fuel supplier's annual compliance obligation(s) for each year of a compliance period held by the fuel supplier on the date of assessment. The compliance instrument holding limit reduction is applied to the distribution of compliance instruments in the subsequent year's annual distribution. Revisions to also explain how DEQ would distribute any compliance instruments due to applying the holding limits reductions to a covered fuel supplier.

RULE TEXT:

(1) When DEQ distributes a compliance instrument to a covered fuel supplier according to OAR 340-271-0420 or when a covered fuel supplier acquires a compliance instrument according to OAR 340-271-0500, the covered fuel supplier may continue to hold the compliance instrument until any of the following apply:

(a) The covered fuel supplier uses the compliance instrument toward its demonstration of compliance with a compliance obligation according to OAR 340-271-0450;

(b) The covered fuel supplier transfers the compliance instrument to another covered fuel supplier according to OAR 340-271-0500; or

(c) The covered fuel supplier has ceased being a covered fuel supplier according to OAR 340-271-0130. When this occurs, DEQ may, at its discretion:

(i) Retire the compliance instrument; or

(ii) If the covered fuel supplier is not a local distribution company:

(A) Hold the compliance instrument in the compliance instrument reserve described in OAR 340-271-0420(3); or

(B) Distribute the compliance instrument to a covered fuel supplier that is not a local distribution company. DEQ will only distribute the compliance instrument if there are at least 10,000 compliance instruments to distribute. DEQ will calculate the number of compliance instruments to distribute to each covered fuel supplier according to OAR 340-271-0420(4)(b), except "total compliance instruments to distribute" means the total number of compliance instruments DEQ is distributing according to this paragraph.

(2) For each covered fuel supplier that is not a local distribution company, a compliance instrument holding limit reduction will be calculated on November 22 of the year following the end of each compliance period, or 25 days after DEQ's notification in OAR 340-271-0450(1), whichever is later. A covered fuel supplier's compliance instrument holding limit reduction is the number of compliance instruments from any prior year held by the covered fuel supplier on that date that exceeds one and a half times the sum of the covered fuel supplier's annual compliance obligation(s) for each year of the prior compliance period. In the year subsequent to the year after the end of a compliance period, if a fuel supplier did not receive any compliance instruments in the distribution under section OAR 340-271-0420(4) in the prior year because its compliance instrument holding limit reduction exceeded the number of compliance instruments that it otherwise would have been distributed, then the fuel supplier's compliance instrument holding limit reduction will be reduced as provided in subparagraph OAR 340-271-0420(4)(b)(B)(vi), and such reduced compliance instrument holding limit reduction will be used in the subsequent year's compliance instrument distribution calculation under section OAR 340-271-0420(4).

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-0450

RULE TITLE: Demonstration of Compliance

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Revision to change 25 days after DEQ notification to 40 days after DEQ notification with a covered fuel supplier having to demonstrate compliance by Dec. 9 of the year following the end of each compliance period, or 40 days after DEQ's notification, whichever is later.

RULE TEXT:

- (1) DEQ will determine a covered fuel supplier's total compliance obligation for a compliance period as the sum of the covered fuel supplier's annual compliance obligation(s) for each year of the compliance period. DEQ will base its determinations on emissions calculated according to OAR 340-271-0110(1). DEQ will notify the covered fuel supplier of its determination.
- (2) A covered fuel supplier must demonstrate compliance according to this rule by December 9 of the year following the end of each compliance period, or 40 days after DEQ's notification described in section (1), whichever is later.
- (3) To demonstrate compliance for a compliance period, a covered fuel supplier must submit the following to DEQ:
 - (a) For each metric ton of CO₂e of the total compliance obligation, either a compliance instrument or a CCI credit, subject to the following limitations:
 - (A) A covered fuel supplier may only submit compliance instruments that DEQ distributed from the caps for the calendar years of the applicable compliance period or from caps for earlier compliance periods; and
 - (B) The quantity of CCI credits used to demonstrate compliance as a percentage of the total compliance obligation for the applicable compliance period may not exceed the allowable percentage specified in Table 6 in OAR 340-271-9000.
 - (b) A demonstration of compliance form, approved by DEQ that includes:
 - (A) Name and full mailing address of the covered fuel supplier;
 - (B) Designated representative's contact information including name, title or position, phone number, and email address;
 - (C) Identification of the compliance period and calendar year(s) for which the covered fuel supplier is demonstrating compliance;
 - (D) The total compliance obligations in metric tons of CO₂e for the compliance period and listed separately for each calendar year in the compliance period;
 - (E) The total number of compliance instruments the covered fuel supplier is submitting to DEQ to demonstrate compliance, and separately the total number submitted from each calendar year's cap;
 - (F) The total number of CCI credits the covered fuel supplier is submitting to DEQ to demonstrate compliance; and
 - (G) The following attestation, signed by the designated representative of the covered fuel supplier:

I certify under penalty of perjury under the laws of the State of Oregon that I am a representative of [covered fuel supplier], am authorized to submit this report on its behalf, and that, to the best of my knowledge and belief, the information provided in this form is true, accurate, and complete. It is the intent of [covered fuel supplier] to use the quantity of compliance instruments and credits listed on this form and submitted to DEQ for the demonstration of compliance. I certify that [covered fuel supplier] has not exceeded the allowable use of CCI credits. If any portion of these compliance obligations remain unmet after this submission, I understand that [covered fuel supplier] must still demonstrate compliance with the remaining portion and may be subject to enforcement action.

- (4) Each metric ton of CO₂e of a compliance obligation for which a covered fuel supplier does not demonstrate compliance according to this rule is a separate violation of this division.
- (5) If a change in ownership of a covered fuel supplier occurs, the person that owns or operates the covered fuel supplier as of December 31 in the final year of a compliance period is responsible for demonstration of compliance according to this rule for each annual compliance obligation during the compliance period. Compliance obligations may not be split or subdivided based on ownership changes during the compliance period or during any year within the compliance period.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-8100

RULE TITLE: Program Review

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Goals for stationary sources revised to change total covered emissions from combustion of solid or gaseous fuels to total covered emissions from use of solid or gaseous fuels.

RULE TEXT:

(1) DEQ will report to the EQC on community climate investments. DEQ will submit the first report to the EQC by August 30, 2024 and every two years thereafter. DEQ will share each report with current members of the equity advisory committee after submission to the EQC. Each community climate investment report will include:

(a) A review of community climate investments, including:

(A) CCI credits distributed to covered fuel suppliers;

(B) CCI credits used by covered fuel suppliers to demonstrate compliance;

(C) Estimates of annual greenhouse gas emissions reductions that are anticipated to be achieved by completed projects that CCI entities have reported to DEQ by March 31 of the year DEQ is reporting to the EQC;

(D) Estimates of annual non-greenhouse gas air contaminant emissions reductions that are anticipated to be achieved by completed projects that CCI entities have reported to DEQ by March 31 of the year DEQ is reporting to the EQC;

(E) Calculation of the average anthropogenic greenhouse gas emissions reductions achieved per CCI credit distributed based on (A) and (C) and whether reductions of approximately one MT CO₂e or more of anthropogenic greenhouse gas emissions for the average CCI credit distributed by DEQ was achieved; and

(F) Description of community benefits achieved; and

(b) DEQ's recommendations regarding any necessary or desirable changes to the CPP provisions relating to CCIs, including, without limitation, recommendations on changes to the CCI credit contribution amounts described in Table 7 in OAR 340-271-9000 necessary to assure that the use of CCI funds is reducing anthropogenic greenhouse gas emissions in Oregon by an average of at least one MT CO₂e per CCI credit distributed by DEQ, as well as recommendations on how to best achieve the purposes of CCIs described in OAR 340-271-0900, if applicable.

(2) DEQ will report to the EQC on implementation of the Climate Protection Program. DEQ will submit the first report to the EQC five years after the date of adoption of this division and at least once every five years thereafter. Each program review report will include:

(a) A review of the Climate Protection Program, including:

(A) Summary of covered fuel suppliers' demonstrations of compliance for compliance periods that have occurred since program start, including:

(i) Caps for each year and compliance period;

(ii) Compliance obligations for each year and compliance period;

(iii) Compliance instruments submitted for each compliance period; and

(iv) CCI credits submitted for each compliance period;

(B) Summary of the distribution of compliance instruments, including the size of the compliance instrument reserve at the start and end of each program year that has occurred and compared to Table 3 in OAR 340-271-9000;

(C) Summary of activity relating to trading of compliance instruments for each program year that has occurred;

(D) Summary of covered stationary source requirement activities that have occurred since program start or since the most recently submitted report to the EQC, whichever is later, including:

(i) The number of existing stationary sources that DEQ has notified in writing that must complete a BAER assessment;

(ii) The number of BAER assessments received or anticipated to be received by DEQ;

(iii) A brief summary of any BAER order issued and the required actions that must be taken by the owner or operator of a covered stationary source that has been issued a BAER order;

(iv) A brief summary of the status of any covered stationary source activities regarding implementation of requirements in a BAER order; and

- (v) Review of any changes in annual covered emissions from current covered stationary sources to assess whether covered emissions are being reduced;
- (E) Whether emission reductions from covered stationary sources align with the priorities described in section (3). This will be assessed in program reviews beginning after 2029.
- (F) A current list of covered entities by name and whether each is a covered fuel supplier or covered stationary source; and
- (G) Description of any enforcement actions taken that involved civil penalties, if applicable; and
- (b) DEQ's recommendations regarding any potential changes to the CPP including, for example and without limitation, recommendations regarding potential changes to best achieve the goals described in section (3) for covered stationary sources.
- (3) CPP goals for covered stationary sources described in OAR 340-271-0110(5) are to:
 - (a) Reduce total covered emissions from covered stationary sources; and
 - (b) Reduce total covered emissions from covered stationary sources that are the result of use of solid or gaseous fuels by 50 percent by 2035 from the average of 2017 through 2019 emissions.
- (4) If the average annual statewide retail cost of gasoline, diesel or natural gas in Oregon increases year-over-year by an amount that is more than 20 percent higher than the average change in cost for the same fuel over the same period in Washington, Idaho, and Nevada, DEQ will investigate the cause(s) of the increase and report to the EOC regarding whether changes to the rules in this division should be made that would ameliorate a relative increase in costs in Oregon. If necessary, DEQ will consider recommending rule changes, such as changes to caps and distribution of additional compliance instruments, changes to the compliance instrument reserve, or changes to the allowable usage of CCI credits.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468.035, 468A.010, 468A.015, 468A.045

AMEND: 340-271-9000

RULE TITLE: Tables

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: Table 5. Compliance instrument distribution evaluation periods repealed effective 11/16/2023.

