



Oregon Department of Environmental Quality

June 18 - 19, 2014

**Oregon Environmental Quality Commission meeting
Rulemaking Action Item: M**

Update Phase One of the Clean Fuels Program

DEQ recommendation to the EQC

DEQ recommends that the Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

Overview

Short summary

This proposal would make an adjustment to phase one of the Oregon Clean Fuels Program, which the Oregon Environmental Quality Commission adopted Dec. 7, 2012.

The proposed rule revisions:

- Provide clarity to potential regulated and opt-in parties as they interpret whether and how the program applies to them
- Reduce requirements for certain fuel importers
- Add fuels available in Oregon to make reporting more accurate

The Clean Fuels Program requires all importers and Oregon producers of transportation fuels to register, keep records and submit reports to DEQ. The proposed rules would eliminate unnecessary requirements, reduce administrative burdens on smaller businesses and still maintain program integrity.

Background

On Dec. 11, 2013, the Oregon Environmental Quality Commission adopted temporary rules that expire June 30, 2014. The December 2013 rulemaking temporarily eliminated unnecessary requirements and reduced administrative burdens on smaller businesses required to submit their first reports to DEQ by April 30, 2014. These proposed permanent rules are substantively identical to the temporary rules.

These proposed rules do not implement the carbon reduction phase, phase two, of the program.

Regulated parties

These proposed rules would affect all Oregon fuel producers and importers subject to the Oregon Clean Fuels Program.

Statement of need

What need would this address?

Fuel producers and importers spend resources to meet recordkeeping and recording requirements under the current program rules. The rules contain definitions that might cause potential regulated and opt-in parties to misinterpret how and whether the Clean Fuels Program applies to them. In addition, the rules contain requirements for reporting and recordkeeping that are unnecessary for phase one of the program and create additional work for affected parties. There are no standards to comply with; therefore, keeping these records during the first phase of the Clean Fuels Program is unnecessary. In addition, the current rules require smaller companies to keep records of information that is difficult to obtain and insignificant to the current program.

How would the proposed rule address the need?

- The proposed rules would provide clarity to help potential regulated and opt-in parties identify how and whether the program applies to them. For example, the proposed rules more accurately define the term “importers”.
- The proposed rules would reduce requirements for certain fuel importers. For example, the amendments would remove requirements for an initial importer to transfer the compliance obligation through the distribution chain; the initial importer would retain that obligation. Since DEQ uses information collected at this time to help make decisions at a statewide level, this simplified process is adequate at this phase of the program.
- The proposed rules simplify recordkeeping requirements for some businesses by eliminating the requirement to obtain information related to a fuel’s carbon intensity.

Current rules base recordkeeping requirements on the volume of fuel imported. Of the 62 importers and two Oregon producers of fuels subject to the program, 49 are large importers of more than 250,000 gallons per year and 13 are small importers of fewer than 250,000 gallons per year. Large importers report carbon intensity and small importers do not.

Instead of basing requirements on the volume of fuel imported, it is more appropriate to base them on the types of fuels imported, including finished fuels and blendstocks. Finished fuels are ready for use in a motor vehicle and blendstocks require blending with other blendstocks to produce a finished fuel. Importers of blendstocks have better access to the information used to calculate a fuel’s carbon intensity because they deal more closely with producers and marketers of biofuels. Importers of finished fuels have more difficulty accessing this information.

Thirty-two companies import finished fuel that accounts for about 14 percent of Oregon’s fuel. Seventeen companies import blendstocks that account for about 84 percent of all Oregon’s fuel. The remaining companies are Oregon producers of ethanol and biodiesel.

Under the proposed rules, importers of finished fuels would only keep records of information that they already track, such as the type and volume of the fuel. DEQ would apply standard figures for those fuels' carbon intensity. Importers of blendstocks and Oregon producers would retain the most stringent recordkeeping requirements, thus maintaining the integrity of the most significant source of detailed data for the program.

- The proposed rules add fuels that more accurately represent fuels available in Oregon. The proposed rules add new fuel pathways, which provide carbon intensities, for clear gasoline, gasoline blended with 10 percent ethanol, clear diesel fuel, diesel fuel blended with five percent biodiesel and ethanol made from corn (dry mill, coal-fired.)

How will DEQ know the rule has addressed the need?

To determine whether the rulemaking met its objectives, DEQ would confirm, as part of ongoing outreach, whether regulated parties have a clearer understanding of the program and their obligations. DEQ expects a reduction in the number of business that request help interpreting the rules. In addition, DEQ expects information from regulated and opt-in parties about fuels imported, produced and distributed in Oregon would be more accurate.

Rules affected, authorities, supporting documents

Lead division Program or activity
Environmental Solutions Oregon Clean Fuels Program

Chapter 340 action

Amend OAR 340-253-0040, 340-253-0060, 340-253-0100, 340-253-0250,
340-253-0310, 340-253-0320, 340-253-0340, 340-253-0400,
340-253-0500, 340-253-0600, 340-253-0630, 340-253-0650,
340-253-3010 , 340-253-3020

Repeal OAR 340-253-3000

Statutory authority

ORS 468.020, ORS 468A.270 Or. Laws 2009, ch. 754, § 6

Statute implemented

ORS 468A.270 Or. Laws 2009, ch. 754, § 6

Documents relied on for rulemaking

Document title	Document location
Applications for registration to the program	DEQ headquarters 811 SW 6 th Ave. Portland OR 97204
Comments received during informal public review period during the temporary rulemaking	DEQ headquarters
Staff report for the Environmental Quality Commission December 2013 meeting	DEQ headquarters
Oregon Department of Employment Fourth quarter 2013 data	Employment Department 875 Union Street NE Salem OR 97311

Fee Analysis

This rulemaking does not involve fees.

Fiscal and Economic Impact

Since the Jan. 1, 2013, implementation of phase one of the Clean Fuels Program, importers and Oregon producers of transportation fuels have incurred costs to comply with phase one registration and recordkeeping requirements. These proposed rules would reduce the recordkeeping and reporting burden on some businesses. The temporary rules, effective from Jan. 1, 2014, through June 30, 2014, include these improvements. Failure to incorporate these improvements into permanent rules would reinstate the more burdensome requirements.

The original 2012 rulemaking implemented Jan. 1, 2013, included an analysis of fiscal and economic impacts of registration and reporting. The analysis considered how increased costs of fuel to offset the cost of program compliance would affect state agencies, local governments, the public and businesses. The analysis concluded that across the roughly two billion gallons of gasoline and diesel fuel sold per year in Oregon, the cost to the consumer would be 2/100th of one penny per gallon if those costs were passed on to consumers. This rulemaking would not increase and may decrease costs to consumers slightly.

Statement of Cost of Compliance

1. State agencies

Direct Impacts The proposed rules would not affect state agencies directly. The proposed rules would decrease reporting and recordkeeping requirements for importers and Oregon producers of transportation fuels.

Indirect Impacts If these regulated parties were to reduce the cost of fuel to reflect any cost savings associated with these decreased requirements, there could be an economic benefit to state agencies.

2. DEQ

The proposed rules would not affect DEQ directly or indirectly. This proposal would not change ongoing technical assistance and DEQ would continue to implement phase one of the program using existing staff.

3. Local governments

Direct Impacts The proposed rules would not affect local governments directly.

Indirect Impacts Any indirect impacts would be identical to impacts on state agencies described above.

