State of Oregon
DEQ Department of Environmental Quality

Climate Protection Program EITE

Draft Rules for OAR Chapter 340, Division 273

Only those rules with proposed edits are included below

Key to identifying changed text:

- ~~Deleted Text~~
- **New/inserted text**

Division 273
OREGON CLIMATE PROTECTION PROGRAM

340-273-0020
Definitions

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 fuel producers, and local distribution companies.

(2) “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.

(3) “Cap” means the total number of compliance instruments generated by DEQ for each calendar year.

(4) “Climate Protection Program permit” or “CPP permit” means a permit issued to a covered entity according to this division.

(5) “Community benefit agreement” means a written and executed agreement between a source and its local community. To qualify as a community benefit agreement:

(a) The local community must be represented by a local government or a coalition of community groups that represent people who live or work in proximity to the source; and

(b) The agreement must provide benefits that mitigate the harmful impact of air emissions on the local community in which the source is located including such items as source-provided amenities, impact mitigations, community investments, or a community workforce agreement.

(65) “Community climate investment credit” or “CCI credit” or “credit” means an instrument issued by DEQ to track a covered entity’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.

(76) “Community climate investments,” “community climate investment funds” or “CCI funds” means money paid by a covered entity 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.

(87) “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 340-273-0920 to implement projects supported by community climate investment funds.

(98) “Compliance instrument” means an instrument issued by DEQ that authorizes the emission of one ~~MT~~ **metric ton** CO2e of greenhouse gases.

(109) “Compliance obligation” means the total quantity of covered emissions from a covered fuel supplier rounded down to the nearest metric ton of CO2e.

(110) “Compliance period” means a period of multiple consecutive calendar years, as described in OAR 340-273-0440.

(121) “Covered direct natural gas source” or “Covered DNG source” means an air contamination source as described in OAR 340-273-0110(6).

(132) “Covered EITE source” means an air contamination source as described in OAR 340-273-0110(5).

(143) “Covered emissions” means the greenhouse gas emissions described in any of subsections OAR 340-273-0110(3)(b), (4)(b), (5)(b), and 6(b) for which covered entities may be subject to the requirements of this division.

(154) “Covered entity” means an air contamination source subject to the requirements of this division. A covered entity may be one or more of a covered fuel supplier, a covered EITE source, or a covered DNG source.

(165) “Covered fuel supplier” means an air contamination source that is one or more of the following:

(a) A fuel supplier or in-state producer as described in OAR 340-273-0110(3); or

(b) A local distribution company as described in OAR 340-273-0110(4).

(176) “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 entity 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~~7~~) “Direct natural gas source” or “DNG source” means a stationary source that **is not an EITE source and** uses natural gas distributed to the source by an entity other than a local distribution company.

(19~~18~~) “Emissions-intensive and trade-exposed source” or “EITE source” means a stationary source engaged in a sector described in OAR 340-273-9000 Table 7.

(20~~19~~) “Eligible projects” means projects undertaken by a CCI entity that reduce anthropogenic greenhouse gas emissions as described in OAR 340-273-0900(2)(a).

(~~20~~21) “Environmental justice communities” means communities of color, communities experiencing lower incomes, communities experiencing health inequities, tribal communities, rural communities, remote 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.

(22) “Greenhouse gas emissions intensity” means the amount of greenhouse gas emissions per unit of production.

(23~~1~~) “Nominal electric generating capacity” has the meaning given in ORS 469.300.

(24~~2~~) “Production” means all activities, processes, and operations involved in making a product. This includes transporting inputs within the facility, running machinery, assembling components, packaging, and any energy use or industrial processes directly tied to manufacturing the product.

(25~~3~~) “Production data” means quantitative and qualitative information describing the production process. This may include data on material quantities, energy consumption, equipment operating hours, process temperatures, throughput rates, waste produced, emissions generated, and any other measurements needed to calculate environmental impacts such as greenhouse gas emissions intensity.

(26~~4~~) “Products” means items, goods, or materials a manufacturing company creates for sale or distribution. Each product may have an associated greenhouse gas emissions intensity based on the emissions generated during its creation~~,~~ and processing.

(~~22~~27~~5~~) “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.

340-273-0110

Covered Entity and Covered Emissions Applicability

(1) Calculations of covered emissions, compliance obligations, and distribution of compliance instruments will be based on emissions data and information submitted in accordance with this rule and in emissions data reports submitted by a person described

in this rule and required **to be submitted** according to OAR chapter 340, division 215, which may be subject to verification according to OAR chapter 340, division 272. **Sources identified as covered EITE sources or covered DNG sources under this division must include production data, specifically product types and production or process units in emissions data reports submitted under OAR chapter 340, division 215.** For any person that does not submit sufficient information in compliance with OAR chapter 340, divisions 215 and 272, **emissions and production** 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 340-273-0130.

(3) **Applicability for fuel suppliers and in-state fuel 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 340-273-9000. 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 340-273-9000. 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- 273-0130.

(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 CO_2e 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;

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

(iv) Emissions from fuels that have been used in a manner other than combustion or oxidization, and that does not result in material emissions of CO2e, if documented in information provided to DEQ.

(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 2020 or any subsequent calendar year, unless the person has met the cessation requirements according to OAR 340-273-0130.

(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 documented by information provided to DEQ under approved protocols;

(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; and

(v) Emissions from the combustion or oxidation of natural gas at a covered EITE source as described in section (5).

(5) **Applicability for EITE sources**. A person is a covered EITE source if the person is described in subsection (a) and has annual covered emissions described in subsection (b) in **any two consecutive years after 2019** that equal or exceed 15,000 MT CO2e.

(a) The person owns or operates a source engaged in a sector described in OAR 340-273-9000 Table 7.