RULE TEXT:

- (1) Table 1. Thresholds for applicability described in OAR 340-271-0110(3).
- (2) Table 2. Oregon Climate Protection Program caps.
- (3) Table 3. Compliance instrument reserve size.
- (4) Table 4. Compliance instrument distribution to covered fuel suppliers that are local distribution companies.
- (5) REPEALED effective November 16, 2023.
- (6) Table 6. Covered fuel supplier allowable usage of community climate investment credits to demonstrate compliance as described in OAR 340-271-0450(3).
- (7) Table 7. CCI credit contribution amount.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.025, 468A.040

STATUTES/OTHER IMPLEMENTED: ORS 468.020, 468A.025, 468A.040, 468.035, 468A.010, 468A.015, 468A.045



OAR 340-271-9000
Table 1
Thresholds for
applicability described in OAR 340-271-0110(3)

| Applicability determination calendar year(s) | Threshold for applicability to compare to annual covered emissions | Calendar year a person becomes a covered fuel supplier |
|---|---|---|
| Any year from 2018 through 2022 | 200,000 MT CO ₂ e | 2022 |
| 2023 | 200,000 MT CO ₂ e | 2023 |
| 2024 | 200,000 MT CO ₂ e | 2024 |
| Any year from 2021 through 2025 | 100,000 MT CO ₂ e | 2025 |
| 2026 | 100,000 MT CO ₂ e | 2026 |
| 2027 | 100,000 MT CO ₂ e | 2027 |
| Any year from 2024 through 2028 | 50,000 MT CO ₂ e | 2028 |
| 2029 | 50,000 MT CO ₂ e | 2029 |
| 2030 | 50,000 MT CO ₂ e | 2030 |
| Any year from 2027 through 2031 | 25,000 MT CO ₂ e | 2031 |
| 2032 | 25,000 MT CO ₂ e | 2032 |
| Each subsequent year | 25,000 MT CO ₂ e | Each subsequent year |



OAR 340-271-9000
Table 2
Oregon Climate Protection Program caps

| Calendar year | Cap |
|---------------|------------|
| 2022 | 28,081,335 |
| 2023 | 27,001,283 |
| 2024 | 25,921,232 |
| 2025 | 25,763,209 |
| 2026 | 24,637,057 |
| 2027 | 23,510,904 |
| 2028 | 23,013,190 |
| 2029 | 21,842,149 |
| 2030 | 20,671,108 |
| 2031 | 19,910,424 |
| 2032 | 18,688,088 |
| 2033 | 17,465,752 |
| 2034 | 16,243,416 |
| 2035 | 15,021,080 |
| 2036 | 14,219,956 |
| 2037 | 13,418,831 |
| 2038 | 12,617,707 |
| 2039 | 11,816,583 |
| 2040 | 11,015,459 |
| 2041 | 10,214,334 |
| 2042 | 9,413,210 |
| 2043 | 8,612,086 |
| 2044 | 7,810,962 |
| 2045 | 7,009,837 |
| 2046 | 6,208,713 |
| 2047 | 5,407,589 |
| 2048 | 4,606,465 |

| | |
|--|-----------|
| 2049 | 3,805,340 |
| 2050 and each calendar year thereafter | 3,004,216 |



OAR 340-271-9000
Table 3
Compliance instrument reserve size

| Calendar year(s) of the cap | Reserve size |
|--|--------------------------------|
| 2022 | 400,000 compliance instruments |
| 2023 through 2030 | 800,000 compliance instruments |
| 2031 through 2040 | 500,000 compliance instruments |
| 2041 and each calendar year thereafter | 250,000 compliance instruments |



OAR 340-271-9000

Table 4

Compliance instrument distribution to covered fuel suppliers that are local distribution companies

| Calendar year | Compliance instruments to distribute to Avista Utilities | Compliance instruments to distribute to Cascade Natural Gas Corporation | Compliance instruments to distribute to Northwest Natural Gas Company |
|---------------|--|---|---|
| 2022 | 703,373 | 743,707 | 5,759,972 |
| 2023 | 676,320 | 715,103 | 5,538,434 |
| 2024 | 649,267 | 686,499 | 5,316,897 |
| 2025 | 622,214 | 657,895 | 5,095,359 |
| 2026 | 595,161 | 629,291 | 4,873,822 |
| 2027 | 568,109 | 600,687 | 4,652,285 |
| 2028 | 541,056 | 572,083 | 4,430,747 |
| 2029 | 514,003 | 543,478 | 4,209,210 |
| 2030 | 486,950 | 514,874 | 3,987,673 |
| 2031 | 459,897 | 486,270 | 3,766,135 |
| 2032 | 432,845 | 457,666 | 3,544,598 |
| 2033 | 405,792 | 429,062 | 3,323,061 |
| 2034 | 378,739 | 400,458 | 3,101,523 |
| 2035 | 351,686 | 371,854 | 2,879,986 |
| 2036 | 332,930 | 352,021 | 2,726,387 |
| 2037 | 314,173 | 332,189 | 2,572,787 |
| 2038 | 295,416 | 312,357 | 2,419,188 |
| 2039 | 276,660 | 292,525 | 2,265,589 |
| 2040 | 257,903 | 272,693 | 2,111,990 |
| 2041 | 239,147 | 252,860 | 1,958,390 |
| 2042 | 220,390 | 233,028 | 1,804,791 |
| 2043 | 201,633 | 213,196 | 1,651,192 |
| 2044 | 182,877 | 193,364 | 1,497,593 |

| | | | |
|--|---------|---------|-----------|
| 2045 | 164,120 | 173,532 | 1,343,993 |
| 2046 | 145,364 | 153,699 | 1,190,394 |
| 2047 | 126,607 | 133,867 | 1,036,795 |
| 2048 | 107,850 | 114,035 | 883,196 |
| 2049 | 89,094 | 94,203 | 729,596 |
| 2050 and each calendar year thereafter | 70,337 | 74,371 | 575,997 |



OAR 340-271-9000

Table 6

Covered fuel supplier allowable usage of community climate investment credits to demonstrate compliance as described in OAR 340-271-0450(3)

| Compliance period | Allowable percentage of total compliance obligation(s) for which compliance may be demonstrated with CCI credits |
|--|---|
| Compliance period 1 (2022 through 2024) | 10% |
| Compliance period 2 (2025 through 2027) | 15% |
| Compliance period 3 (2028 through 2030), and for each compliance period thereafter | 20% |



OAR 340-271-9000
Table 7
CCI credit contribution amount

| Effective date | CCI credit contribution amount in 2021 dollars, to be adjusted according to OAR 340-271-0820(3) |
|-----------------------|--|
| March 1, 2023 | \$107 |
| March 1, 2024 | \$108 |
| March 1, 2025 | \$109 |
| March 1, 2026 | \$110 |
| March 1, 2027 | \$111 |
| March 1, 2028 | \$112 |
| March 1, 2029 | \$113 |
| March 1, 2030 | \$114 |
| March 1, 2031 | \$115 |
| March 1, 2032 | \$116 |
| March 1, 2033 | \$117 |
| March 1, 2034 | \$118 |
| March 1, 2035 | \$119 |
| March 1, 2036 | \$120 |
| March 1, 2037 | \$121 |
| March 1, 2038 | \$122 |
| March 1, 2039 | \$123 |
| March 1, 2040 | \$124 |
| March 1, 2041 | \$125 |
| March 1, 2042 | \$126 |
| March 1, 2043 | \$127 |
| March 1, 2044 | \$128 |
| March 1, 2045 | \$129 |
| March 1, 2046 | \$130 |
| March 1, 2047 | \$131 |
| March 1, 2048 | \$132 |

| | |
|---------------|-------|
| March 1, 2049 | \$133 |
| March 1, 2050 | \$134 |

AMEND: 340-272-0020

RULE TITLE: Definitions

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking adds a new definition for subcontractor.

RULE TEXT:

The definitions in this rule and in OAR 340-200-0020, OAR 340-215-0020, and OAR 340-253-0040, and the acronyms in OAR 340-253-0060 apply to this division. If the same term is defined in this rule and another division, the definition in this rule applies to this division.

(1) "Adverse verification statement" means a verification statement from a verification body that (either or both):

(a) It cannot say with reasonable assurance the submitted report or fuel pathway application is free of a material misstatement; or

(b) The submitted report or fuel pathway application contains correctable errors and thus is not in conformance with the requirements to fix such errors according to OAR 340-272-0435.

(2) "California ARB" means California Air Resources Board.

(3) "CFP" means the Oregon Clean Fuels Program established under OAR chapter 340, division 253.