4. Public

Direct Impacts The proposed rules would not affect the public directly.

Indirect Impacts Any indirect impacts would be identical to impacts on state agencies described above.

5. Large businesses - businesses with more than 50 employees

There are 64 Oregon producers or importers registered with the Oregon Clean Fuels Program. Current employment data indicates 26 are large businesses. Of these 26 large businesses, 10 are importers of finished fuels who are most affected by the proposed rules. The remaining 16 are importers of blendstocks who are relatively unaffected by the proposed rules. No Oregon producers are large businesses.

Direct Impacts The proposed rules would have an estimated direct fiscal and economic affect on large businesses that import finished fuels identical to how the proposed rules would affect small businesses described below.

The estimated direct fiscal and economic affect of the proposed rules on large businesses that import blendstocks remain relatively unchanged.

Indirect Impacts Any indirect impacts would be identical to impacts on state agencies described above.

6. Small businesses – businesses with 50 or fewer employees [ORS 183.336](#)

Direct Impacts DEQ describes the potential fiscal and economic impact of the proposed rules on small businesses in the table below.

Indirect Impacts Any indirect impacts would be identical to impacts on state agencies described above.

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

DEQ compared the 64 businesses registered with the Clean Fuels Program to current employment data with to determine how many people the business employs. Thirty-eight are small businesses. Of those 38, two are Oregon producers of fuels, nine are small importers of finished fuels, 24 are large importers of finished fuels and three are importers of blendstocks. The importers are primarily fuel distributors and bulk fuel storage facilities.

b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The proposed rules would reduce labor and administration required for recordkeeping and reporting.

Recordkeeping requirements distinguish between importers based on the types and volumes of fuel supplied. The proposed rules have the most significantly affect on large importers of finished fuels by reducing the recordkeeping requirements for them; thereby, lowering recordkeeping costs. DEQ did not have specific information to determine how much the proposed rules would reduce recordkeeping costs.

The proposed rules do not have a significant impact on Oregon producers, importers of blendstocks or small importers of finished fuels.

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

The proposed rules do not include requirements that would require new or different equipment or supplies. The proposed rules would reduce labor and administration costs for recordkeeping and reporting, though DEQ does not have specific information to estimate cost savings.

- d) Describe how DEQ involved small businesses in developing this proposed rule.

DEQ worked directly with each of the 64 businesses subject to the Clean Fuels Program during the initial outreach and registration process in 2013, many are small businesses. Through surveys, e-mails, workshops and individual conversations, DEQ worked closely with businesses to identify alternatives to the previous recordkeeping and reporting requirements to reduce costs to regulated parties while still providing DEQ with the information it needs for program development. DEQ shared the proposed rules with affected businesses and key stakeholders in fall 2013 during development of the temporary rules.

Documents relied on for fiscal and economic impact

Document title	Document location
Applications for registration to the program	DEQ headquarters 811 SW Sixth Ave. Portland OR 97204
Comments received during informal public review period during the temporary rulemaking	DEQ headquarters
Oregon Department of Employment Fourth quarter 2013 data	Employment Department 875 Union Street NE Salem OR 97311

Advisory committee

DEQ did not appoint an advisory committee to discuss the fiscal and economic impact statement because the proposed rules reduce compliance requirements, and therefore should reduce costs to comply.

Housing cost

DEQ determined the proposed rules would have no effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

The proposed rules only affect administrative requirements including registration, recordkeeping and reporting for Oregon producers or importers of transportation fuels.

Request for other options

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

Federal relationship

"It is the policy of this state that agencies shall seek to retain and promote the unique identity of Oregon by considering local conditions when an agency adopts policies and rules. However, since there are many federal laws and regulations that apply to activities that are also regulated by the state, it is also the policy of this state that agencies attempt to adopt rules that correspond with equivalent federal laws and rules..." [ORS 183.332](#)

Relationship to federal requirements

This section complies with [OAR 340-011-0029](#) and [ORS 468A.327](#) to clearly identify the relationship between the proposed rules and applicable federal requirements.

The proposed rules are “in addition to federal requirements” since there are no federal regulations regarding reporting the content of greenhouse gases in transportation fuels.

What alternatives did DEQ consider if any?

One alternative to the proposed rules is to let the temporary rules expire June 30, 2014, and revert to the previous rules. However, this alternative would cause potential regulated parties to misinterpret how and whether the program applies to them, causing the continued added cost of complying with the program. The previous rules also contain requirements for reporting and recordkeeping that are unnecessary for phase one of the Clean Fuels Program and create additional work for affected parties.

Land use

“It is the Commission's policy to coordinate the Department's programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible.” [OAR 340-018-0010](#)

Land-use considerations

To determine whether the proposed rules involve programs or actions that are considered a *land-use action*, DEQ considered:

- Statewide planning goals for specific references. Section III, subsection 2 of the DEQ State Agency Coordination Program document identifies the following statewide goal relating to DEQ's authority:

Goal	Title
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarial resources
19	Ocean Resources

- [OAR 340-018-0030](#) for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules will significantly affect land use. If yes, how will DEQ:
 - Comply with statewide land-use goals, and
 - Ensure compatibility with acknowledged comprehensive plans, which DEQ most commonly achieves by requiring a [Land Use Compatibility Statement](#).
- DEQ's mandate to protect public health, safety and the environment.
- Whether DEQ is the primary authority that is responsible for land-use programs or actions in the proposed rules.
- Present or future land uses identified in acknowledged comprehensive plans.

Determination

DEQ determined that the proposed rules listed under the Chapter 340 Action section above **do not affect** existing rules, programs or activities that Oregon considers land-use programs and actions in OAR 340-018-0030 or in the DEQ State Agency Coordination Program.

Stakeholder and public involvement

Regulated parties

DEQ worked directly with each of the 64 businesses subject to the Clean Fuels Program during the initial outreach and registration process in 2013. Through surveys, e-mails, workshops and individual conversations, DEQ worked closely with businesses to identify alternatives to the previous recordkeeping and reporting requirements to reduce costs to regulated parties while still providing DEQ with the information it needs for program development. DEQ shared the proposed rules with affected businesses and key stakeholders in fall 2013 during temporary rules development.

Advisory committee

DEQ did not convene an advisory committee for this proposed rule because the proposed rules reduce compliance requirements and costs to comply.

EQC prior involvement

DEQ shared information about this rulemaking with EQC in the Director's Dialogue Aug. 22, 2013. On Dec. 11, 2013, EQC adopted temporary rules that are substantively identical to these proposed permanent rules.

Public notice

DEQ provided notice of the Notice of Proposed Rulemaking with Hearing for this rulemaking to Secretary of State for publication in the April 2014 *Oregon Bulletin*

On March 19, 2014, DEQ provided notice of this proposed rulemaking by:

- DEQ's rulemaking web page
<http://www.oregon.gov/deq/RulesandRegulations/Pages/2014/CFPPPh1.aspx>
- Email to the program's regulated parties and key stakeholders
- Email to approximately 7,024 interested parties through GovDelivery, including the interested persons lists for Agency Rulemaking and the Oregon Clean Fuels Program.
- Email to the following key legislators required under ORS 183.335:
 - Michael Dembrow, Chair, Senate Environment and Natural Resources Committee
 - Jules Bailey, Chair, House Energy and Environment Committee

DEQ provided legal notice in the following newspapers:

- | | |
|-------------------------------------|-----------------------------------|
| • <i>The Oregonian</i> | publication date - March 19, 2014 |
| • <i>East Oregonian (Pendleton)</i> | publication date - March 19, 2014 |

Public hearings and comment

DEQ held one public hearing. DEQ received no public comments on the proposed rules.