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

(A) Covered emissions include all emissions of anthropogenic greenhouse gases in metric tons of CO2e, including without limitation, emissions from all uses of natural gas and solid fuels, from energy production, from industrial processes, and from any other processes.

(B) Covered emissions do not include:

(i) Emissions from the use of biomass-derived fuels;

(ii) Emissions from the use of liquid fuels or propane;

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

(iv) 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.

(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; and

(vii) Emissions avoided where greenhouse gas emissions are captured and stored, if documented by information provided to DEQ under approved protocols.~~;~~

(6) **Applicability for direct natural gas sources**. A person is a covered DNG source if the person is described in subsection (a) and has annual covered emissions described in subsection (b) in 2020 or any subsequent calendar year that equal or exceed 15,000 MT CO2e.

(a) The person owns or operates a stationary source that:

(A) Is not in a source classification described in OAR 340-273-9000 Table 7; and

(B) Uses natural gas distributed to the source by an entity other than a local distribution company.

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

(A) Covered emissions include all emissions of anthropogenic greenhouse gases in metric tons of CO2e, including without limitation, emissions from all uses of natural gas and solid fuels, from energy production, from industrial processes, and from any other processes.

(B) Covered emissions do not include:

(i) Emissions from the use of biomass-derived fuels;

(ii) Emissions from the use of liquid fuels or propane;

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

(iv) 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;

(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 avoided where greenhouse gas emissions are captured and stored, if documented by information provided to DEQ under approved protocols; and

(viii) Emissions from natural gas, compressed natural gas, or liquefied natural gas used on site delivered by a local distribution company.

340-273-0130
Cessation of Covered Entity Applicability

(1) Cessation for covered fuel suppliers.

(a) A person that is a covered fuel supplier as described in OAR 340-273-0110 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 340-273-0110(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 273. 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 340-273-0430(3); and

(C) Any remaining community climate investment credits held by the person will be canceled according to OAR 340-273-0830(1)(c).

(2) Cessation for covered EITE sources.

(a) A person that is a covered EITE source as described in OAR 340-273-0110(5) remains a covered EITE source 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~~ **four** consecutive calendar years~~.~~; ~~or~~

(B) The person's annual covered emissions are less than 15,000 MT CO2e for ~~six~~ **four** consecutive calendar years and the person applies to DEQ according to subsection (c)**;**

(C) The person's annual covered emissions are less than 15,000 MT CO2e for four consecutive calendar years and DEQ determines the person will cease to be a covered EITE source; or

(D) The person's annual covered emissions were more than 15,000 MT CO2e for no more than one year, and DEQ determines the person will cease to be a covered EITE source as it is expected to have annual covered emissions of less than 15,000 MT CO2e for the foreseeable future.

(b) After a covered EITE source identified according to paragraph (2)(a)(A)**, (2)(a)(C) or (2)(a)(D)** 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 EITE source in writing that cessation is met.

(c) In order for cessation according to paragraph (2)(a)(B) to take effect, a covered EITE source must apply to cease being a covered EITE source by submitting the following information to DEQ on a form approved by DEQ:

(A) Information about the covered EITE source, 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) Information about remaining requirements that must be met according to this division at the time the application is submitted to DEQ; and

(C) The following attestation, signed by the designated representative of the covered EITE 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. [EITE source name] meets the eligibility for cessation as a covered EITE source according to Oregon Administrative Rules chapter 340, division 273. I understand that ceasing to be a covered EITE source means that [EITE source name] will also cease to hold any compliance instruments and CCI credits.

(d) After the covered EITE source 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 EITE source in writing that the application for cessation is approved and that cessation is met.

(e) A person that ceases to be a covered EITE 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 EITE source.

(f) When a person ceases to be a covered EITE source:

(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 340-273-0430(3); and

(C) Any remaining community climate investment credits held by the person will be canceled according to OAR 340-273-0830(1)(c).

(3) Cessation for covered DNG sources.

(a) A person that is a covered DNG source as described in OAR 340-273-0110(6) remains a covered DNG source 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~~ **four** consecutive calendar years.; or

(B) The person's annual covered emissions are less than 15,000 MT CO2e for ~~six~~ **four** consecutive calendar years and the person applies to DEQ according to subsection (c).

(C) The person's annual covered emissions are less than 15,000 MT CO2e for four consecutive calendar years and DEQ determines the person will cease to be a covered DNG source.

(b) After a covered DNG source identified according to paragraph (3)(a)(A) **or (3)(a)(C)** 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 DNG source in writing that cessation is met.

(c) In order for cessation according to paragraph (3)(a)(B) to take effect, a covered DNG source must apply to cease being a covered DNG source by submitting the following information to DEQ on a form approved by DEQ:

(A) Information about the covered DNG source, 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) Information about remaining requirements that must be met according to this division at the time the application is submitted to DEQ; and

(C) The following attestation, signed by the designated representative of the covered DNG 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. [DNG source name] meets the eligibility for cessation as a covered DNG source according to Oregon Administrative Rules chapter 340, division 273. I understand that ceasing to be a covered DNG source means that [DNG source name] will also cease to hold any compliance instruments and CCI credits.

(d) After the covered DNG source 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 DNG source in writing that the application for cessation is approved and that cessation is met.

(e) A person that ceases to be a covered DNG 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 DNG source.

(f) When a person ceases to be a covered DNG source:

(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 340-273-0430(3); and

(C) Any remaining community climate investment credits held by the person will be canceled according to OAR 340-273-0830(1)(c).

340-273-0150
Covered Entity Permit Requirements

(1) A person described in either or both OAR 340-273-0110(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- 273-0120(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 340-273-0110 and requests a permit with the understanding that [covered entity] must comply with such permit as provided in Oregon Administrative Rules chapter 340, division 273.