(4) "Conflict of interest" means a situation in which, because of financial or other activities or relationships with other persons or organizations, a verification body is unable or potentially unable to provide an impartial verification statement of a potential client's report or fuel pathway application, or the verification body's objectivity in providing verification services is or might be otherwise compromised.

(5) "Correctable errors" means errors identified by the verification team that affect data in the submitted report or fuel pathway application, which result from a nonconformance with OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable. Differences that, in the professional judgment of the verification team, are the result of differing but reasonable methods of truncation or rounding or averaging, where a specific procedure is not prescribed by this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, are not considered errors and therefore do not require correction.

(6) "DEQ" means Oregon Department of Environmental Quality.

(7) "Difference in CI" means the absolute value result of the reported operational CI minus the verifier's calculation of CI for material misstatement of carbon intensity assessments for a CFP fuel pathway application or annual report. The verifier's calculation of CI is based on site-specific data inputs modified to include discrepancies, omissions, and misreporting found during the course of verification services.

(8) "Full verification" means all verification services as required under OAR 340-272-0300(1).

(9) "GHG Reporting Program" means the Oregon Greenhouse Gas Reporting Program established under OAR chapter 340, division 215.

(10) "Independent reviewer" means a lead verifier within a verification body that has not participated in providing verification services for a responsible entity for the current reporting year and provides an independent review of verification services provided to the responsible entity.

(11) "Lead verifier" means a person that has met the requirements to perform such role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to act as the lead of a verification team providing verification services as described by this division.

(12) "Less intensive verification" means all verification services required for full verification, except for site visit(s) as described under OAR 340-272-0420, and only requiring data checks and document reviews based on the analysis and risk assessment in the most recent sampling plan developed as part of the most current full verification.

(13) "Material misstatement" means any discrepancy, omission, misreporting, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that reported data or a submitted report or fuel pathway application contains one or more errors, as described in OAR 240-272-0450, OAR 240-272-0455, and OAR 240-272-0460, as applicable.

- (14) "Member" means any employee or subcontractor of the verification body or related entities of the verification body and includes any individual with majority equity share in the verification body or its related entities.
- (15) "Nonconformance" means the failure to meet the applicable requirements of this division or the failure to meet requirements of OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable, to calculate or report data or submit a fuel pathway application.
- (16) "Positive verification statement" means a verification statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway application is free of material misstatement and that it conforms to the requirements of this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable.
- (17) "Professional judgment" means decisions based on professional qualifications and relevant greenhouse gas accounting and auditing experience.
- (18) "Qualified positive verification statement" means a statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway application is free of material misstatement and has been corrected or modified in conformance with OAR 340-272-0435, but may include one or more other nonconformance(s) with the requirements of this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, which do not result in a material misstatement.
- (19) "Quarterly review" means a review process conducted by the verification team after quarterly data is submitted and before annual data is submitted and verified.
- (20) "Reasonable assurance" means high degree of confidence in the accuracy and truth of a conclusion.
- (21) "Reported emissions reductions" means the total of all greenhouse gas emissions reductions reported in a CFP project report.
- (22) "Reported Operational CI Value" means the absolute value of the operational CI submitted in a CFP fuel pathway application or annual report used for material misstatement of carbon intensity assessments.
- (23) "Reported quarterly fuel transaction quantity for fuel pathway code" means the total of all reported fuel quantities for each fuel pathway code for each transaction type for each quarter in a CFP quarterly report for which the verifier is conducting a material misstatement of quarterly fuel quantity assessment.
- (24) "Responsible entity" means a person that is subject to or voluntarily agrees to be subject to the requirements of OAR 340-272-0110, OAR 340-272-0120, or both.
- (25) "Sector specific verifier" means a person that has met the requirements to perform such a role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to act as a sector specific verifier in providing verification services as described by this division. This may include, but is not limited to, demonstrating specialized experience in transactions, oil and gas systems, or process emissions.
- (26) "Subcontractor" means an individual or business firm contracting to perform part or all of another's contract.
- (27) "Total reported emissions" means the total annual greenhouse gas emissions in a GHG Reporting Program emissions data report.
- (28) "Validation statement" means the final statement produced by a verification body attesting whether a fuel pathway application is free of material misstatement and whether it conforms to the requirements of California ARB's Low Carbon Fuel Standard.
- (29) "Verification" or "third-party verification" means a systematic, independent, and documented process for evaluation of a report or fuel pathway application according to this division.
- (30) "Verification body" means a business entity that has met the requirements under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to provide verification services and produce verification statements as described by this division.
- (31) "Verification services" means services provided during full verification or less intensive verification, including but not limited to reviewing a report or fuel pathway application submitted by a responsible entity, assessing compliance with DEQ regulations, ensuring accuracy according to the standards specified by DEQ, and submitting a verification statement(s) to DEQ.

(32) "Verification statement" means the final statement produced by a verification body attesting whether a report or fuel pathway application submitted by a responsible entity is free of or contains material misstatement and whether it does or does not conform to the applicable requirements.

(33) "Verification team" means all persons working for a verification body, including all subcontractors, to provide verification services.

(34) "Verifier" means an individual person that has met the requirements to perform such role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to provide verification services as described by this division.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, 468A.280

AMEND: 340-272-0100

RULE TITLE: General Requirements for Verification of Reports and Fuel Pathway Applications

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes an amendment to clarify that the verification body may submit the conflict of interest assessment on behalf of the responsible entity.

RULE TEXT:

- (1) The annual third party verification requirements set forth in this division apply beginning in 2022 for reports with data for calendar year 2021, and in each year thereafter. Quarterly review conducted as part of annual verification services that meet the requirements of this division may begin in 2022 for reports with data for the year 2022.
- (2) Each responsible entity must:
 - (a) Engage the services of a verification body to perform verification under this division;
 - (b) Do the following before verification services begin:
 - (A) Conduct a conflict of interest evaluation in coordination with the verification body according to OAR 340-272-0500 and develop a conflict of interest mitigation plan, if needed, according to OAR 340-272-0500. Ensure both a complete and accurate conflict of interest evaluation and conflict of interest mitigation plan, as applicable, are submitted to DEQ, and receive from DEQ approval in writing to proceed with verification services; and
 - (B) Submit to DEQ the report that is to be verified and attest that the data and information submitted to DEQ in the report is true, accurate, and complete;
 - (c) Ensure that a verification statement is submitted to DEQ from the verification body for each report identified under OAR 340-272-0110 and OAR 340-272-0120 by the deadline specified under section (3); and
 - (d) Ensure the requirements of this division are met, including but not limited to, ensuring that verification services are provided in compliance with the requirements of OAR 340-272-0300 and that a potential for a conflict of interest is evaluated, monitored, and mitigated according to OAR 340-272-0500;
 - (3) Verification deadlines.
 - (a) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from a verification body by August 31 of the year a report is submitted, for the following reports, as applicable:
 - (A) Any CFP report, as applicable under OAR 340-272-0110; and
 - (B) Any GHG Reporting Program emissions data report described under OAR 340-215-0044(1)
 - (a) through (d), and (g), as applicable under OAR 340-272-0120.
 - (b) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from a verification body by September 30 of the year a report is submitted, for each GHG Reporting Program emissions data report described under OAR 340-215-0044(1)(e) and (f), as applicable under OAR 340-272-0120.
 - (c) DEQ may extend verification deadlines in subsections (a) or (b) as necessary and will issue notice of any extensions.
 - (4) Requirements for full or less intensive verification for certain responsible entities.
 - (a) Responsible entities required to engage the services of a verification body to perform annual verification of CFP quarterly reports under OAR 340-272-0110(3), GHG Reporting Program emissions data reports under OAR 340-272-0120(1), or both must engage the services of a verification body to provide full verification, as described by this division, in the first year that verification is required under section (1), in 2023, and then in at least every third year thereafter, if subsection (b) is applicable. Full verification is required in any year where subsection (b) does not apply.
 - (b) Responsible entities required to engage the services of a verification body to perform annual verification of CFP quarterly reports under OAR 340-272-0110(3), GHG Reporting Program emissions data reports under OAR 340-272-0120(1), or both may engage the services of a verification body to provide less intensive verification in place of full verification, for up to two years out of every three year period, if:
 - (A) There has not been a change in the verification body;
 - (B) A positive verification statement was issued for the previous year; and

(C) No change of operational control of the responsible entity occurred in the previous year.

(c) A verification body may choose to provide full verification, at its discretion, in instances where the responsible entity has made changes in sources, significant changes in emissions, significant changes in data management systems, or any combination therein, occurred compared to the previous year, based on the professional judgment of the verification body.

(A) The verification body must provide reasons why it opted for full verification to the responsible entity and to DEQ.

(B) The verification body must provide justification in the verification report if it did not opt for full verification in instances where the total reported emissions differ by greater than 25 percent relative to the previous year's emissions.

(5) Verification body and verifier rotation requirements.

(a) A responsible entity must not use the same verification body or verifier(s) to perform verification for a period of more than six consecutive years.

(b) A responsible entity must wait at least three years before re-engaging the previous verification body or verifier(s) to perform verification.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, 468A.280

AMEND: 340-272-0110

RULE TITLE: Requirements for Verification of CFP Reports and Fuel Pathway Applications Submitted under OAR Chapter 340, Division 253

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments clarifying Clean Fuel Program fuel transaction types subject to verification.

RULE TEXT:

(1) Optional verification of CFP fuel pathway (carbon intensity or CI) applications.

(a) Fuel pathway applicants supplying site-specific CI data for the fuel pathway application are not required to meet the requirements of this division or engage the services of a verification body to perform verification for each fuel pathway application submitted under OAR chapter 340, division 253.