Presiding Officers' Record

Presiding Officer Report Date: April 17, 2014

Hearing

Location DEQ Headquarters Office, Tenth Floor, Conference room EQC A
811 SW 6th Ave., Portland OR 97204

Date April 16, 2014

Time Convened 6 p.m. Closed 6:30 p.m.

Presiding Officer Aida Biberic, Air Quality Planner

Aida Biberic, the presiding officer, convened the hearing at 6 p.m. on April 16, 2014. No one attended the hearing. Biberic closed the hearing at 6:30 p.m.

Close of public comment period

The comment period closed April 21, 2014, at 5 p.m.

Implementation

Notification

The proposed rules would become effective upon filing with the secretary of state, approximately June 20, 2014. DEQ will notify affected parties by sending an e-mail to all businesses subject to the Clean Fuels Program. DEQ will continue to work with individual regulated parties on how to interpret the proposed rules specific to their situations.

Five-year review

Requirement [ORS 183.405](#)

The state Administrative Procedures Act requires DEQ to review **new** rules within five years of the date the EQC adopts the proposed rules. Though the review will align with any changes to the law in the intervening years, DEQ based its analysis on current law.

Exemption from five-year rule review

The Administrative Procedures Act exempts all of the proposed rules from the five-year rule review because the proposed rules would amend an existing rule. ORS 183.405 (4).

Note: There was a slight error with the version of the rules placed on public notice in March 2014. It mistakenly omitted the redline edits to Table 1 in 340-253-3010 and Table 2 in 340-253-3020, which would have indicated the addition of two new fuel pathways to the tables. This modified version corrects that omission by including the redline of the new pathways. This modification is consistent with the version that was temporarily adopted in December 2013 and the description of the changes in the Notice of Proposed Rulemaking.

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 253

OREGON CLEAN FUELS PROGRAM

340-253-0040

Definitions

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.

~~(1) "Actual PADD 5" means Petroleum Administration for Defense District 5, which includes Oregon, Washington, Arizona, Nevada, Hawaii, California and Alaska.~~

~~(2)~~(1) "Baseline carbon intensity value" is 90.38 gCO₂e per MJ for gasoline and gasoline substitutes and 90.00 gCO₂e per MJ for diesel fuel and diesel substitutes. These values are based on the mix of regulated and opt-in fuels supplied for use as a transportation fuel in Oregon in 2010.

~~(3)~~(2) "Biodiesel" has the same meaning as defined under OAR 603-027-0410.

~~(4)~~(3) "Biogas" means natural gas that meets the purity requirements under OAR 860-023-0025 and is produced from the breakdown of organic material in the absence of oxygen. Biogas production processes include, but are not limited to, anaerobic digestion, anaerobic decomposition and thermo-chemical decomposition:

(a) Applied to biodegradable biomass materials, such as manure, sewage, municipal solid waste, and waste from energy crops; and

(b) Used to produce landfill gas and digester gas.

~~(5)~~(4) "Biogas compressed natural gas" means compressed natural gas consisting solely of compressed biogas.

~~(6)~~(5) "Biogas liquefied natural gas" means liquefied natural gas consisting solely of liquefied biogas.

~~(7)~~(6) "Biomass" has the same meaning as defined under OAR 603-027-0410.

~~(8)~~(7) “Biomass-Based diesel” or “Renewable diesel” has the same meaning as defined under OAR 603-027-0410.

~~(9)~~(8) “Blendstock” means a component ~~used alone or~~ blended with one or more other components to produce a finished fuel used in a motor vehicle.

~~(10)~~(9) “Carbon intensity” means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO₂e per MJ).

~~(11)~~(10) “Compressed natural gas” means either biogas or fossil natural gas that meets the standards listed under OAR 860-023-0025 compressed to a pressure greater than ambient pressure.

~~(12)~~(11) “Diesel fuel” has the same meaning as defined under OAR 603-027-0410.

~~(13)~~(12) “Diesel substitute” means any fuel, other than diesel fuel, that may be used in light-duty or heavy-duty vehicles, and off-road vehicles that typically use diesel as a fuel. Diesel substitutes include but are not limited to liquefied natural gas used in a heavy duty motor vehicle and biodiesel used in a heavy duty motor vehicle.

~~(14)~~(13) “Electricity bundled services supplier” means any person or entity that provides charging infrastructure and provides access to vehicles charging under contract with a charging service recipient or charging equipment owner.

~~(15)~~(14) “Electric utility” has the same meaning as defined in ORS 757.600.

~~(16)~~(15) “Ethanol,” or “Denatured fuel ethanol” has the same meaning as defined under OAR 603-027-0410.

~~(17)~~(16) “Feedstock” means the material a fuel is made from.

~~(18)~~(17) “Finished fuel” means a transportation fuel used directly in a motor vehicle without additional chemical or physical processing.

~~(19)~~(18) “Finished hydrogen fuel” means a finished fuel that consists of:

(a) Hydrogen; or

(b) A blend of hydrogen and another fuel.

~~(20)~~(19) “Fossil compressed natural gas” means compressed natural gas derived solely from petroleum or fossil sources such as oil fields and coal beds.

~~(21)~~(20) “Fossil liquefied natural gas” means liquefied natural gas derived solely from petroleum or fossil sources such as oil fields and coal beds.

~~(22)~~(21) “Fuel type” or “Fuel pathway” means any unique fuel feedstock and production process combination.

~~(23)~~(22) “Gasoline” has the same meaning as defined under OAR 603-027-0410.

~~(24)~~(23) “Gasoline substitute” means any fuel, other than gasoline, that may be used in light-duty vehicles that typically use gasoline as a fuel. Gasoline substitutes include but are not limited to electricity used in a light-duty motor vehicle and natural gas used in a light-duty motor vehicle.

~~(25)~~(24) “Heavy duty motor vehicle” has the same meaning as defined under OAR 340-256-0010.

~~(26)~~(25) “Import” means to bring a blendstock or a finished fuel product from outside Oregon into Oregon.

~~(27)~~(26) “Importer” means the person who ~~owns-imports~~ a blendstock or a finished fuel product imported from outside Oregon into Oregon:

(a) With respect to any imported liquid ~~product~~fuel, it means the person who owns the fuel in the stationary storage tank into which the ~~product~~fuel was first transferred after it was imported into Oregon; or

(b) With respect to any biogas, it means the person who owns the imported ~~product~~biogas upon receipt at a pipeline in Oregon through which the biogas is delivered in Oregon.

~~(28) “Large Oregon importer” means any person who imports more than 250,000 gallons of fuel in a given calendar year into Oregon.~~

~~(29)~~(27) “Light-duty motor vehicle” has the same meaning as defined under OAR 340-256-0010.

~~(30)~~(28) “Lifecycle greenhouse gas emissions” means the:

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

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

(c) Mass values for all greenhouse gases as adjusted to account for their relative global warming potential.

~~(31)~~(29) “Liquefied natural gas” means biogas or fossil natural gas converted to liquid form.