(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) A person described in either OAR 340-273-0110(5) or (6) must apply for a CPP permit as provided in this section.

(a) The CPP permit application deadlines are:

(A) If DEQ notifies the owner or operator in writing that they are a covered entity, then the owner or operator must apply to DEQ for a CPP permit within 60 days of the notification or by another date DEQ specifies in the notification that is at least 60 days after the date of the notification; or

(B) If DEQ does not provide a notification according to paragraph (A), then the owner or operator must apply to DEQ for a CPP permit by April 15 of the year after the calendar year that the EITE source or DNG source becomes a covered entity.

(b) A covered EITE source or DNG source 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 entity, including name and the name of the person that owns or operates the covered entity, full mailing address, the physical address of the covered entity, 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 a source that has already been issued an air quality permit, and the primary and any secondary NAICS code(s) of the covered entity;

(B) A process flow diagram showing the complete production or operational process at the covered entity including all emission units;

(C) For each process or product produced by the covered entity:

(i) The type of process or product and a proposed metric of emissions intensity;

(ii) The level of process or quantity of product produced in each of the 5 previous calendar years, or all years of operation if the ~~facility~~ **source** has not been in operation for 5 years; and

(iii) A calculation of all greenhouse gas emissions in MT CO2e resulting from the process or production of the product in each of the same five previous calendar years used in subparagraph (ii). If multiple processes or products are produced at the covered entity, provide a methodology for allocating emissions to each product; and

(D) Any other information requested by DEQ.

(c) DEQ may issue a CPP permit to a covered EITE source or covered DNG source 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**, including reporting product and production data described in the permit conditions**.

340-273-0320

Greenhouse Gas Emissions Intensity Benchmarks for Covered Emissions-Intensive and Trade-Exposed Sources and Covered Direct Natural Gas Sources

(1) DEQ will calculate and assign one or more greenhouse gas emissions intensity benchmarks to each covered EITE source and covered DNG source, as follows:

(a) DEQ will calculate greenhouse gas emissions intensity benchmarks as either:

(A) the average of the source's covered emissions in each year from 2023 through 2025 divided by the source's production level in each year from 2023 through 2025; or

(B) for a source that has requested product-specific benchmarks, the average of the source's covered emissions for each product divided by the annual production level of each specified product, in each year from 2023 through 2025, respectively.

(b) DEQ may assign a source-wide benchmark or may, at the request of the source, assign one or more product-specific greenhouse gas emissions intensity benchmarks.

(2)(a) DEQ will notify in writing each covered EITE source and covered DNG source of its preliminary calculated greenhouse gas emissions intensity benchmark or benchmarks. Electronic mail notification shall meet this standard.

(b) A source will have a period of 60 days following DEQ's sending of a preliminary greenhouse gas emissions intensity benchmark to request an adjustment of the greenhouse gas emissions intensity benchmark.

(c) To request an adjustment to a preliminary benchmark, the source must submit information demonstrating the years used to calculate the benchmark include periods of process upset or operation other than normal operation that significantly altered the normal greenhouse gas emissions intensity of a product or process.

(d) If DEQ receives an adjustment request, DEQ may use its discretion to choose to substitute covered emissions and annual production data from years other those listed in subsection (1)(a) when calculating and designating a benchmark if DEQ determines the years in subsection (1)(a) contain a year or years with process upset or operation other than normal source operation as described in subsection (c). If DEQ will substitute data then:

(A) DEQ will only use emissions data from 2021 or later, and which has been verified according to OAR 340-272, to be used for calculation of a greenhouse gas emissions intensity benchmark.

(B) DEQ will use a multi-year average of any two to five consecutive years between 2021 and 2025 that do not include a year or years with process upset or operation other than normal operation as described in subsection (c).

(3)(a) DEQ will calculate one or more greenhouse gas emissions intensity benchmarks for any new covered EITE or covered DNG source, or new product

added at a covered EITE source or covered DNG source, and for which a greenhouse gas emissions intensity benchmark has not already been assigned. To calculate the benchmark, DEQ will use the average of covered emissions for the source or product divided by total annual production level of a specified source or product in up to the two most recent years for which a report has been submitted according to OAR chapter 340, division 215 and received a positive verification statement according to OAR chapter 340, division 272.

(b) If covered emissions and production data are not available for a new covered EITE or DNG source, or for a new product added at such as source, DEQ may assign a temporary greenhouse gas emissions intensity benchmark based on modeling, engineering estimates, comparable process data, or partial-year operational datasets. After two full years of production at the new source or of the new product, DEQ will replace any assigned temporary greenhouse gas emissions intensity benchmark with a greenhouse gas emissions intensity benchmark calculated as the average of annual covered emissions divided by the annual production level of the specified product or process using the two most recent years of data submitted according to OAR chapter 340, division 215 and that have received a positive verification statement according to OAR chapter 340, division 272.

(c) A source will not receive a distribution of compliance instruments for production of a new product or process, or incur a compliance obligation for covered emissions attributed solely to a new product or process, until the first year of the next compliance period after DEQ assigns a greenhouse gas emissions intensity benchmark, whether temporary or final, for the product or process.

(4)(a) DEQ may adjust a greenhouse gas emissions intensity benchmark in a Climate Protection Program permit if the source has undergone a significant change in production, product mix, manufacturing processes, or measurement methodology affecting its greenhouse gas emissions intensity, or if the source requests a shift between a source-wide benchmark and product-specific benchmarks.

(b)(A) A source may request an adjustment. To request an adjustment described in subsection (a), the source must submit information demonstrating a greenhouse gas emissions intensity increase of more than 10% from its existing benchmark for more than 24 months prior to submittal, and at least one of the following:

(i) A substantial modification to an existing production process has materially changed the emissions attributable to it;

(ii) A new product or products significantly altered the source's overall emissions intensity; or

(iii) The discontinuation of a current product or products significantly altered the source's overall emissions intensity.