(b) Fuel pathway applications that have been verified according to the requirements of this division, including site visit(s), will be prioritized for approval by DEQ.

(A) Fuel pathway applicants that choose to engage the services of a verification body to perform verification may do so once a list of approved verification bodies and verifiers qualified to verify CFP fuel pathway applications is made available on DEQ's website according to OAR-340-272-0220(1)(d)(B).

(B) Fuel pathway applicants submitting fuel pathway applications to DEQ that have been verified according to the requirements of this division must submit the verification statement at the same time that the application is submitted.

(C) A fuel pathway application submitted to DEQ that includes an adverse verification statement will not be considered.

(c) Fuel pathway applications submitted to DEQ that have been verified under California ARB's Low Carbon Fuel Standard may submit to DEQ materials relating to that verification.

(A) Fuel pathway applications submitted to DEQ that include a positive or qualified positive validation statement under California ARB's Low Carbon Fuel Standard will be prioritized for approval by DEQ.

(B) Fuel pathway applications submitted to DEQ that include an adverse validation statement under California ARB's Low Carbon Fuel Standard will not be considered.

(C) Any verification statements for the fuel pathway under California ARB's Low Carbon Fuel Standard must also be submitted at the same time that the fuel pathway application and validation statement are submitted to DEQ.

(2) Annual verification of CFP annual fuel pathway (carbon intensity or CI) reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification under this division, including required site visit(s), for each annual fuel pathway report submitted under OAR chapter 340, division 253, except as otherwise provided under subsection (b):

(A) Holders of certified fuel pathways that supplied site-specific CI data for pathway certification and are required to update site-specific CI data on an annual basis; and

(B) Specified source feedstock suppliers and other persons with site-specific CI data that apply for separate DEQ recognition as a joint applicant under OAR chapter 340, division 253 and elect to be responsible for separate verification.

(b) Exemptions. Holders of approved fuel pathways that do not generate at least 6,000 total credits and deficits during the previous calendar year for the quantity of fuel produced at a given production facility and reported in the CFP are not subject to the requirements of this division for that year.

(c) Verification schedule. Responsible entities that are subject to the subsection (a) requirement to engage the services of a verification body to perform verification of annual fuel pathway reports (CI) must ensure a fuel pathway verification statement for each fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(A) Quarterly review of operational CI data is optional and may only be included as part of annual verification services if the fuel pathway holder submits quarterly data to DEQ. Quarterly review may only be conducted after the fuel pathway holder submits the report and attests that the statements and information submitted are true, accurate, and complete.

Quarterly review does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements for verification under this division, but a verification statement and verification report are not submitted after quarterly review.

(B) Facilities with California pathways recertified in Oregon. A responsible entity that must meet the requirements of this division for the purposes of annual verification for any fuel production facility that is also subject to annual or deferred verification under California ARB's Low Carbon Fuel Standard must submit its verification statement to DEQ within ten calendar days of its comparable submittal to California ARB. If the responsible entity received an adverse verification statement, it must also submit the log of issues at the same time it submits the verification statement to DEQ.

(i) For responsible entities that operate facilities with one or more Oregon fuel pathway codes that are a recertification of California fuel pathway codes, the verification statement submitted to California ARB must be submitted to DEQ according to the verification deadline specified under OAR 340-272-0100.

(ii) For responsible entities that operate facilities with one or more fuel pathway codes that are not a recertification of California fuel pathway codes, but have active California fuel pathway codes, the fuel pathway holder must ensure the following:

(I) That when verification services are provided, the inputs and annual operational carbon intensity are confirmed under OR-GREET as required under OAR 340-272-0450; and

(II) That a fuel pathway verification statement for each annual fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(C) If a fuel pathway holder is eligible for deferred verification under the California program, the fuel pathway holder must notify DEQ before April 30 of each year. If fuel from the facility generates 6,000 or more total credits and deficits in Oregon, then the fuel pathway holder must engage the services of a verification body to perform verification and ensure a fuel pathway verification statement for each annual fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(3) Annual verification of CFP quarterly reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification under this division, including required site visit(s), for CFP quarterly reports submitted under OAR chapter 340, division 253, except as otherwise provided under subsection (b):

(A) Regulated parties, credit generators, and aggregators subject to OAR 340-253-0100. The scope of verification services is limited to the transaction types under paragraph (B), including associated corrections submitted into CFP quarterly and annual reports.

(B) Except as provided in subsection (b), reporters of volumes for any of the following transaction types must engage the services of a verification body to perform verification for the following transaction types:

(i) All liquid fuels, including:

(I) Production in Oregon;

(II) Out of State Production for Import;

(III) All Import transactions;

(IV) Exports, other than Position Holder Sales for Export or export transactions reported on behalf of an unregistered exporter;

(V) Gain of inventory;

(VI) Loss of inventory;

(VII) Not used for transportation; and

(VIII) Transactions used to claim exempt uses under OAR 340-253-0250;

(ii) NGV fueling; and

(iii) Propane fueling.

(b) Exemptions. The following are not subject to the requirements of this division:

(A) Persons that do not generate 6,000 or more total credits and deficits, in the aggregate, during the previous calendar

year. For the purposes of this rule, any credits or deficits generated by persons that are related entities or share full or partial common ownership or operational control must be aggregated together to determine whether or not the exemption applies;

(B) Persons reporting fuel transactions only in one or more of the transaction types: Export, Position Holder Sale for Export, Gain of inventory, Loss of inventory, and Not used for transportation, if all of the following conditions are met:

(i) All such transactions do not generate 6,000 or more total credits and deficits, in the aggregate, during the previous calendar year;

(ii) The person did not report any liquid fuel using the transaction types: Production in Oregon or Import into Oregon; and

(iii) The person did not report any NGV fueling transactions.

(c) Verification schedule. Responsible entities under subsection (a) required to engage the services of a verification body to perform annual verification of CFP quarterly reports must ensure a transactions data verification statement is submitted to DEQ according to OAR 340-272-0100.

(d) Optional quarterly review. Quarterly review of a CFP quarterly report is optional and does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements of this division, but a verification statement and verification report are not submitted after quarterly review.

(4) Annual verification of CFP annual project reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification, including required site visit(s), for CFP project reports required to be submitted as a condition of a fuel pathway's continued approval under OAR 340-253-0450(9)(e)(E):

(A) Project operators; and

(B) Joint applicants.

(b) Verification schedule. Responsible entities under subsection (a) required to engage the services of a verification body to perform verification of CFP project reports must ensure a project report verification statement is submitted annually to DEQ according to with OAR 340-272-0100.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.271, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.265 through 468A.277

AMEND: 340-272-0120

RULE TITLE: Requirements for Verification of GHG Reporting Program Emissions Data Reports Submitted under OAR Chapter 340, Division 215

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to expand third party verification applicability to all entities subject to the Climate Protection Program and all electric companies and electricity service suppliers regardless of emissions level.

RULE TEXT:

(1) Annual verification of GHG Reporting Program emissions data reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification of the entire emissions data report, including required site visit(s), for each separate emissions data report submitted under OAR chapter 340, division 215, except as otherwise provided under subsection (b):

(A) A regulated entity that submits an emissions data report as described under OAR 340-215-0044(1) that indicates emissions equaled or exceeded 25,000 metric tons of CO₂e, excluding CO₂ from biomass-derived fuels;

(B) A third party that is not the Bonneville Power Administration (BPA) that registers and submits an emissions data report on behalf of a consumer-owned utility for emissions, data, and information submitted for each individual utility with emissions that equaled or exceeded 25,000 metric tons of CO₂e, excluding CO₂ from biomass-derived fuels and excluding emissions associated with preference power purchased from BPA;

(C) A regulated entity that submitted an emissions data report that indicated emissions exceeded the threshold in paragraph (A) in the previous year, but that submits an emissions data report that indicates emissions are reduced below that applicability threshold in the current reporting year;

(D) All regulated entities subject to the Climate Protection Program requirements described under OAR chapter 340, division 271, regardless of emissions reported; and

(E) All regulated entities that are electric companies and electricity service suppliers as defined in ORS 757.600, regardless of emissions reported.

(b) Exemptions. The following are not subject to the requirements of this division:

(A) A regulated entity that is not an electric company and not subject to requirements under OAR chapter 340, division 215 and that submits an emissions data report as described under OAR 340-215-0044(1) that indicates emissions were less than 25,000 metric tons of CO₂e, excluding CO₂ from biomass-derived fuels. For the purposes of this rule, any GHG emissions in emissions data reports as described under OAR 340-215-0044(1)(c) submitted by fuel suppliers or in-state producers that are related entities or share full or partial common ownership or operational control must be aggregated together to determine whether or not the exemption applies;

(B) An emissions data report as described under OAR 340-215-0044(1)(a) that includes emissions data and information described in 40 C.F.R. part 98 subpart HH – Municipal Solid Waste Landfills;

(C) An emissions data report as described under OAR 340-215-0044(1)(d) submitted by a natural gas supplier that is an interstate pipeline; and

(D) Any emissions data report as described under OAR 340-215-0044(1)(e) submitted by Bonneville Power Administration (BPA) acting as a third-party reporter on behalf of any consumer-owned utility, as allowable under OAR 340-215-0120(4).

(c) Verification schedule. Responsible entities that are subject to the subsection (a) requirement to engage the services of a verification body to perform verification of emissions data reports must ensure a verification statement for each emissions data report is submitted to DEQ according to OAR 340-272-0100.

(A) These requirements are in addition to the requirements in 40 C.F.R. 98.3(f).