~~(32)~~(30) “Liquefied petroleum gas” or “propane” has the same meaning as defined under OAR 603-027-0395.

~~(33)~~(31) “Motor vehicles” has the same meaning as defined under OAR 603-027-0410.

~~(34)~~(32) “Natural gas” means a mixture of gaseous hydrocarbons and other compounds from either fossil or biogas sources, with at least 80 percent methane by volume, and typically sold or distributed by utilities such as any utility company regulated by the Oregon Public Utility Commission.

~~(35)~~(33) “Opt-in party” means a person who is not a regulated party and who elects to register with DEQ under OAR 340-253-0100(4).

~~(36)~~(34) “Oregon producer” means:

(a) With respect to any liquid ~~blendstock or finished~~ fuel, the person who makes the liquid blendstock or finished fuel at the Oregon production facility; or

(b) With respect to any biogas produced in Oregon, the person who refines the biogas to pipeline quality.

~~(3735)~~ “Oregon production facility” means a facility located in Oregon that:

(a) Produces any liquid blendstock or finished fuel other than liquefied natural gas; or

(b) Converts, compresses, liquefies, refines, treats or otherwise processes natural gas into compressed natural gas or liquefied natural gas that is ready for use as a transportation fuel in a motor vehicle without further physical or chemical processing.

~~(3836)~~ “OR-GREET” means the Greenhouse gases, Regulated Emissions, and Energy in Transportation (GREET) Argonne National Laboratory model modified and maintained for Oregon. Copies of OR-GREET are available from DEQ upon request.

~~(37)~~ “Physical pathway” means the way a fuel is transported from the fuel producer to Oregon, including any combination of truck routes, rail lines, pipelines, marine vessels and any other transportation method.

~~(39)(38)~~ “Private access fueling facility” means an Oregon fueling facility that restricts access by use of a card or key-activated fuel dispensing device to dispensing fuel to nonretail customers.

~~(40)(39)~~ “Product transfer document” means an invoice, bill of lading, purchase contract, or any other proof of fuel ownership transfer.

~~(41)(40)~~ “Public access fueling facility” means an Oregon fueling facility that is not a private access fueling facility.

~~(42)(41)~~ “Regulated party” means a person identified as a regulated party under OAR 340-253-0310 through 340-253-0340. Regulated parties must comply with the requirements under OAR 340-253-0100.

~~(43)(42)~~ “Shortfall(s)” means a state in which the carbon intensity of a fuel is higher than the baseline carbon intensity value for gasoline and gasoline substitutes or diesel fuel and diesel substitutes. Shortfalls are expressed in units of metric tons of carbon dioxide equivalent (CO₂e) and are calculated under OAR 340-253-1020.

~~(44)(43)~~ “Small Oregon importer” means any person who imports 250,000 gallons or less of fuel in a given calendar year into Oregon.

~~(45) “Statutory PADD 5” means a portion of Petroleum Administration for Defense District 5, which includes Oregon, Washington, Arizona and Nevada.~~

~~(46)(44)~~ “Surplus(es)” means a state in which the carbon intensity of a fuel is lower than the baseline carbon intensity value for gasoline or diesel fuel and their substitutes. Surpluses are expressed in units of metric tons of carbon dioxide equivalent (CO₂e) and are calculated under OAR 340-253-1020.

~~(47)(45)~~ “Transportation fuel” means any fuel used or intended for use in motor vehicles as defined under OAR 603-027-0410.

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)
Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0060

Acronyms

The following acronyms apply to this division:

- (1) “ASTM” means ASTM International (formerly American Society for Testing and Materials).
- (2) “BTU” means British thermal unit.
- (3) “DEQ” means Oregon Department of Environmental Quality.
- (4) “EQC” means Oregon Environmental Quality Commission.
- (5) “FEIN” means federal employer identification number.
- ~~(5)(6)~~ “gCO₂e” means grams of carbon dioxide equivalent.
- ~~(6)(7)~~ “gge” means gasoline gallon equivalents.
- ~~(7)(8)~~ “MJ” means megajoule.

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)
Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0100

Oregon Clean Fuels Program

(1) Applicability.

(a) All regulated parties under section (3) that import or produce ~~_, sell, supply or offer for sale~~ in Oregon any regulated fuel, as defined under OAR 340-253-0200, are subject to this rule.

(b) Any person may become an opt-in party by registering with DEQ under section (4) of this rule. All opt-in parties under section (3) that import or produce ~~_, sell, supply or offer for sale~~ in Oregon any opt-in fuel, as defined under OAR 340-253-0200, are subject to this rule.

(2) Requirements. Beginning January 1, 2013:

(a) Regulated and opt-in parties, except for small Oregon importers of finished fuels, must register under section (4) of this rule, keep records under section (5) of this rule, and submit reports under sections (6) and (7) of this rule; and

(b) Small Oregon importers of finished fuels must register under section (4) of this rule and are exempt from keeping records under section (5) of this rule and submitting reports under sections (6) and (7) of this rule.

(3) Regulated party or opt-in party. The following rules designate regulated and opt-in parties, by type of fuel:

(a) OAR 340-253-0310 for gasoline, diesel fuel, biodiesel, biomass-based diesel, ethanol, and any other liquid fuel except liquefied natural gas and liquefied petroleum gas;

(b) OAR 340-253-0320 for natural gas including compressed natural gas, liquefied natural gas, biogas and liquefied petroleum gas;

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

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

(4) Registration.

(a) After January 1, 2013, but no later than June 30, 2013, each regulated party must submit a complete application under OAR 340-253-0500 to register with DEQ for each fuel type the party imports or produces ~~_, sells, supplies or offers for sale~~ in Oregon on or before July 1, 2013, and that it plans to continue to import or produce ~~_, sell, supply or offer for sale~~ in Oregon after July 1, 2013.

(b) Beginning on July 1, 2013, each regulated party must submit a complete application under OAR 340-253-0500 to register with DEQ for each fuel type, on or before the date upon which it begins to import or produce ~~_, sell, supply or offer for sale~~ in Oregon such fuel.

(c) To become an opt-in party a person must submit a complete application under OAR 340-253-0500 to register with DEQ.

(5) Records.

(a) Beginning on July 1, 2013, each regulated party must develop and retain all records required under OAR 340-253-0600.

(b) Beginning on the latter of either July 1, 2013, or the date that an opt-in party submits a complete application, as determined by DEQ, under subsection (4)(c) of this rule, each opt-in party must develop and retain all records required under OAR 340-253-0600.

(6) Quarterly report. Beginning on January 1, 2014, each regulated and opt-in party must submit quarterly reports under OAR 340-253-0630. Reports must be submitted to DEQ for:

(a) January through March of each year, by May 31;

(b) April through June of each year, by August 31;

(c) July through September of each year, by November 30; and

(d) October through December of each year, by February 28 of the following year.

(7) Annual report. Each regulated party and opt-in party must submit an annual report each year under OAR 340-253-0650. The report must be submitted to DEQ by April 30 of each year to report for the prior calendar year; except for 2013, when the reporting period is from July 1 through December 31.

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)
Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0250

Exempt Fuels and Fuel Uses

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

(a) A fuel ~~sold,~~ supplied ~~or offered for sale~~ in Oregon if all providers supply an aggregate volume of less than 360,000 gge per year in Oregon. The party must:

(A) Demonstrate that the exemption applies; and

(B) Obtain exemption approval from DEQ in writing.