(B) A source must submit a request for adjustment described in paragraph (A) at least six months prior to the start of the next compliance period. The request must include:

(i) Source name and identification number under OAR 340-273-0215;

(ii) A brief description of the source;

(iii) The basis for the requested adjustment;

(iv) The preferred alternate years for the benchmark adjustment. These years must reflect the source's new normal operating conditions and be representative of typical production and emissions;

(v) A description of production processes, including block or process flow diagrams identifying fuel sources, combustion units, and production processes, as applicable;

(vi) A list of fuels, processes, equipment, and operations that contribute to the source's emissions;

(vii) Verifiable emissions and production data for the affected unit or process; and

(viii) Any supplemental documentation demonstrating how the source's emissions intensity has materially changed.

(C) When considering a request for an adjustment under this subsection, DEQ may exclude data reflecting abnormal operations, partial shutdowns, major outages, temporary pilots, or atypical production levels and DEQ may not consider data from temporary, pilot, or test operations unless they have been integrated into permanent operations.

(D) DEQ may initiate a benchmark adjustment if it finds a source has undergone a significant change in greenhouse gas emissions intensity due to changes at the source or changes in emissions intensity calculation methodology.

(E) The adjusted benchmark will be based on the source's average greenhouse gas emissions intensity for the approved alternate years. If less than two full years of greenhouse gas emissions data under the source's new normal operation are available, DEQ will follow steps listed in subsection (3)(b) until sufficient data become available to calculate a final benchmark.

(F) A new benchmark established under this section (4) is effective beginning with the next compliance period.

(5) DEQ will issue each covered EITE source and each covered DNG source a modification to its Climate Protection Program permit specifying a source's approved greenhouse gas emissions intensity benchmark or benchmarks as determined under sections (1) through (4).

340-273-0330

Emissions Intensity Reduction Schedules for Covered Emissions-Intensive and Trade-Exposed Sources and Covered Direct Natural Gas Sources

(1) (a) The distribution of compliance instruments to a covered EITE source or covered DNG source for sources assigned benchmarks before 2030, as provided in OAR 340-273-0410, will be reduced according to the greenhouse gas emissions intensity reduction schedule in OAR 340-273-9000 Table 8.

(b) The distribution of compliance instruments to a covered EITE or covered DNG source, as provided in OAR 340-273-0410, for products or sources with greenhouse gas emissions intensity benchmarks assigned under OAR 340-273-0320(3), will instead apply a greenhouse gas emissions intensity reduction schedule of 0.985 beginning in the first year of the compliance period that follows assignment of the benchmark and decrease by an additional 0.015 per year thereafter.

(2) An owner or operator of a covered EITE source or covered DNG source may request an adjustment to the reduction schedule in OAR 340-273-9000 Table 8 no later than six months prior to the start of the compliance period for which the adjustment is requested. To request an adjustment, the owners or operators must submit the following information in a format specified by DEQ:

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

(b) Identification of all fuels, processes, equipment, and operations that contribute to the source's total covered emissions. The owner or operator may choose to omit from the analysis a subset of fuels, processes, equipment, or operations that, in total, compose less than 5% of the source's total covered emissions. The owner or operator may propose to group like fuels, processes, equipment, and operations and must present the rationale for such groupings;

(c) Identification and description of all available fuels, processes, equipment, technology, systems, actions, and other strategies, methods and techniques for reducing covered emissions that could be implemented within the next 10 or more years based on a comprehensive review of current scientific and technical sources. Strategies considered must include, but are not limited to, 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 the feasibility of each strategy identified in subsection (c) that includes:

(A) The technological feasibility assessment must include, for each strategy, at least:

(i) A project description;

(ii) The project's ability to meet process specifications, permitting requirements, and low, medium, and high heat temperature ranges, if applicable;

(iii) Estimated greenhouse gas emissions reductions per year;

(iv) Availability or maturation of technology;

(v) Estimated implementation timeline;

(vi) Project constraints, if applicable, such as electricity supply availability and permitting requirements;

(vii) Estimated impacts on the emissions of criteria air pollutants and hazardous air pollutants by the source;

(viii) A list of the information, resources, and documents used to support the technological feasibility assessment, including, if available, links to web pages that provide public access to supporting documents;

(ix) Determination if the strategy is technologically feasible; and

(x) For any strategies identified as technologically infeasible, rationale for that determination.

(B) For all strategies identified as technologically feasible in paragraph (A), an economic feasibility assessment that includes:

(i) Estimated annual costs, including engineering, installation, and startup costs and capital expenditure costs annualized to the lifetime of the equipment;

(ii) Estimated changes to annual operating expenditures resulting from project implementation, such as energy or maintenance costs;

(iii) Estimated available external funding such as grants, matching or cost sharing opportunities, and other funding sources;

(iv) Cost-effectiveness in dollar per MT CO2e reduction; and

(v) Determination if the strategy is economically feasible.

(C) A review by an independent registered Professional Engineer licensed to practice in Oregon. The licensed Professional Engineer must certify:

(i) The information submitted under subsection (2)(c) and paragraph (2)(d)(A) are credible; and

(ii) The owner or operator of the source has undertaken a comprehensive and credible process to identify projects for greenhouse gas emissions reductions that are technically and economically feasible within the next 10 or more years.

(e) For the purposes of subparagraph (2)(d)(B)(v), economic infeasibility means the annualized net present value, as defined in equation 2.7 of the EPA Air Pollution Control Cost Manual 2017, of the costs identified in paragraph (2)(d)(B) to implement the reduction strategy per annualized MTCO2e emissions reduction is projected to be more than twice the CCI credit cost for the same year, or as approved by DEQ, whichever is lower. The annualized cost shall use a discount rate

equal to the auction average rate on 91-day United States Treasury Bill as established by the most recent auction of these Treasury bills and as reported by the United States Department of the Treasury, Bureau of the Public Debt.