(B) An asset-controlling supplier that submitted an emissions data report to DEQ as described under OAR 340-215-0044(1)(f) that includes the same data and information reported to and verified under California ARB's Mandatory

Reporting of Greenhouse Gas Emissions program may submit the same verification statement to DEQ. If an adverse verification statement is received, a current issues log must also be submitted to DEQ.

(2) Cessation of verification requirement.

(a) Responsible entities must have an emissions data report verified for the first year that the report indicates emissions are reduced below the applicability threshold defined in paragraph (1)

(a)(A). An emissions data report is not subject to verification in any following year thereafter where emissions remain below the threshold.

(b) A responsible entity that meets the verification cessation requirements for two consecutive years must notify DEQ in writing in the second year that it is ceasing the verification requirement according to this paragraph and provide the reason(s) for cessation of verification. The notification must be submitted no later than the applicable reporting deadline under OAR chapter 340, division 215 for that year.

(c) If in any subsequent year after meeting verification cessation requirements an emissions data report meets the applicability requirements of subsection (1)(a), the responsible entity must have the emissions data report verified according to the requirements of this division, and verification must continue until the cessation requirement is met again.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.280

AMEND: 340-272-0210

RULE TITLE: Applications and Criteria for DEQ Approval of Verification Bodies and Verifiers

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes an amendment allowing subcontractors to meet minimum lead verifier requirements for the purposes of qualifying verification bodies and ensures that subcontractors used for this purpose are DEQ approved.

RULE TEXT:

(1) Application for approval. A business entity or person seeking DEQ approval or renewal of DEQ approval to perform verification under this division as a verification body or verifier must submit an application to DEQ, on a form approved by DEQ, that includes the following information:

(a) For verifier applications, a statement about whether the application is for approval as a verifier, a lead verifier, or a sector specific verifier;

(b) A statement about which specific types of emissions data reports submitted under OAR chapter 340, division 215, fuel pathway applications or specific types of CFP reports submitted under OAR chapter 340, division 253, or any combination therein, for which the applicant is seeking approval to perform verification;

(c) Documentation demonstrating that the person or business entity holds the accreditation requirements described in section (2);

(d) Additional information as required by sections (2) through (7), as applicable;

(e) A certification that the person or business entity agrees to comply with and be subject to the requirements of this division in relation to all verification work for responsible entities; and

(f) Any other information requested by DEQ that DEQ determines is relevant to determine whether to approve the applicant.

(2) Application information and accreditation criteria for approval. Any person or business entity that wants to perform verification under this division must provide documentation that the person has met all the following criteria for approval, as applicable for the type of verification approval the applicant seeks:

(a) The person or business entity holds an active accreditation under at least one of the following programs:

(A) California ARB's Low Carbon Fuel Standard program (LCFS);

(B) California ARB's Mandatory Reporting of Greenhouse Gas Emissions program (MRR);

(C) American National Standards Institute for Greenhouse Gas Validation/Verification Bodies (ANSI); or

(D) A substantially equivalent program to one of the programs described in paragraphs (A), (B), or (C), and approved by DEQ;

(b) To provide verification services for CFP reports or fuel pathway applications submitted under OAR chapter 340, division 253, the person or business entity must hold accreditation under California ARB's LCFS, or a substantially equivalent program approved by DEQ;

(c) To provide verification services for emissions data reports submitted under OAR chapter 340, division 215, the person or business entity must hold accreditation under California ARB's MRR, ANSI, or a substantially equivalent program approved by DEQ; and

(d) All applicants must submit additional information in the application with details of accreditation and verification experience, including but not limited to, recognition or designation as a lead verifier or sector specific verifier, and sector specific accreditations by California ARB or organization-level sector accreditations by ANSI, as applicable, to demonstrate qualifications to provide verification services for specific types of emissions data reports submitted under OAR chapter 340, division 215, fuel pathway applications or specific types of CFP reports submitted under OAR chapter 340, division 253, or any combination therein.

(3) Application information and criteria for approval for a verification body. To be approved as a verification body, the applicant must also submit the following information to DEQ in the application:

(a) A list of all verification staff and subcontractors and a description of their duties and qualifications, including DEQ-

approved verifiers on staff. The applicant must demonstrate staff qualifications by listing each individual's education, experience, professional licenses, accreditations, status as verifier, lead verifier, or sector specific verifier, and other relevant information. A verification body must employ or retain at least two lead verifiers, which may include retention as subcontractors. Any subcontractor used to meet minimum lead verifier requirements must be approved as a lead verifier by DEQ.

(b) A list of any judicial proceedings, enforcement actions, or administrative actions filed against the verification body within the previous five years, with an explanation as to the nature of the proceedings;

(c) Documentation that demonstrates that the body maintains a minimum of four million U.S. dollars of professional liability insurance;

(d) Identification of services provided by the verification body, the industries that the body serves, and the locations where those services are provided;

(e) A detailed organizational chart that includes the verification body, its management structure, and any related entities; and

(f) The verification body's internal conflict of interest policy that identifies activities and limits to monetary or non-monetary gifts that apply to all employees and procedures to monitor potential conflicts of interest.

(4) Application information and criteria for approval as a verifier. To be approved as a verifier, the applicant must also submit the following information to DEQ in the application:

(a) Applicants must indicate their employer or affiliated verification body on the application; and

(b) Applicants must demonstrate verification qualifications by providing information on education, experience, professional licenses, accreditations, status as verifier, lead verifier, or sector specific verifier, and other relevant information or other personal development activities that demonstrate communication, technical, and analytical skills necessary to perform verification. Evidence demonstrating necessary skills may include, but is not limited to:

(A) A bachelor's level college degree or equivalent in engineering, science, technology, business, statistics, mathematics, environmental policy, economics, or financial auditing; or

(B) Work experience in a professional role involved in emissions data management, emissions technology, emissions inventories, environmental auditing, financial auditing, life cycle analysis, transportation fuel production, or other technical skills necessary to perform verification.

(5) Application information and criteria for approval as a lead verifier for the GHG Reporting Program. To be approved as a lead verifier for verification of emissions data reports submitted under OAR chapter 340, division 215, in addition to submitting information as required by section (4), the applicant must also submit documentation to DEQ in the application indicating that at least one of the following qualifications are met:

(a) The verifier is accredited as a lead verifier by California ARB for the Mandatory Reporting of Greenhouse Gas Emissions program;

(b) The verifier is designated as a lead verifier by the ANSI-accredited verification body with which it is employed or affiliated; or

(c) The verifier is designated as a lead verifier by a substantially equivalent program to one of the programs described in subsection (a) or (b), and that is approved by DEQ.

(6) Application information and criteria for approval as a lead verifier for the CFP. To be approved as a lead verifier for verification of CFP reports or fuel pathway applications submitted under OAR chapter 340, division 253, in addition to submitting information as required by section (4), the applicant must also submit the following documentation to DEQ in the application:

(a) Indication that the applicant is accredited as a lead verifier by California ARB for the Low Carbon Fuel Standard program, or is designated as a lead verifier by a substantially equivalent program approved by DEQ;

(b) To be approved as a lead verifier for verification of CFP fuel pathway applications or annual fuel pathway reports, the applicant must also submit documentation to DEQ in the application that demonstrates experience in alternative fuel production technology and process engineering; and

(c) To be approved as a lead verifier for verification of CFP project reports and quarterly reports submitted by

producers and importers of gasoline or diesel, the applicant must submit documentation to DEQ in the application that demonstrates experience with oil and gas systems. This evidence may include accreditation as an oil and gas systems sector specific verifier.

(7) Application information and criteria for approval as a sector specific verifier. To be approved as a sector specific verifier, in addition to submitting information as required by section (4), the applicant must also submit documentation to DEQ in the application demonstrating at least two years of professional experience related to the sector in which the individual is seeking approval.

(8) Verification training and exam requirements.

(a) To be approved by DEQ, applicants must take DEQ-approved general verification training, sector specific verification training, CFP specific verification training, and GHG Reporting Program specific verification training, as made available and deemed applicable by DEQ based on the application submitted to DEQ and for the type of approval the applicant has requested.

(b) Applicants must receive a passing score of greater than an unweighted 70 percent on an exit examination.

(A) If the applicant does not pass the exam after the training, the applicant may retake the exam a second time.

(B) Only one retake of the examination is allowed before the applicant must retake the applicable training.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, 468A.280

AMEND: 340-272-0220

RULE TITLE: DEQ Review and Approval of Verification Bodies and Verifiers

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes minor clarifying edits to this section.

RULE TEXT:

(1) DEQ application review and approval process for verification bodies and verifiers.

(a) After receipt of an application under OAR 340-272-0210, DEQ will inform the applicant either that a submitted application is complete or that additional specific information is required to make the application complete. If the application is incomplete, DEQ will not consider the application further until the applicant provides the additional information requested by DEQ.

(b) DEQ will review submitted applications to prescreen and ensure all requirements are met. DEQ will notify an applicant in writing which verification training(s) and exam(s) are required to be completed according to OAR 340-272-0210(8). An applicant may choose to take trainings and exams in addition to those required by DEQ.

(c) DEQ will not consider or issue final approval until DEQ finds an application for approval as a verification body or verifier is complete and meets all applicable requirements under OAR 340-272-0210(1) and all required verification training(s) and exam(s), as deemed applicable by DEQ under subsection (b), have been completed according to OAR 340-272-0210(8).

(d) Following completion of the application process and all applicable training and examination requirements, DEQ will notify the applicant in writing if approval has been granted or denied.

(A) DEQ may issue approval to verification bodies, verifiers, lead verifiers, and sector specific verifiers that apply and meet the criteria under OAR 340-272-0210 and successfully complete verification training(s) and exam(s) as required under OAR 340-272-0210(8).