(b) A fuel produced from a research, development or demonstration facility as defined under OAR 330-090-0110 if the annual production volume is either 10,000 gallons or less, or no more than 50,000 gallons and the fuel producer uses the entire volume for its own motor vehicles. The party must:

(A) Demonstrate that the exemption applies; and

(B) Obtain exemption approval from DEQ in writing.

(2) Exempt fuels based on fuel uses. Fuels are exempt from the definition of regulated fuels under OAR 340-253-0200(2)(h) if:

(a) The fuel is ~~sold,~~ supplied ~~or offered for sale~~ for use in the following motor vehicles:

(A) Aircraft;

(B) Racing activity vehicles under ORS 801.404;

(C) Military tactical vehicles and tactical support equipment;

(D) Railroad locomotives;

(E) Ocean-going vessels defined under OAR 856-010-0003, except for vessel under fishery or recreational endorsement under title 46 United States Code, chapter 121;

(F) Motor vehicles registered as farm vehicles under ORS 805.300;

(G) Farm tractors, as defined under ORS 801.265;

(H) Implements of husbandry, as defined under ORS 801.310; or

(I) Motor trucks, as defined under ORS 801.355, used primarily to transport logs; and

(b) The regulated or opt-in party documents that the fuel was ~~sold~~, supplied ~~or offered for sale~~ for use in a motor vehicle listed in subsection (a) of this rule, as required under OAR 340-253-0600. Documentation that the fuel was transferred through a dedicated source to one of the motor vehicles identified in subsection (a) of this rule is sufficient. If not transferred through a dedicated source, all documentation must be on an individual fuel transaction basis.

(3) Fuel possession. Any fuel user or seller may possess any fuel regardless of its carbon intensity value, including but not limited to owners of the motor vehicles listed under subsection (2)(a).

Stat. Auth.: ORS 468.020, ORS 468A.270 Sec. 6, ch. 754, OL 2009, (2011 Edition)
Stats. Implemented: ORS 468A.270 Sec. 6, ch. 754, OL 2009, (2011 Edition)

Designation of Regulated and Opt-in Parties

340-253-0310

Regulated Parties for Gasoline, Diesel Fuel, Biodiesel, Biomass-based Diesel and Ethanol and Other Regulated Fuels Except for Liquefied Natural Gas

(1) Applicability. This rule applies to all liquid blendstocks and liquid finished fuels listed under OAR 340-253-0200(2) except liquefied natural gas.

(2) ~~Initial~~ **R**egulated party. The ~~initial~~ regulated party is the Oregon producer, ~~large Oregon importer~~ or ~~small Oregon~~ importer of the fuel.

~~(3) Recipient notification requirement. Before actual fuel ownership is transferred from one party to another, the recipient of the fuel must notify the transferor of the fuel whether or not the recipient is an Oregon producer, a large Oregon importer, or a small Oregon importer.~~

~~(4) Regulated party options and responsibilities for transfers if the recipient is an Oregon producer or large Oregon importer. If the initial regulated party transfers fuel to an Oregon producer or a large Oregon importer, then the transferor and the recipient have the options and responsibilities under this section.~~

~~(a) Unless the transferor elects to remain the regulated party under (4)(b):~~

~~(A) The recipient is now the regulated party who:~~

~~(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel; and~~

~~(ii) Is responsible for surplus and shortfall calculations under OAR 340-253-1020.~~

~~(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate:~~

~~(i) The recipient is now the regulated party who must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel; and~~

~~(ii) The information required under OAR 340-253-0600.~~

~~(C) The transferor is no longer required to comply with the recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel, except for maintaining the product transfer documentation under OAR 340-253-0600.~~

~~(b) The transferor and recipient may agree in writing for the transferor to remain the regulated party for the fuel, by the time fuel ownership is transferred. If the transferor elects to remain the regulated party:~~

~~(A) The transferor:~~

~~(i) Must provide the recipient a product transfer document at the time of transfer that prominently indicates that the transferor elects to remain the regulated party for the fuel;~~

~~(ii) The transferor must comply with the recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel; and~~

~~(iii) The transferor is responsible for surplus and shortfall calculations under OAR 340-253-1020; and~~

~~(B) The recipient must maintain the product transfer documentation under OAR 340-253-0600.~~

~~(5) Regulated party options and responsibilities for transfers if the recipient is a small Oregon importer or is not an importer and is not an Oregon producer. If the initial regulated party transfers fuel to a small Oregon importer or a person who is not an importer and not an Oregon producer, then the transferor and the recipient have the options and responsibilities under this section.~~

~~(a) The transferor remains the regulated party unless the transferor and the recipient agree that the recipient is the regulated or opt-in party under (b), who:~~

~~(A) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel; and~~

~~(B) Is responsible for surplus and shortfall calculations under OAR 340-253-1020.~~

~~(b) The transferor and recipient may agree in writing for the recipient to become the regulated party for the fuel, by the time fuel ownership is transferred. If the recipient elects to become the regulated party:~~

~~(A) The transferor must:~~

~~(i) Provide the recipient a product transfer document at the time of transfer that prominently indicates that the recipient elects to become the regulated party for the fuel; and~~

~~(ii) Maintain the product transfer documentation under OAR 340-253-0600.~~

~~(B) The recipient:~~

~~(i) Must comply with the recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel;~~

~~(ii) Must maintain the product transfer documentation under OAR 340-253-0600; and~~

~~(iii) Is responsible for surplus and shortfall calculations under OAR 340-253-1020.~~

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0320

Regulated Parties and Opt-in Parties for Compressed Natural Gas, Biogas, Liquefied Natural Gas and Liquefied Petroleum Gas

(1) Fossil compressed natural gas. For fossil compressed natural gas, the opt-in party is the owner of the fueling equipment at the facility where the fossil compressed natural gas is dispensed for use in motor vehicles.

(2) Biogas compressed natural gas. For biogas compressed natural gas that is dispensed directly into motor vehicles in Oregon without first being blended with fossil compressed natural gas, the ~~initial~~ opt-in party is the Oregon producer or importer of the biogas.

(3) Fossil liquefied natural gas. For fossil liquefied natural gas:

(a) For fuel that is a regulated fuel under OAR 340-253-0200(2)(c), the ~~initial~~ regulated party is the owner of the liquefied natural gas when it is transferred to the facility where the liquefied natural gas is dispensed for use into motor vehicles; or

(b) For fuel that is an opt-in fuel under OAR 340-253-0200(3)(e), the ~~initial~~ opt-in party is the owner of the liquefied natural gas when it is transferred to the facility where the liquefied natural gas is dispensed for use into motor vehicles.

(4) Biogas liquefied natural gas. For biogas liquefied natural gas that is dispensed directly into motor vehicles in Oregon without first being blended with fossil liquefied natural gas, the ~~initial~~ opt-in party is the Oregon producer or importer of the biogas liquefied natural gas.

(5) Biogas compressed natural gas added to fossil compressed natural gas. For blends of these fuels, the opt-in parties for each of the component fuel types of the blended fuel remains the same as provide in sections (1) through (4).

(6) Biogas liquefied natural gas added to fossil liquefied natural gas. For blends of these fuels, the regulated and opt-in parties for each of the component fuel types of the blended fuel remains the same as provide in sections (1) through (4).