(3)(a) DEQ will determine whether to approve an adjustment after receiving an application under section (2) of this rule based on consideration of the information contained in the source's submission and any other factors DEQ finds relevant.

(b)(A) If DEQ approves an adjustment under section (2) of this rule, DEQ may adjust the reduction schedule used for compliance instrument distribution in OAR 340-273-9000 Table 8 to a value no greater than the current compliance period's reduction schedule for a period of no longer than 4 years.

(B) If the new reduction schedule is set above the current greenhouse gas emissions intensity reduction schedule in OAR 340-273-9000 Table 8, the reduction schedule used for compliance instrument distribution for the source will decline by a rate set by DEQ each year until the source's reduction schedule meets the schedule in OAR 340-273-9000 Table 8.

(C) DEQ will issue any approved adjustment from the reduction schedule in OAR 340-273-9000 Table 8 as a modification to the source's Climate Protection Program permit. DEQ shall include as a condition of approval of any adjustment from the reduction schedule that the source may not hold or bank any compliance instruments issued to the source in any year for which it has an approved reduction schedule. Any compliance instruments issued to the source under this section that are not used as of the next compliance demonstration will be terminated.

(4)(a) A covered EITE source or covered DNG source that experiences an unplanned process upset or other than normal source operation resulting in at least an eight percent increase in greenhouse gas emissions intensity based on the reduction schedule of that year in OAR 340-273-9000 Table 8 or in the source's Climate Protection Program permit, may apply to DEQ for a temporary adjustment to the compliance instrument distribution calculation. Examples of process upset include, but are not limited to, large market fluctuations, natural disasters, or major equipment failure, which could include cyber-attacks on control systems.

(b) An application for an adjustment to the compliance instrument distribution calculation described in subsection (a) must be submitted no later than 90 days prior to the compliance instrument distribution date for the year in which the adjustment will be applied and must include the following:

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

(B) Identification of all fuels, processes, equipment, and operations that contribute to the source's covered emissions;

(C) Verifiable documentation of the scope and impact of the unplanned process upset including the following information:

(i) Date, time, and duration of the event:

(I) A timeline identifying when the process upset began;

(II) Key milestones; and

(III) When normal or partial operations resumed, if applicable.

(ii) Description of the event:

(I) A detailed narrative explaining what happened;

(II) The nature of the disruption; and

(III) Why the circumstance qualifies as unplanned.

(iii) A description of how source-wide operations were affected, including shutdowns, reduced throughput, equipment damage, or limited staffing capacity;

(iv) Verifiable production records, showing the magnitude and duration of the production decline compared to baseline or typical operations;

(v) Verifiable emissions data during the period of disruption, compared against the projected compliant level emissions;

(vi) Any supporting evidence, where appropriate, such as photos, inspection reports, maintenance logs, incident reports, insurance claims, regulatory notifications, or third-party assessments that corroborate the event and its impacts; and

(vii) A plan to avoid future recurrence and mitigate impacts of the event. The source must describe any anticipated long-term approach to minimize recurrence of similar events and mitigate the associated operational and emissions impacts.

(5) DEQ will determine whether to approve an adjustment application submitted under section (4) of this rule based on information contained in the source's submission and any other factors that DEQ finds relevant and:

(a) If DEQ approves an adjustment the compliance instrument distribution calculation under this section, DEQ will pause the compliance instrument distribution calculation under OAR 340-273-0410. During this pause, DEQ will determine the distribution of compliance instruments using the reported emissions data from the calendar year preceding the compliance year to which the adjustment applies. If the adjustment applies to both years of a compliance period, DEQ will determine each year's distribution using the reported emissions data from the calendar year preceding that respective compliance year;

(b) DEQ may determine, at its sole discretion, the length of an approved adjustment, though it may not be effective beyond the end of the compliance period in which it is applied; and

(c) DEQ will issue any approved adjustment from the reduction schedule in OAR 340-273-9000 Table 8 as a modification to the source's Climate Protection Program permit. DEQ shall include as a condition of approval of any adjustment from the reduction schedule that the source may not hold or bank any compliance instruments issued to be the source in any year for which it has approved reduction

schedule. Any compliance instruments issued to the source under this section that are not used as of the next compliance demonstration will be terminated.

340-273-0410

Distribution of Compliance Instruments to Covered Emissions-Intensive and Trade-Exposed Sources and Covered Direct Natural Gas Sources

(1) DEQ will distribute compliance instruments annually to covered EITE sources and covered DNG sources according to this rule. DEQ will distribute compliance instruments from a cap no later than June 30 of each calendar year.

(2) In order to be eligible for an annual distribution of compliance instruments, a covered EITE source or covered DNG source must:

(a) Provide DEQ with timely and accurate reports as required under OAR Chapter 340, Division 215; and

(b) Hold a CPP permit as required by OAR 340-273-0150(4).

(3) Covered EITE sources and covered DNG sources do not have compliance obligations for covered emissions for 2025, 2026, and 2027 and will not receive a distribution of compliance instruments in 2025, 2026, or 2027.