(B) DEQ approval will be limited to certain report types, data types, sources of emissions, or sectors, according to the information in the application and the qualifications of the applicant, and based on DEQ's determination of whether the applicant demonstrates, to DEQ's satisfaction, sufficient knowledge of the relevant methods and requirements in this division, OAR chapter 340, division 215, and OAR chapter 340, division 253, as applicable.

(C) DEQ will maintain a current list of approved verification bodies, verifiers, lead verifiers, and sector specific verifiers on DEQ's website.

(e) DEQ approval is valid for a period of three years from the date the approval is issued by DEQ. The applicant may re-apply for approval as a verification body, verifier, lead verifier, or sector specific verifier following the same application procedures according to OAR 340-272-0210 and must satisfy all DEQ training and examination requirements applicable at the time of re-application.

(2) Requirements to maintain DEQ approval.

(a) Except as provided under subsection (c) below, a verification body, verifier, lead verifier, or sector specific verifier must notify DEQ within 30 calendar days of when it no longer meets the requirements for approval under OAR 340-272-0210, as applicable.

(b) A verification body must notify DEQ of any verifier staffing changes within 30 calendar days of any such change as these changes are considered an amendment to the verification body's approval.

(c) DEQ must be notified immediately if a verification body or verifier loses or withdraws from accreditation under any program specified or approved under OAR 340-272-0210(2)(a).

(d) Within 20 calendar days of being notified of any nonconformance in another voluntary or mandatory greenhouse gas emissions reporting program or fuels program, a DEQ-approved verification body or verifier must provide written notice to DEQ of the non-conformance, including a copy of any written notification of nonconformance from the agency or body that administers the program, and information about any corrective actions taken by the verification body or verifier. That notification must include reasons for the corrective action and the type of corrective action. The verification body or verifier must provide additional information to DEQ upon request.

(e) Verification bodies and verifiers must provide in a reasonably timely manner any and all information that DEQ reasonably requires for the purpose of evaluating continued compliance with the requirements of this division, including the criteria for approval.

(3) Modification, suspension, or revocation of DEQ approval.

(a) DEQ may modify, suspend, or revoke an approval to perform verification if a verification body or verifier:

(A) Fraudulently obtained or attempted to obtain accreditation under any program specified under OAR 340-272-0210(2)(a);

(B) Fraudulently obtained or attempted to obtain approval from DEQ under this division;

(C) Failed at any time to satisfy the eligibility criteria and requirements specified under OAR 340-272-0210;

(D) Does not satisfy the requirements to maintain approval according to section (2);

(E) Provided verification services that failed to meet the requirements under OAR 340-272-0300(1) and (3);

(F) Violated the conflict of interest requirements under OAR 340-272-0500; or

(G) Knowingly or recklessly submitted false or inaccurate information or verification statement(s) to DEQ.

(b) A verifier or verification body that is subject to a DEQ action to modify, suspend, or revoke an approval to perform verification may contest DEQ's action by providing DEQ with a written request for a hearing within 20 calendar days of being notified of DEQ's action.

(A) The hearing will be conducted as a contested case under ORS 183.413 through 183.470 and OAR chapter 340, division 11.

(B) Any DEQ action taken in subsection (a) will remain in place pending the outcome of the contested case.

(c) A verification body or verifier that has had approval to perform verification revoked may re-apply according to OAR 340-272-0210 after the applicant demonstrates to DEQ that the cause of the revocation has been resolved.

(4) Voluntary withdrawal from DEQ approval. An approved verification body or verifier may request to voluntarily withdraw its approval by providing a written notice to DEQ requesting such withdrawal.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, 468A.280

AMEND: 340-272-0300

RULE TITLE: Requirements for Verification Services

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking removes language specifying that subcontractors may not be used to meet minimum lead verifier requirements or act as independent reviewers and clarifies requirements for subcontracting verification services.

RULE TEXT:

(1) Verification services provided and completed must meet the requirements of OAR 340-272-0405 through OAR 340-272-0495, as applicable to the type of CFP report or fuel pathway application submitted under OAR chapter 340, division 253 or emissions data report submitted under OAR chapter 340, division 215.

(2) Requirements for responsible entities.

(a) Responsible entities must engage the services of a verification body that meets the requirements and criteria under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to perform verification under this division for the type of verification services applicable to the responsible entity.

(b) A responsible entity that has been notified by DEQ or by its verification body that the verification body's DEQ approval has been suspended or revoked, must engage the services of a different DEQ-approved verification body to perform verification.

(c) Each responsible entity must ensure that the verification services provided on its behalf meet the requirements of this division.

(d) Records retention and availability requirements.

(A) Responsible entities must retain records necessary for completing verification services and records requested by the verification team according to the recordkeeping requirements of OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable.

(B) Responsible entities must retain for verification purposes and make available to the verification team the following:

(i) All information and documentation used to calculate and report emissions, fuel quantities, and fuels and electricity transactions;

(ii) All data and information required by or submitted under OAR chapter 340, division 215 or OAR chapter 340, division 253; and

(iii) Other data and information as necessary in order for verification services to be completed.

(C) Responsible entities must maintain documentation to support any revisions made to the initial report or fuel pathway application submitted to DEQ as a result of verification. Documentation for all submittals must be retained by the responsible entity in paper or electronic format for a period of at least seven years.

(3) Requirements for verification bodies and verifiers.

(a) Eligibility to perform verification.

(A) A verification body or verifier must meet the requirements and criteria of OAR 340-272-0210 and must have DEQ approval under OAR 340-272-0220 to be eligible to perform verification under this division.

(B) Verifiers must be employed by, or contracted with a DEQ-approved verification body in order to provide verification services under this division.

(b) Subcontracting.

(A) Any verification body that elects to subcontract a portion of verification services must meet the following requirements:

(i) The verification body must assume full responsibility for verification services provided by subcontractor verifiers;

(ii) A verification body that engages a subcontractor shall be responsible for demonstrating an acceptable level of conflict of interest, as provided in OAR 340-272-0500, between its subcontractor and the reporting entity for which it will provide verification services;

(iii) A verification body that engages a subcontractor is responsible for ensuring the subcontractor shall not further

subcontract or outsource verification services for a reporting entity.

(B) All subcontractors must apply for and meet the requirements and criteria for DEQ approval under OAR 340-272-0210 and be approved by DEQ under OAR 340-272-0220 in order to provide the verification services for which the subcontractor has been engaged by the verification body.

(c) If a verification body receives a final determination from DEQ under OAR 340-272-0220(3) that is described in paragraphs (A) through (C) below, then the verification body must provide written notification all responsible entities with which it is currently engaged to provide verification services or that have received verification services from it within the past six months of DEQ's final determination within ten calendar days of receiving such final determination, and the verification body may not continue to provide verification services until the verification body receives DEQ approval to recommence such services under OAR 340-272-0220:

(A) Any modification relevant to the verification services provided;

(B) Suspension of DEQ approval of the verification body or any of its verifiers, lead verifiers, sector specific verifiers, or subcontractors; or

(C) Revocation of DEQ approval of the verification body or any of its verifiers, lead verifiers, sector specific verifiers, or subcontractors.

(d) Records retention.

(A) Verification bodies that provide verification services under this division must retain documentation relating to verification in paper or electronic format for a period of at least seven years following the submission of each verification statement.

(B) The documentation must allow for a transparent review of how a verification body reached its conclusion in the verification statement, including independent review. At a minimum, the documentation retained must include:

(i) Report(s) or fuel pathway application(s) submitted by the responsible entity to DEQ for which verification services are being provided;

(ii) Contracts for verification;

(iii) Verification plan(s);

(iv) Sampling plan(s);

(v) Verification report(s);

(vi) Verification statement(s); and

(vii) Any other documentation, calculations, and verification notes developed as part of providing and completing verification services.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, 468A.280

AMEND: 340-272-0405

RULE TITLE: Notice of Verification Services

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments to clarify the timing of the site visit and require verifiers in training to be included on the form.

RULE TEXT:

(1) Before a verification body commences any verification services for the responsible entity, the responsible entity must ensure the verification body submits a notice of verification services to DEQ that meets the requirements of this rule. The notice of verification services must be submitted after DEQ has provided a determination that the potential for a conflict of interest is acceptable as specified under OAR 340-272-0500(7) and that verification services may proceed.

(a) If the conflict of interest evaluation submitted by the responsible entity and the notice of verification services submitted by the verification body are submitted at the same time, verification services may not begin until DEQ has determined the potential for conflict of interest is acceptable in writing.

(b) Except as provided in subsection (a), the verification body may begin verification services for the responsible entity after the notice of verification services is received by DEQ, but must allow a minimum of 14 calendar days advance notice of a site visit unless an earlier date is approved by DEQ. The site visit may not take place prior to the applicable regulatory deadline for the reporting type to be verified, except under the conditions listed in OAR 340-272-0420(2)(a).

(2) The verification notice must include the following information:

(a) A list of the staff designated to provide verification services as a verification team, including the names of each individual, the lead verifier, and all subcontractors, and a description of the roles and responsibilities each member will have during verification. The independent reviewer must also be listed separately. The list must include any verifiers in training who will participate on the verification team.