(7) Liquefied petroleum gas. For liquefied petroleum gas, the opt-in party is the owner of the fueling equipment at the facility where the liquefied petroleum gas is dispensed for use into motor vehicles.

~~(8) Regulated and opt-in party options and responsibilities for transfers of compressed natural gas, biogas, liquefied natural gas and liquefied petroleum gas. The transferor and the recipient have the following options and responsibilities under this section whenever the initial regulated or opt-in party transfers ownership of the fuel:~~

~~(a) The transferor remains the regulated or opt-in party unless the transferor and the recipient agree that the recipient is the regulated or opt-in party under (b), who:~~

~~(A) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel;~~

~~(B) Is responsible for surplus and shortfall calculations under OAR 340-253-1020; and~~

~~(C) May generate surpluses under OAR 340-253-1000(4).~~

~~(b) The transferor and recipient may agree in writing for the recipient to become the regulated or opt-in party for the fuel, by the time fuel ownership is transferred:~~

~~(A) The product transfer document must clearly indicate that the recipient is now the regulated or opt-in party who must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel;~~

~~(B) The recipient:~~

~~(i) Is responsible for surplus and shortfall calculations under OAR 340-253-1020; and~~

~~(ii) May generate surpluses under OAR 340-253-1000(4).~~

~~(C) The transferor is no longer required to comply with the recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel, except for maintaining the product transfer documentation under OAR 340-253-0600.~~

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0340

Opt-in Parties for Hydrogen Fuel or Hydrogen Blends

~~(1) Initial Opt-in party.~~ The ~~initial~~ opt-in party for a volume of finished hydrogen fuel is the Oregon producer or ~~Oregon~~ importer of the finished hydrogen fuel.

~~(2) Opt-in party options and responsibilities for transfers. The transferor and the recipient have the following options and responsibilities whenever the initial opt-in party transfers ownership of the finished hydrogen fuel:~~

~~(a) The transferor remains the opt-in party unless the transferor and the recipient agree that the recipient is the opt-in party under (b), who:~~

~~(A) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel;~~

~~(B) Is responsible for surplus and shortfall calculations under OAR 340-253-1020; and~~

~~(C) May generate surpluses under OAR 340-253-1000(4).~~

~~(b) The transferor and recipient may agree in writing for the recipient to be the opt-in party for the fuel, by the time fuel ownership is transferred.~~

~~(A) The product transfer document must clearly indicate that the recipient is now the opt-in party who must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel.~~

~~(B) The recipient:~~

~~(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel;~~

~~(ii) Is responsible for surplus and shortfall calculations under OAR 340-253-1020; and~~

~~(iii) May generate surpluses under OAR 340-253-1000(4).~~

~~(C) The transferor is no longer required to comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0100 for the fuel, except for maintaining the product transfer documentation under OAR 340-253-0600.~~

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0400

Fuel Carbon Intensity Values

(1) Statewide carbon intensity values.

(a) A regulated or opt-in party must use the statewide average carbon intensity value in Table 1 ~~or 2~~ under OAR 340-253-3010 or [Table 2 under OAR 340-253-3020](#), as applicable, for the following fuels:

(A) ~~Clear g~~Gasoline;

~~(B)~~ Gasoline blended with 10% ethanol;

~~(B)(C)~~ ~~Clear d~~Diesel fuel;

(D) Diesel fuel blended with 5% biodiesel or biomass-based diesel;

~~(C)(E)~~ Compressed fossil natural gas derived from natural gas not imported to North America in liquefied form;

~~(D)(F)~~ Liquefied petroleum gas; and

~~(E)(G)~~ Electricity, unless an electricity provider meets the conditions under subsection (1)(b) and proposes a different carbon intensity value.

(b) The opt-in party for electricity may propose a carbon intensity value different from the statewide average carbon intensity value if the electricity provider:

(A) Only provides electricity for transportation; and

(B) Is exempt from the definition of public utility under ORS 757.005-(1)(b)(G), and is not regulated by the Oregon Public Utility Commission.

(c) Every three years, DEQ must review the statewide average carbon intensity values in Table 1 ~~or 2~~ under OAR 340-253-3010 or Table 2 under 340-253-3020 and must:

(A) Consider the crude oil and other energy sources, production processes and flaring rates and other considerations that might affect the lifecycle carbon intensity of fuel used in Oregon; and

(B) Propose the EQC revise and update statewide average carbon intensity values in Table 1 or 2 under OAR 340-253-3010 or -3020 if DEQ determines that values should be changed by more than 5.0 gCO₂e per MJ or 10 percent.

(2) Carbon intensity values for established pathways. Except as provided in section (3), regulated and opt-in parties must use the carbon intensity values for ethanol, biodiesel, biomass-based diesel, liquefied natural gas, biogas compressed natural gas, biogas liquefied natural gas, hydrogen, liquefied petroleum gas and any fossil compressed natural gas produced from natural gas that arrives in North America in liquefied form that best matches each fuel's carbon intensity, as listed in Table 1 ~~or 2~~ under OAR 340-253-3010 or Table 2 under OAR 340-253-3020, as applicable.

(3) Individual carbon intensity values.

(a) Directed by DEQ. A regulated or opt-in party must obtain an individual carbon intensity value for a fuel, if DEQ:

(A) Determines the fuel's carbon intensity is not adequately represented by any of the carbon intensity values for established pathways in Table 1 ~~or 2~~ under OAR 340-253-3010 or Table 2 under OAR 340-253-3020; and

(B) Directs the regulated or opt-in party to obtain an individual carbon intensity value under OAR 340-253-0450.

(b) Election of the party. A regulated or opt-in party may propose an individual carbon intensity value for a fuel if:

(A) The fuel's carbon intensity, when compared to the carbon intensity value for the most similar fuel type in Table 1 ~~or 2~~ under OAR 340-253-3010 or [Table 2 under OAR 340-253-3020](#), as applicable, changes by at least 5.0 gCO₂e per MJ or 10 percent;

(B) The party has the capacity and intent to provide more than one million gge per year of the fuel in Oregon unless all providers of that fuel type supply less than one million gge per year in total; and

(C) The party applies for and obtains DEQ approval under OAR 340-253-0450.

(c) New fuel or feedstock. A regulated or opt-in party must obtain approval for an individual carbon intensity value under OAR 340-253-0450 for any fuel not included in Table 1 ~~or 2~~ under OAR 340-253-3010 or [Table 2 under OAR 340-253-3020](#) and for any fuel made from a feedstock not represented in a carbon intensity value in Table 1 ~~or 2~~ under OAR 340-253-3010 or [Table 2 under OAR 340-253-3020](#). The party must submit a modification to the original registration under OAR 340-253-0500(5) within 30 days,

(d) Process change notification. The regulated or opt-in party must notify DEQ and obtain approval for an individual carbon intensity value under OAR 340-253-0450 for any changes to the fuel production process, if the fuel's carbon intensity value changes by more than 5.0 gCO₂e per MJ or 10 percent. The party must submit a modification to the original registration under OAR 340-253-0500(5) within 30 days.

(4) OR-GREET. The regulated or opt-in party must calculate all carbon intensity values using the approved version of OR-GREET, or a DEQ-approved comparable model for any fuel that cannot be modeled with OR-GREET. Any variations from the approved version of OR-GREET must be documented as described under OAR 340-253-0450(1) and submitted to DEQ for approval.