(4) Beginning in 2028, DEQ will annually distribute compliance instruments from the applicable calendar year's cap to covered EITE sources and covered DNG sources as follows:

(a) DEQ will use the following formula to calculate the number of compliance instruments to distribute:

$Number\ of\ compliance\ instruments =$ **(Benchmark * Reduction schedule $_t$ * Production $_{t-1}$) ± Verified data correction factor**

(b) As used in subsection (a):

(A) "Benchmark" means the assigned greenhouse gas emissions intensity benchmark for the specified product, as determined according to OAR 340-273-0320;

(B) "Reduction schedule $_t$" means the greenhouse gas emissions intensity reduction for the year in which compliance instruments are being distributed (t), according to Table 8 in OAR 340-273-9000, or an alternate reduction schedule value assigned by DEQ according to OAR 340-273-0330;

(C) "Production $_{t-1}$" means the reported amount of a benchmarked product or process produced in the prior year (t-1);

(D) "Verified data correction factor" means an adjustment, if applicable, that corrects the initial compliance instrument distribution estimate using reported production data, beginning with the 2030 annual distribution of compliance instruments. This correction factor will be calculated as follows:

(i) For each distribution calculated using a greenhouse gas emissions intensity benchmark, DEQ will recalculate the compliance instrument distribution from the

year two years prior (t-2) using third-party verified production data as required in OAR 340-273-0110(1). If DEQ determines the estimated production data used for the compliance instrument distribution in year t-2 resulted in a lesser or greater number of compliance instruments being distributed to a covered EITE source or covered DNG source, when compared to the recalculation using the reported and verified data, DEQ will increase or reduce, respectively, the number of compliance instruments distributed to the covered EITE source or covered DNG source by an equal amount in the current compliance instrument distribution; and

(ii) For each distribution calculated using estimated emissions according to OAR 340-273-0330(4), DEQ will recalculate the compliance instrument distribution from year t-2 using third-party verified emissions data as required in OAR 340-273-0110(1). If DEQ determines the estimated emissions data used for the adjusted compliance instrument distribution in year t-2 resulted in a lesser or greater number of compliance instruments being distributed to a covered EITE source or covered DNG source, when compared to the recalculation using the reported and verified data, DEQ will increase or reduce, respectively, the number of compliance instruments distributed to the covered EITE source or covered DNG source by an equal amount in the current compliance instrument distribution.

~~(3) Covered EITE sources and covered DNG sources are exempt from compliance obligations for the first compliance period.~~

~~(a) Covered EITE sources and covered DNG sources do not have compliance obligations for covered emissions for 2025, 2026, and 2027.~~

~~(b) Covered EITE sources and covered DNG sources will not receive a distribution of compliance instruments in 2025, 2026, or 2027.~~

~~(4) The EQC recognizes that EITE sources may face competition from sources operating outside of Oregon and not subject to these rules. Avoiding leakage of emissions and economic activity to other jurisdictions as a result of the cost of compliance with this division of rules is a critical objective of this division of rules. To achieve this objective while hastening investments to decarbonize manufacturing in Oregon, DEQ staff will work to develop a proposed baseline emissions intensity value for each covered EITE source and covered DNG source for the second and subsequent compliance periods from data provided by each covered entity. DEQ staff anticipates that the proposed baseline emissions intensity value would calculate the number of metric tons of CO2e emitted per unit of applicable product or operational process for each covered entity, and then DEQ staff would propose to establish an annual decline from the proposed baseline emissions intensity value for all such covered entities. Each calendar year DEQ could propose to distribute to each covered EITE source and covered DNG source compliance instruments from the annual cap equivalent to the applicable emission intensity target times the number of applicable units using emissions and production data from the previous calendar year. DEQ staff will develop this proposal for potential adoption by the EQC.~~

~~(5) For the second and subsequent compliance periods, DEQ will distribute compliance instruments to each covered EITE source and covered DNG source equal to the covered entity's average covered emissions for 2022 through 2023 multiplied by the emission reduction target in OAR 340-273-9000 Table 8 for each year of the compliance period. If~~

DEQ does not have emissions data for a covered EITE source or covered DNG source for either or both 2022 and 2023, DEQ will replace the missing year(s) with the most recent calendar year(s) of emissions data that is available from calendar years 2017 through 2024. If DEQ only has one year of emissions data for a covered EITE source or covered DNG source between 2017 and 2024, DEQ will distribute the number of compliance instruments equal to the covered entity's covered emissions for that one year. If DEQ does not have any emissions data for a covered entity from 2017 through 2024, DEQ will distribute compliance instruments equal to the covered entity's 2024 covered emissions.

(6) A covered EITE source or covered DNG source that begins operations in 2025 or any subsequent year will not incur a compliance obligation for covered emissions occurring until the first year of the next compliance period after they become a covered entity.

(a) For any covered EITE source or covered DNG source that begins operations in 2025 or any subsequent year, DEQ will use the most recent year(s) of available data to calculate a covered emissions baseline, up to two years.

(b) A covered EITE source or covered DNG source that begins operations in 2025 or any subsequent year will not receive a distribution of compliance instruments until the first year of the next compliance period after becoming a covered entity.

(c) Beginning in the first year of the next compliance period after becoming a covered EITE source, the EITE source will receive a distribution of compliance instruments equal to the covered EITE source's emissions baseline, as described in subsection (a), multiplied by an emission reduction target of 1. The emissions reduction target will decrease by 0.03 per year until this target reaches an equivalent emissions reduction to the emissions reduction target for that calendar year outlined in Table 8.

(d) Beginning in the first year of the next compliance period after becoming a covered DNG source, the DNG source will receive a distribution of compliance instruments equal to the covered DNG source's emissions baseline, as described in subsection (a), multiplied by an emission reduction target of 1. The emissions reduction target will decrease by 0.05 per year until this target reaches an equivalent emissions reduction to the emissions reduction target for that calendar year outlined in Table 8.