(b) Documentation that the verification team has the skills required to provide verification services for the responsible entity and type of report or fuel pathway application requiring verification. When required by DEQ, the notice must include a demonstration that the verification team includes at least one individual approved by DEQ as a sector specific verifier that is not also the independent reviewer, but may be the lead verifier; and

(c) General information about the responsible entity, including the following, as applicable:

(A) Name and list of facilities and other locations that will be subject to verification, and contact, address, telephone number, and e-mail address for each facility;

(B) The industry sector, North American Industry Classification System (NAICS) code, or source identification number for reporting facilities under OAR chapter 340, division 215.;

(C) The CFP ID(s) for the responsible entity under OAR chapter 340, division 253.;

(D) The date(s) of the site visit if full verification is being provided and if required under OAR 340-272-0420, with physical address and contact information.;

(E) A brief description of expected verification services to be provided, including expected completion date and whether quarterly review is planned in the context of an annual verification requirement.

(3) The responsible entity must ensure the verification body submits an updated notice of verification services to DEQ immediately if any of the information under section (2) changes after the notice of verification services is submitted to DEQ. When an updated notice of verification services is submitted to DEQ, the conflict of interest must be reevaluated and information must be resubmitted according to OAR 240-272-0500. Verification services must be suspended until DEQ approves the resubmitted conflict of interest evaluation information in writing.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, 468A.280

AMEND: 340-272-0415

RULE TITLE: Verification Plan

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking corrects typo(s) in this section.

RULE TEXT:

(1) Verification services must include the development of a verification plan that meets the requirements of this rule.

(2) All verification plans must contain information on the timing of verification services, including:

(a) Dates of proposed meetings and interviews with personnel of the responsible entity;

(b) Dates of proposed site visits;

(c) Types of proposed document and data reviews and, for CFP reports submitted under OAR chapter 340, division 253, how quarterly review is planned in the context of an annual verification requirement, as applicable; and

(d) Expected date for completing verification services.

(3) In addition to the information required under section (2), verification plans for verification services provided for CFP reports and fuel pathways applications submitted under OAR chapter 340, division 253 must also include the following information from the responsible entity:

(a) Information to allow the verification team to develop an understanding of facility or entity boundaries, operations, accounting practices, type of CFP report(s) the person is responsible for, CFP regulatory sections the responsible entity is subject to, other renewable or low carbon fuels markets the responsible entity participates in, and other mandatory or voluntary auditing programs the responsible entity is subject to, as applicable;

(b) Information regarding the training or qualifications of personnel involved in developing the report(s) or fuel pathway application(s);

(c) Description of the specific methodologies used to quantify and report data, including but not limited to calibration procedures and logs for measurement devices capturing site-specific data;

(d) Information about the data management system and accounting procedures used to capture and track data for each fuel pathway application and each type of CFP report as needed to develop the verification plan;

(e) Information about the entities in the supply chain upstream and downstream of the fuel producer that contribute to site-specific CI data, including a list of feedstock suppliers and contact names with physical addresses;

(f) Evidence demonstrating that any joint applicants are being separately verified; and

(g) Previous CFP verification reports, as applicable, and other audit reports including reports from production or management system certifications and internal audits.

(4) In addition to the information required under section (2), verification plans for verification services provided for GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must also include the following information from the responsible entity:

(a) Information to allow the verification team to develop a general understanding of facility or entity boundaries, operations, emissions sources, and electricity or fuel transactions, as applicable;

(b) Information regarding the training or qualifications of personnel involved in developing the emissions data report;

(c) Description of the specific methodologies used to quantify and report greenhouse gas emissions, electricity and fuel transactions, and associated data as needed to develop the verification plan;

(d) Information about the data management system used to track greenhouse gas emissions, electricity and fuel transactions, and associated data as needed to develop the verification plan; and

(e) Previous GHG Reporting Program verification reports.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, 468A.280

AMEND: 340-272-0450

RULE TITLE: Material Misstatement Assessments for CFP Fuel Pathways and Quarterly Fuel Transactions Submitted under OAR Chapter 340, Division 253

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking corrects typo(s) in this section.

RULE TEXT:

(1) The verification team must conduct separate assessments of material misstatement on each calculated operational CI value and each quarterly fuel transaction quantity for each fuel pathway code (expressed in units from the applicable sections of OAR chapter 340 division 253). Material misstatement assessments are not conducted for quarterly review.

(2) Assessments of material misstatement of carbon intensity must meet all the requirements of this section.

(a) Each fuel pathway CI is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of its carbon intensity. The inputs and annual operational carbon intensity for fuel pathway codes that are not a recertification of a California Fuel Pathway Code(s) but have an active California Fuel Pathway Code(s) must be assessed.

(b) Material misstatement of carbon intensity includes any discrepancy as described in paragraph (A) of this subsection, omission as described in paragraph (B) of this subsection, or misreporting as described in paragraph (C) of this subsection, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported operational CI (grams of carbon dioxide equivalent per megajoule or gCO₂e/MJ) in a CFP fuel pathway application or report contains one or more errors that, individually or collectively, result in an overstatement or understatement more than five percent of the reported operational CI, or 2 gCO₂e/MJ, whichever absolute value expressed in gCO₂e/MJ is greater.

(A) Discrepancies include any differences between the reported site-specific CI inputs and the verifier's calculated site-specific CI inputs subject to data checks under OAR 340-272-0430.

(B) Omissions include any site-specific CI inputs or associated source data the verifier concludes must be part of a fuel pathway application or report but were not included.

(C) Misreporting includes duplicate, incomplete, or other CI input data the verifier concludes should or should not be part of a fuel pathway application or report.

(c) One or more material misstatements of carbon intensity will result in a finding of material misstatement for the fuel pathway application or report.

(d) A controlled version of the Simplified CI Calculator for Tier 1 pathways, a DEQ-approved OR-GREET for Tier 2 pathways, or another substantially equivalent model approved by DEQ for the specific fuel pathway application under OAR 340-253-0400(1), as applicable, must be populated to assess whether a fuel pathway application or report contains a material misstatement of carbon intensity.

(e) The following equations for percent error, relative error threshold, and absolute error threshold must be used to determine whether any reported operational CI value contains a material misstatement of carbon intensity and must be included in the final verification report according to OAR 340-272-0495.

Percent error (CI) = (| Difference in CI | ÷ | Reported Operational CI |) × 100%

Relative error threshold (CI) = | Difference in CI | 0.05 × |Reported Operational CI Value|

Absolute error threshold (CI) = | Difference in CI | 2 g CO₂e/MJ

(3) Assessments of material misstatement of quarterly fuel quantity for each fuel pathway code must meet all the requirements of this section.

(a) Each aggregated quarterly fuel quantity for each fuel pathway code is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of quarterly fuel quantity.

(b) Material misstatement of quarterly fuel quantity includes any discrepancy as described in paragraph (A) of this

subsection, omission as described in paragraph (B) of this subsection, or misreporting as described in paragraph (C) of this subsection, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported fuel quantity for each fuel pathway code per quarter in a CFP quarterly report contains one or more errors that, individually or collectively, result in an overstatement or understatement greater than five percent.

(A) Discrepancies include any differences between the fuel quantity for the fuel pathway code reported and the verifier's review of calculation of fuel quantity subject to data checks under OAR 340-272-0430.

(B) Omissions include any fuel quantity the verifier concludes must be part of a quarterly report but was not included.

(C) Misreporting includes duplicate, incomplete, or other fuel quantity data the verifier concludes should or should not be part of a quarterly report.

(c) One or more material misstatements of quarterly fuel quantity will result in a finding of material misstatement for the annual verification of the quarterly fuel quantity for each fuel pathway code.

(d) The following equation for percent error must be used to determine whether any quarterly fuel quantity for each fuel pathway code contains a material misstatement of quarterly fuel quantity and must be included in the final verification report according to OAR 340-272-0495.

Percent error (fuel quantity) =

$$\frac{((\text{Discrepancies} + \text{Omissions} + \text{Misreporting}) \div \text{Reported quarterly fuel transaction quantity for fuel pathway code}) \times 100\%}{}$$

(e) When evaluating material misstatement of quarterly fuel quantity, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.271, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.265 through 468A.277

AMEND: 340-272-0455

RULE TITLE: Material Misstatement Assessments for CFP Project Reports Submitted under OAR Chapter 340, Division 253

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking corrects typo(s) in this section.

RULE TEXT:

- (1) The verification team must conduct separate assessments of material misstatement of project data for each CFP project report submitted under OAR chapter 340, division 253. The assessments of material misstatement of project data must meet all of the requirements of this rule.
- (2) Material misstatement of project data includes any discrepancy as described in subsection (a) of this section, omission as described in subsection (b) of this section, or misreporting as described in subsection (c) of this section, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the project report contains one or more errors that, individually or collectively, result in an overstatement greater than five percent of the responsible entity's reported emissions reductions.
 - (a) Discrepancies include any differences between the reported emissions reductions and the verifier's calculated value based on data checks under OAR 340-272-0430.
 - (b) Omissions include any emissions, excluding any emissions reductions, the verifier concludes must be part of a project report, but were not included.
 - (c) Misreporting includes duplicate, incomplete, or other emissions or emissions reductions data the verifier concludes should or should not be part of a project report.
- (3) A material misstatement of project data is not found when discrepancies, omissions, or misreporting, or an aggregation of the three, result in an understatement of reported emissions reductions in the project report.
- (4) The following equation for percent error must be used to determine whether the greenhouse gas reductions quantified and reported in the project report contain a material misstatement of project data and must be included in the final verification report according to OAR 340-272-0495.

Percent error (project data) = ((Discrepancies + Omissions + Misreporting) ÷ Reported emissions reduction) × 100%

- (5) Any discrepancies, omissions, or misreporting found must include the positive or negative impact on the reported emissions reductions when entered in the equation in section (4).
- (6) When evaluating material misstatement of project data, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.266, 468A.271, 468A.277

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.265 through 468A.277

AMEND: 340-272-0460

RULE TITLE: Material Misstatement Assessments for Emissions Data Submitted under OAR Chapter 340, Division 215

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking corrects typo(s) in this section.