(5) Calculation requirements. When a regulated or opt-in party calculates a carbon intensity value of:

(a) Fuels made from biomass feedstock, the party may assume that the combustion and growing components of the fuel's lifecycle greenhouse gas emissions have net zero lifecycle carbon dioxide emissions.

(b) Fuels made from petroleum feedstock, including waste petroleum feedstock, the party may not assume that the combustion of the fuel has net zero carbon dioxide emissions.

(c) Fuels made from waste feedstock, the party may assume that the lifecycle greenhouse gas emissions analysis of the carbon intensity value begins when the original product becomes waste.

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)
Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0500

Registration

(1) Registration information. To register, a regulated or opt-in party must submit the following to DEQ:

- (a) Company ~~identification information~~, including ~~a~~-physical and mailing addresses, phone ~~and fax~~ numbers, e-mail addresses, ~~and a primary and legal~~ contact names and any applicable DEQ or EPA ID numbers.
- (b) The fuel type(s) that will be imported or sold, supplied or offered for sale~~produced~~ in Oregon.
- (c) The producer of the biofuel, including ~~its each producer's~~ physical address and the EPA company and facility ID numbers~~a contact name~~, for each fuel type.
- (d) The ~~regulated or opt in party's~~ proposed carbon intensity value, for each fuel type. The proposed carbon intensity value must be:
 - (A) A statewide carbon intensity value for any fuel listed under OAR 340-253-0400(1);
 - (B) An individual carbon intensity value listed in Table 1 ~~or 2~~ under OAR 340-253-3010 or Table 2 under OAR 340-253-3020; or
 - (C) ~~An proposal to obtain a new~~ individual carbon intensity value under OAR 340-253-0450.
 - (e) The volume estimated to be imported or produced in Oregon in a calendar year, for each fuel type.
 - (f) Other information requested by DEQ related to registration.
- (2) Completeness of submittal. DEQ must review the information submitted under section (1) to determine if the submission is complete.
 - (a) If DEQ determines the submission is incomplete, DEQ must notify the party of the information needed to complete the submission. The party must provide the requested information within 30 calendar days from the date on the request.
 - (b) If DEQ determines the submission is complete, DEQ must notify the party in writing of the completeness determination.
 - (c) If DEQ does not notify the party in writing of the completeness determination within 30 calendar days of receipt of the registration application, the application is automatically deemed complete.
- (3) Determination of carbon intensity values. DEQ must review the proposed carbon intensity values to determine if they are accurate. DEQ must review proposed carbon intensity values as follows:
 - (a) For a proposed carbon intensity value listed in Table 1 ~~or 2~~ under OAR 340-253-3010 or Table 2 under OAR 340-252-3020, DEQ must review whether the fuel type accurately matches the fuel and fuel production process of the proposed carbon intensity value listed.
 - (b) For a proposed individual carbon intensity value, DEQ must approve the carbon intensity value or notify the party which carbon intensity value to use under OAR 340-253-0450.
- (4) Registration approval. DEQ must notify the party in writing of its registration approval. The notification must include confirmation of the carbon intensity value for each fuel type to be used in calculating surpluses and shortfalls under OAR 340-253-1020.

(5) Modifications to registration.

(a) The party must submit an amended registration to DEQ within 30 days of any change occurring to information described in section (1), including any change that would result in a different carbon intensity value.

(b) DEQ may require a party to submit an amended registration based on new information that DEQ obtains from any source.

(6) Opting out. To opt-out, an opt-in party must notify DEQ in writing. Regulated parties may not opt-out.

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0600

Records

(1) ~~All regulated and opt-in parties, except for small Oregon importers of finished fuels~~Records. Each regulated and opt-in party, ~~except for small Oregon importers of finished fuels~~, must retain the following records for at least five years:

(a) Copies of all data and reports submitted to DEQ;

(b) Records of each fuel transaction made including:

(A) Fuel name, choosing the most applicable name from a list developed and provided by DEQ.

(B) Fuel application, choosing the most applicable choice from a list developed and provided by DEQ;

(C) Fuel pathway code, choosing the most applicable code from a list developed and provided by DEQ;

(D) Transaction date;

(E) Transaction type, choosing the most applicable type from a list developed and provided by DEQ;

(F) Transaction quantity; ~~Volume of fuel;~~

(i) In gallons for liquid fuels including gasoline, diesel fuel, ethanol, biomass-based diesel, liquefied natural gas and liquefied petroleum gas;

(ii) In standard cubic feet for compressed natural gas;

(iii) In kilowatt-hours for electricity; and

(iv) In kilograms for hydrogen fuel.

(G) Transaction identification number;

~~(B)(H)~~ Business partner ~~Names of the transferor and recipient, choosing the most applicable name from a list developed and provided by DEQ;~~

~~(C) Whether the compliance obligation was transferred from the transferor to the recipient or retained;~~

~~(D) Carbon intensity of the fuel;~~

~~(E) Producer of the fuel;~~

~~(F) Invoice date;~~

~~(G) Unique transaction identification such as a bill of lading number;~~

~~(I)~~ Physical pathway code, choosing the most applicable code from a list developed and provided by DEQ;

~~(H)(J)~~ Product transfer documents;

~~(H)(K)~~ Exempt status documentation under OAR 340-253-0250, if fuel is excluded from surplus and shortfall calculations under OAR 340-253-1010; and

~~(H)(L)~~ For fuel that is exported outside Oregon, where the party is the exporter of record.

~~(c) Records used to document how a fuel is transported or conveyed to Oregon, if not produced in Oregon;~~

~~(d) Records used to calculate the carbon intensity of the fuel;~~

~~(e)(c)~~ Records used to calculate surpluses and shortfalls; and

~~(f)(d)~~ Other records used to determine compliance with the Oregon Clean Fuels Program; and

~~(e)~~ Any other records identified by DEQ and related to the volume, distribution or carbon content of fuel produced or imported by a party.

~~(2)~~ Oregon producers and importers of one or more non-petroleum blendstocks. In addition to section (1), each Oregon producer and importer of one or more non-petroleum blendstocks must retain the following records for at least five years:

~~(a)~~ DEQ-approved carbon intensity for each fuel type, choosing the most appropriate code choice from a list of codes developed and provided by DEQ;

~~(b)~~ Name of the biofuel producer, including each producer's physical address, EPA company ID and facility ID number, for each fuel type, and choosing the most appropriate choice from a list developed and provided by DEQ; and

~~(2)(3)~~ Review. All data, records and calculations used by a regulated or opt-in party to comply with the Oregon Clean Fuels Program are subject to verification by DEQ. The party must provide records retained

under section (1) within 60 calendar days after the date DEQ requests a review of the records, unless otherwise specified.

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)
Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0630

Quarterly Reports

Quarterly reports must include the following information, in a format provided or approved by DEQ:

- (1) For each fuel type ~~imported or sold, supplied or offered produced for sale in in~~ Oregon:
 - (a) ~~The~~ total volume; and
 - (b) ~~DEQ-approved c~~Carbon intensity.
- (2) Surpluses and shortfalls as calculated under OAR 340-253-1020, including the:
 - (a) Amount of surpluses and shortfalls generated during the quarter; and
 - (b) Quarterly and year-to-date net balance calculations under OAR 340-253-1030 for gasoline and gasoline substitutes and diesel and diesel substitutes.
- (3) The volumes of any exempt fuels or fuels transferred to exempt users under OAR 340-253-0250; and
- (4) Volumes exported outside Oregon.