340-273-0430
Holding Compliance Instruments

(1) A covered entity that is issued or acquires a compliance instrument under this division may continue to hold the compliance instrument until any of the following apply:

(a) The covered entity uses the compliance instrument toward its demonstration of compliance with a compliance obligation according to OAR 340-273-0450;

(b) The covered entity transfers the compliance instrument to another covered entity according to OAR 340-273-0500; or

(c) The covered entity has ceased being a covered entity according to OAR 340-273-0130. When this occurs, DEQ may, at its discretion:

(A) Retire the compliance instrument;

(B) Hold the compliance instrument in the compliance instrument reserve described in OAR 340-273-0420(3); or

(C) Distribute the compliance instrument to covered fuel suppliers according to OAR 340-273-0420, by adding the compliance instrument to the total compliance instruments to be distributed to covered fuel suppliers during the next annual distribution of compliance instruments. DEQ will only distribute the compliance instrument if there are at least 10,000 compliance instruments to distribute.

(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 340-273-0450(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) and biofuel emissions 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 340-273-0420(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 340-273-0420(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 340-273-0420(4).

(3) A source may not trade or bank compliance instruments distributed while using an adjusted greenhouse gas emissions intensity reduction schedule according to OAR 340-273-0330(2) or (4).

340-273-0450
Demonstration of Compliance

(1) DEQ will determine the total compliance obligation for a compliance period for each covered fuel supplier, each covered EITE source, and each covered DNG source as the sum of the covered entity's annual compliance obligation(s) for each year of the compliance period. DEQ will base its determinations on emissions calculated according to OAR 340-273-0110(1). DEQ will notify each covered entity of DEQ's 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) A covered EITE source or covered DNG source must demonstrate compliance according to this rule by December 9 of the year following the end of the first compliance period in which they have a compliance obligation according to OAR 340-273-0410, or 40 days after DEQ's notification described in section (1), whichever is later.

(4) To demonstrate compliance for a compliance period, each covered entity required to demonstrate compliance 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 entity 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 **by a covered fuel supplier** 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 5 in OAR 340-273-9000; ~~**and**~~

(C) The quantity of CCI credits used by a covered EITE or covered DNG source to demonstrate compliance as a percentage of the total compliance obligation for the applicable compliance period may not exceed 30% unless it qualifies under paragraph (D).

(D) A covered EITE or covered DNG source may apply to use CCI credits up to 60% of the total compliance obligation for the applicable compliance period. DEQ may authorize that level of credit use if it determines the source has demonstrated it has a community benefit agreement and is currently in compliance with the rules in this division.

(b) A demonstration of compliance form, approved by DEQ that includes:

(A) Name and full mailing address of the covered entity;

(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 entity 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 entity 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 entity is submitting to DEQ to demonstrate compliance; and

(G) The following attestation, signed by the designated representative of the covered entity:

I certify under penalty of perjury under the laws of the State of Oregon that I am a representative of [covered entity name], 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 entity] 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 entity] 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 entity] must still demonstrate compliance with the remaining portion and may be subject to enforcement action.

(5) Each metric ton of CO2e of a compliance obligation for which a covered entity does not demonstrate compliance according to this rule is a separate violation of this division.

(6) If a change in ownership of a covered entity occurs, the person that owns or operates the covered entity 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.

340-273-0490

Recordkeeping Requirements Related to Demonstration of Compliance

(1) A covered entity must retain the following records necessary for determining compliance obligations, in paper or electronic format, for a period of at least seven years beginning September 30 of the year following a year in which covered emissions occurred:

(a) Records according to the recordkeeping requirements of OAR chapter 340, divisions 215 and 272, as applicable;

(b) Copies of reports and forms submitted to DEQ related to determination of compliance obligations according this division and OAR chapter 340, divisions 215 and 272, including but not limited to:

(A) Applicable emissions data reports submitted according to OAR chapter 340, division 215; and

(B) Applicable verification statements submitted according to OAR chapter 340, division 272; and

(c) All other information and documentation used to calculate and report emissions and used to determine emissions and compliance obligations according to this division.

(2) A covered entity must retain the following records necessary for supporting demonstration of compliance, according to OAR 340-273-0450, in paper or electronic format for a period of at least seven years following the deadline for demonstration of compliance in OAR 340-273-0450:

(a) Copies of reports and forms submitted to DEQ related to demonstration of compliance, including but not limited to demonstration of compliance forms; and

(b) All other information and documentation used to support demonstration of compliance.

(3) A covered entity must make available to DEQ upon request all of the records it is required to retain according to this rule. DEQ will specify the date by which the covered entity must fulfill a records request from DEQ.

(4) Any production data, product mix or other information that comprises trade secrets, as defined in ORS 192.345(2), provided by a covered entity will be maintained as confidential to the extent allowed under Oregon law. Such

information should be submitted according to the standards in OAR 340-214-0130. This provision does not prevent DEQ from disclosing any aggregated information that includes such information as provided by two or more covered entities, provided that disclosing such information would not conclusively allow an outside party to identify a particular covered entity's trade secret information.

340-273-8110
Deferrals

DEQ may extend **permitting,** reporting or demonstration of compliance deadlines as DEQ deems necessary or appropriate and will issue written notice of any extensions.

340-273-9000
Tables

(1) Table 1. Thresholds for applicability described in OAR 340-273-0110(3).

(2) Table 2. Oregon Climate Protection Program caps.

(3) Table 3. Compliance instrument reserve size.

(4) Table 4. Compliance instrument percentage distribution to covered fuel suppliers that are local distribution companies.

(5) Table 5. Covered entity allowable usage of community climate investment credits to demonstrate compliance as described in OAR 340-273-0450(3).

(6) Table 6. CCI credit contribution amount.

(7) Table 7. EITE source classifications.

(8) Table 8. ~~Emission~~ **Greenhouse gas emissions intensity** reduction ~~targets for second and subsequent periods~~ for covered EITE **sources** and covered DNG sources **for second and subsequent compliance periods**.