RULE TEXT:

- (1) The verification team must conduct separate assessments for material misstatement of total reported emissions for each emissions data report submitted under OAR chapter 340, division 215. The assessments of material misstatement of emissions data must meet all of the requirements of this rule.
- (2) Material misstatement of emissions data includes any discrepancy as described in subsection (a) of this section, omission as described in subsection (b) of this section, or misreporting as described in subsection (c) of this section, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the total reported emissions (metric tons of CO₂e) in a GHG Reporting Program emissions data report contains errors greater than five percent.
 - (a) Discrepancies include any differences between the reported emissions and the verifier's review of emissions for a data source subject to data checks under OAR 340-272-0430.
 - (b) Omissions include any emissions the verifier concludes must be part of an emissions data report, but were not included.
 - (c) Misreporting includes duplicate, incomplete, or other emissions the verifier concludes should or should not be part of an emissions data report.
- (3) Each emissions data report is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of emissions data.
- (4) The following equation for percent error must be used to determine whether the total reported emissions in an emissions data report contain a material misstatement of emissions data and must be included in the final verification report according to OAR 340-272-0495.

Percent error (emissions) = ((Discrepancies + Omissions + Misreporting) ÷ Total reported emissions) × 100%

- (5) When evaluating material misstatement, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.280

AMEND: 340-272-0470

RULE TITLE: Review of Operations and Emissions for Emissions Data Reports Submitted under OAR Chapter 340, Division 215

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments adding verification requirements for biomethane and hydrogen reporting.

RULE TEXT:

- (1) Verification services for verification of GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must include review that meets all of the requirements of this rule.
- (2) Facility operations must be reviewed to identify applicable greenhouse gas emissions sources, and the review must:
 - (a) Be conducted by the verification team;
 - (b) Include a review of the emissions inventory and each type of emissions source to ensure that all sources specified under OAR 340-215-0030 are included in the emissions data report, as applicable; and
 - (c) Review the reported current primary and any secondary (if reported) NAICS codes to ensure they accurately represent the NAICS-associated activities for the facility. The review of these NAICS codes and associated activities must be documented in the sampling plan. If the reported NAICS code(s) is determined to be inaccurate and the responsible entity does not submit a revised emissions data report to correct the current NAICS code(s), the result will be an adverse verification statement.
- (3) Electricity transaction records must be reviewed, including but not limited to written power contracts and any other applicable information required to confirm reported electricity procurements and deliveries. Documentation retained by the responsible entity to support claims of specified sources of electricity, as required under OAR 340-215-0042(6) must be reviewed to ensure it is sufficient to support the claim. Verifiers must use professional judgment to determine whether the records retained authenticate the claim.
- (4) Information regarding increases or decreases in emissions, as required under OAR 340-215-0044(4) must be reviewed to ensure it is reported in conformance with the requirements of that division, however, the narrative description itself is not subject to the verification requirements of this division.
- (5) Supporting documentation retained by the responsible entity to authenticate the purchase of gaseous or liquid biomass-derived fuels or hydrogen, as required under OAR 340-215-0042(4) must be reviewed to ensure it is sufficient to authenticate the purchase. Verifiers must use professional judgment to determine whether the records retained authenticate the purchase and fuel type.
 - (a) For biomethane and hydrogen reported under OAR chapter 340, division 215 the verifier must:
 - (A) Examine all applicable nomination, invoice, scheduling, allocation, transportation, storage, in-kind fuel purchase and balancing reports from the producer to the reporting entity and have reasonable assurance that the reporting entity is contractually receiving the identified fuel;
 - (B) Determine that the biomethane met pipeline quality standards;
 - (C) Review documentation that confirms the gas was contractually delivered to Oregon;
 - (D) Review attestations regarding environmental attributes confirming that no other party can make a claim on attributes that are being reported under OAR chapter 340, division 215;
 - (E) If book and claim accounting methodology was used to report contractual deliveries of gas, the verifier must also review documentation to confirm the reported quantity of gas was injected into a natural gas pipeline network connected to Oregon within the emissions data year; and
 - (F) If an electronic tracking system approved by DEQ is used for book and claim, the verifier must review records from the tracking system showing the retirement of all environmental attributes of that fuel that are being reported under division 215.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.280

AMEND: 340-272-0495

RULE TITLE: Independent Review and Completion of Verification Services

NOTICE FILED DATE: 08/22/2023

RULE SUMMARY: This rulemaking proposes amendments requiring verifiers in training to be listed in the verification report and to update to gender neutral language.

RULE TEXT:

(1) Verification statement. The verification body must complete a verification statement(s) upon completion of verification services, provide its statement to the responsible entity, and submit its statement to DEQ by the applicable verification deadline specified under OAR 340-272-0100(3). Each positive, qualified positive, or adverse verification statement must describe the findings of the verification; and

(a) For every qualified positive verification statement, the verification body must explain the nonconformances contained within the report or fuel pathway application and cite the sections(s) in OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, that corresponds to the nonconformance and why the nonconformances do not result in a material misstatement; and

(b) For every adverse verification statement, the verification body must explain all nonconformances or material misstatements leading to the adverse verification statement and cite the sections(s) in OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, that corresponds to the nonconformance(s) and material misstatement(s).

(2) Independent review. The verification body must have the verification services and findings of the verification team independently reviewed by an independent reviewer before each verification statement is completed. The independent reviewer must be employed by the verification body and must be a lead verifier not involved in verification services for the responsible entity during that reporting year or for that fuel pathway application period, but does not need to be a sector specific verifier. The independent reviewer must:

(a) Serve as a final check on the verification team's work to identify any significant concerns, including:

(A) Errors in planning;

(B) Errors in data sampling; and

(C) Errors in judgment by the verification team that are related to the draft verification statement;

(b) Maintain independence from the verification services by not making specific recommendations about how the verification services should be performed; and

(c) Review documents applicable to the verification services provided, and identify any failure to comply with requirements of this division, OAR chapter 340, division 215, OAR chapter 340, division 253, and with the verification body's internal policies and procedures for providing verification services, as applicable. The independent reviewer must concur with the verification findings before the verification body issues the verification statement.

(3) As part of completing verification services, the verification body must:

(a) Provide the responsible entity with the following:

(A) A detailed verification report, that must at a minimum include:

(i) A list of all verification team members that provided verification services, including identification of verifiers, lead verifiers, sector specific verifiers, verifiers in training and the independent reviewer;

(ii) A detailed description of the facility or entity including all data sources and boundaries;

(ii) A detailed description of the accounting procedures and data management systems, including data acquisition, tracking, and emissions calculation, as applicable;

(iii) The verification plan;

(iv) The detailed comparison of the data checks conducted during verification services;

(v) The log of issues identified in the course of verification services and their resolution;

(vi) Any qualifying comments on findings during verification services;

(vii) Findings of omissions, discrepancies, and misreporting, and the material misstatement calculations required under

OAR 340-272-0450, OAR 340-272-0455, or OAR 340-272-0460, as applicable; and

(viii) For CFP reports submitted under OAR chapter 340, division 253, a detailed description of entities in the supply chain contributing CI parameters; and

(B) The verification statement(s); and

(b) Have a final discussion with the responsible entity explaining the verification team's findings, and notify the responsible entity of any unresolved issues noted in the issues log before the verification statement is finalized.

(4) Attestations in the verification statement. The verification statement must contain the following attestations:

(a) The verification body must attest whether it has found the submitted report or fuel pathway application to be free of material misstatement, and whether the report or fuel pathway application is in conformance with the requirements of this division, OAR chapter 340, division 215, and OAR chapter 340, division 253, as applicable;

(b) The lead verifier on the verification team must attest that the verification team has carried out all verification services as required by this division; and

(c) The lead verifier that has performed the independent review of verification services and findings must attest to their independent review on behalf of the verification body and their concurrence that the findings are true, accurate, and complete.

(5) Procedures for potential adverse verification statement and petition process.

(a) Before the verification body submits an adverse verification statement to DEQ, the verification body must notify the responsible entity of the potential of an adverse verification statement, and the responsible entity must be provided at least 14 calendar days to make modifications to correct any material misstatements or nonconformance found by the verification team. When a verification body has provided notification to a responsible entity under this subsection:

(A) The responsible entity must make modifications to correct any material misstatements or nonconformance found by the verification team;

(B) The modified report and verification statement must be submitted to DEQ before the applicable verification deadline specified in OAR 340-272-0100(3), even if the responsible entity makes a request to DEQ according to subsection (b); and

(C) The verification body must provide notice to DEQ of the potential for an adverse verification statement at the same time it notifies the responsible entity, and include in its notice to DEQ the current issues log.

(b) When a verification body has provided notice under subsection (a) and the responsible entity and the verification body cannot reach agreement on modifications that result in a positive or qualified positive verification statement because of a disagreement on the requirements of this division, the responsible entity may petition DEQ before the verification deadline and before the verification statement is submitted to make a final decision as to the verifiability of the submitted report or fuel pathway application. When the responsible entity files such petition with DEQ:

(A) The responsible entity must submit all information it believes is necessary for DEQ to make a determination with its petition;

(B) The responsible entity and the verification body must submit to DEQ within ten calendar days any additional information requested by DEQ;

(C) DEQ will review the information submitted and, based on the requirements of this division and that information, will make a determination on whether modifications are necessary in order for the verification body to issue a positive or qualified positive verification statement, or if such a statement could be issued without modifications; and

(D) DEQ will notify both the responsible entity and the verification body of its determination.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, 468A.280

STATUTES/OTHER IMPLEMENTED: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, 468A.280