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)
Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-0650

Annual Reports

Annual reports must include the following information, in a [DEQ provided or approved](#) format ~~provided or approved by DEQ~~:

- (1) Company name of the regulated or opt-in party;
- ~~(2) Signature of a responsible official representing the regulated or opt-in party and certifying that the report is accurate to the best of the official's knowledge;~~
- ~~(3)~~(2) For each fuel type ~~imported or produced sold, supplied or offered for sale in~~ [Oregon](#) during the calendar year:

(a) ~~The~~ total volume; and

(b) ~~DEQ-approved c~~Carbon intensity.

~~(4)(3)~~ Surpluses or shortfalls as calculated under OAR 340-253-1020, including the;

(a) Amount of surpluses and shortfalls carried over from the previous year; and

(b) Amount of surpluses and shortfalls generated during the year.

~~(5)(4)~~ Net balance calculations under OAR 340-253-1030 for gasoline and gasoline substitutes and diesel and diesel substitutes;

~~(6)(5)~~ The volumes of any exempt fuels or fuels transferred to exempt users under OAR 340-253-0250; and

~~(7)(6)~~ Volumes exported outside Oregon.

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

~~340-253-3000~~

~~Tables used for the Oregon Clean Fuels Program~~


~~[Table not included. See ED. NOTE.]~~

~~[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table\(s\).](#)]~~

340-253-3010

Table 1 — Oregon Carbon Intensity Lookup Table for Gasoline and Gasoline Substitutes

This table contains the fuel carbon intensity values referenced in 340-253-0400.

<div>  <div> <p>State of Oregon Department of Environmental Quality</p> <p>Table 1 – OAR 340-253-3010</p> <p>Oregon Carbon Intensity Lookup Table</p> <p>for</p> <p>Gasoline and Gasoline Substitutes</p> </div> </div>					
Fuel	Feedstock/Fuel Production Process	Carbon Intensity Values (gCO ₂ e per MJ)			
		Direct Emissions	Land Use Change or Other Indirect Effect	Energy Economy Ratio Applied	Final
Gasoline	<u>Clear gasoline</u> Based on a weighted average of gasoline supplied to Oregon	92.34	-	1	92.34
	<u>Blended gasoline, 10% ethanol, based on assuming 90% clear gasoline and 10% GREET default corn ethanol</u>	<u>89.59</u>	<u>-</u>	<u>1</u>	<u>89.59</u>
Ethanol from Corn	GREET default adjusted for transport to Oregon	64.80	-	1	64.80
	Wet Mill, Natural Gas	64.52	-	1	64.52
	Wet Mill, Coal	90.99	-	1	90.99
	Dry Mill, Wet DGS, Natural Gas	57.00	-	1	57.00
	<u>Dry Mill, Coal</u>	<u>92.46</u>	<u>-</u>	<u>1</u>	<u>92.46</u>
Ethanol from Sugarcane	GREET defaults adjusted for transport to Oregon	26.44	-	1	26.44
Cellulosic Ethanol	Farmed trees	15.54	-	1	15.54
	Wheat straw	20.90	-	1	20.90
	Forest residue	20.49	-	1	20.49
	Mill waste	12.31	-	1	12.31
Compressed Natural Gas	North American natural gas delivered via pipeline; compressed in Oregon	71.41	-	1	71.41
	Landfill gas cleaned to pipeline quality	11.26	-	1	11.26
Liquefied Natural Gas	North American natural gas delivered via pipeline; liquefied in Oregon w/ 80% efficiency	83.13	-	1	83.13
	Overseas liquefied natural gas delivered to Oregon; re-gasified then re-liquefied w/ 80% efficiency	93.37	-	1	93.37

	Overseas liquefied natural gas delivered to Oregon; no re-gasification or re-liquefaction	77.50	-	1	77.50
Electricity	Oregon average electricity mix 2015	154.98	-	4.1	37.81
	Oregon average electricity mix 2016	154.98	-	4.0	38.75
	Oregon average electricity mix 2017	154.98	-	3.9	39.74
	Oregon average electricity mix 2018	154.98	-	3.8	40.78
	Oregon average electricity mix 2019	154.98	-	3.7	41.89
	Oregon average electricity mix 2020	154.98	-	3.6	43.05
	Oregon average electricity mix 2021	154.98	-	3.5	44.28
	Oregon average electricity mix 2022	154.98	-	3.4	45.58
	Oregon average electricity mix 2023	154.98	-	3.3	46.96
	Oregon average electricity mix 2024	154.98	-	3.2	48.43

[Table not included. See ED. NOTE.]

[ED. NOTE: ~~Tables referenced are not included in rule text.~~ [Click here for PDF copy of table\(s\).](#)]


Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

340-253-3020

Table 2 — Oregon Carbon Intensity Lookup Table for Diesel Fuel and Diesel Substitutes

[This table contains the fuel carbon intensity value referenced in 340-253-0400.](#)

<div>  <div> <p>State of Oregon Department of Environmental Quality</p> <p>Table 2 – 340-253-3020</p> <p>Oregon Carbon Intensity Lookup Table</p> <p>for</p> <p>Diesel Fuel and Diesel Substitutes</p> </div> </div>					
Fuel	Feedstock/Fuel Production Process	Carbon Intensity Values (gCO ₂ e per MJ)			
		Direct Emissions	Indirect Land Use Change or Other Indirect Effect	Energy Economy Ratio Applied	Final
Ultra Low Sulfur Diesel	Clear gasoline B based on a weighted average of diesel fuel supplied to Oregon	91.53	-	1	91.53

	<u>Blended diesel, 5% biodiesel, based on assuming 95% clear diesel and 5% GREET default soybean biodiesel</u>	<u>87.95</u>			<u>87.95</u>
Renewable Diesel	Soybeans to renewable diesel	21.70	-	1	21.70
Biodiesel	Soybean GREET default adjusted for transport to Oregon	20.00	-	1	20.00
	Canola	27.31	-	1	27.31
	Used cooking oil to fatty acid methyl esters – FAME	10.3	-	1	10.30
	Tallow	16.85	-	1	16.85
Compressed Natural Gas	North American natural gas delivered via pipeline; compressed in Oregon	71.41	-	0.94	75.97
	Landfill gas cleaned to pipeline quality	11.26		0.94	11.98
Liquefied Natural Gas	North American natural gas delivered via pipeline; liquefied in Oregon w/ 80% efficiency	83.13	-	0.94	88.44
	Overseas liquefied natural gas delivered to Oregon; re-gasified then re-liquefied w/ 80% efficiency	93.37	-	0.94	99.33
	Overseas liquefied natural gas delivered to Oregon; no re-gasification or re- liquefaction	77.50	-	0.94	82.45
Electricity	Oregon average electricity mix	154.98	-	2.70	57.40
Liquefied Petroleum Gas	Liquefied Petroleum Gas, Crude and NG Mix	83.05	-	1	83.05

~~{Table not included. See ED. NOTE.}~~

[ED. NOTE: ~~Tables referenced are not included in rule text.~~ [Click here for PDF copy of table\(s\).](#)]

Stat. Auth.: ORS 468.020, [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)

Stats. Implemented: [ORS 468A.270](#) Sec. 6, ch. 754, OL 2009, (2011 Edition)