Table 1
Thresholds for applicability described in OAR 340-273-0110(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 2020 through 2025	100,000 MT CO2e	2025
2026	100,000 MT CO2e	2026
2027	100,000 MT CO2e	2027
Any year from 2025 through 2028	50,000 MT CO2e	2028
2029	50,000 MT CO2e	2029

Any year from 2028 through 2030	25,000 MT CO2e	2030
2031	25,000 MT CO2e	2031
Each subsequent year	25,000 MT CO2e	Each subsequent year

Table 2
Oregon Climate Protection Program caps

Calendar year	Cap
2025	24,157,161
2026	23,280,253
2027	22,403,346
2028	25,533,741
2029	24,129,251
2030	23,135,118
2031	21,689,592
2032	20,244,066
2033	18,798,540
2034	17,353,013
2035	15,907,487
2036	15,059,088
2037	14,210,689
2038	13,362,289
2039	12,513,890
2040	11,665,491
2041	10,817,091
2042	9,968,692
2043	9,120,293
2044	8,271,893
2045	7,423,494
2046	6,575,095
2047	5,726,695
2048	4,878,296
2049	4,029,897
2050 and each calendar year thereafter	3,181,497

Table 3
Compliance instrument reserve size

Calendar year(s) of the cap	Reserve size
2025 through 2028	800,000 compliance instruments
2029 through 2034	500,000 compliance instruments
2035 and each calendar year thereafter	250,000 compliance instruments

Table 4
Compliance instrument distribution percentages to covered fuel suppliers that are local distribution companies

	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
2025	2.76%	2.25%	19.74%
2026	2.76%	2.25%	19.74%
2027	2.76%	2.25%	19.74%
2028	2.69%	2.20%	19.25%
2029	2.69%	2.20%	19.25%
2030 and each calendar year thereafter	2.68%	2.18%	19.13%

Table 5
Covered entity allowable usage of community climate investment credits to demonstrate compliance as described in OAR 340-273-0450(3)

Compliance period	Allowable percentage of total compliance obligation(s) for which compliance may be demonstrated with CCI credits
Compliance period 1 (2025 through 2027)	15%

Compliance period 2 (2028 through 2029), and for each compliance period thereafter	20%

Table 6
CCI credit contribution amount

Effective date	CCI credit contribution amount in 2024 dollars, to be adjusted according to OAR 340-273-0820(3)
March 1, 2025	$129
March 1, 2026	$129
March 1, 2027	$130
March 1, 2028	$131
March 1, 2029	$132
March 1, 2030	$133
March 1, 2031	$134
March 1, 2032	$135
March 1, 2033	$136
March 1, 2034	$137
March 1, 2035	$138
March 1, 2036	$139
March 1, 2037	$140
March 1, 2038	$141
March 1, 2039	$142
March 1, 2040	$143
March 1, 2041	$144
March 1, 2042	$145
March 1, 2043	$146
March 1, 2044	$147
March 1, 2045	$148
March 1, 2046	$149
March 1, 2047	$150
March 1, 2048	$151
March 1, 2049	$152
March 1, 2050	$153

Table 7 EITE source classifications	
NAICS Code	**Sector Definition**
3364	Aerospace Product and Parts Manufacturing
3251	Basic Chemical Manufacturing
3273	Cement and Concrete Product Manufacturing
3315	Foundries
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing
3272	Glass and Glass Product Manufacturing
3311	Iron and Steel Mills and Ferroalloy Manufacturing
3274	Lime and Gypsum Product Manufacturing
3314	Nonferrous Metal (except Aluminum) Production and Processing
2123	Nonmetallic Mineral Mining and Quarrying
3329	Other Fabricated Metal Product Manufacturing
3279	Other Nonmetallic Mineral Product Manufacturing
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing
3261	Plastics Product Manufacturing
3221	Pulp, Paper, and Paperboard Mills
3211	Sawmills and Wood Preservation
3344	Semiconductor and Other Electronic Component Manufacturing
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing

~~Table 8~~

~~Emissions reduction targets for covered EITE sources and covered DNG sources for compliance period 2 and subsequent periods~~

~~Compliance period~~	~~Emissions reduction target~~
~~Compliance period 2 (2028 through 2029)~~	~~1~~
~~Compliance period 3 (2030 through 2031)~~	~~0.95~~
~~Compliance period 4 (2032 through 2033)~~	~~0.90~~
~~Compliance period 5 (2034 through 2035)~~	~~0.85~~
~~Compliance period 6 (2036 through 2037)~~	~~0.80~~
~~Compliance period 7 (2038 through 2039)~~	~~0.75~~
~~Compliance period 8 (2040 through 2041)~~	~~0.70~~
~~Compliance period 9 (2042 through 2043)~~	~~0.65~~
~~Compliance Period 10 (2044 through 2045)~~	~~0.60~~
~~Compliance Period 11 (2046 through 2047)~~	~~0.55~~
~~Compliance Period 12 (2048 through 2049)~~	~~0.50~~
~~Compliance Period 13 (2049 through 2051) and thereafter~~	~~0.45~~

Table 8

Greenhouse gas emissions intensity reduction for covered EITE sources and covered DNG sources for second and subsequent compliance periods

Year	Emissions reduction
2028	1.000
2029	1.000
2030	0.985
2031	0.970
2032	0.955
2033	0.940
2034	0.925
2035	0.910
2036	0.895
2037	0.880

2038	**0.865**
2039	**0.850**
2040	**0.835**
2041	**0.820**
2042	**0.805**
2043	**0.790**
2044	**0.775**
2045	**0.760**
2046	**0.745**
2047	**0.730**
2048	**0.715**
2049	**0.700**
2050 and thereafter	**0.685**

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