State of Oregon
DEQ Department of Environmental Quality

Clean Fuels Program 2026

Draft Rules For Fiscal Rulemaking Advisory Committee

Edits Highlighted

This document contains the current draft rule changes for the Clean Fuels Program's 2026 rulemaking. The portions of the existing rule divisions where no edits are proposed have been omitted from this document.

Key to identifying changed text:

- ~~Deleted Text~~
- **New/inserted text**
- ~~Text deleted from one location~~ - and moved to another location

Division 253
OREGON CLEAN FUELS PROGRAM

340-253-0000
Overview

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

(2) Purpose. The purpose of the Oregon Clean Fuels Program is to reduce the amount of lifecycle greenhouse gas emissions per unit of energy by a minimum of 10 percent below 2010 levels by 2025, ~~20~~**XX** percent by 2030, ~~and 37~~**XX** percent by 2035**, and XX by 2040**. This reduction goal applies to the average of all transportation fuels used in Oregon, not to individual fuels. A fuel user does not violate the standard by possessing fuel that has higher carbon content than the clean fuel standard allows.

(3) Background. The 2009 Oregon Legislature adopted House Bill 2186 enacted as chapter 754 of Oregon Laws 2009. The law authorizes the Environmental Quality Commission to adopt low carbon fuel standards for gasoline, diesel fuel and fuels used as substitutes for gasoline or diesel fuel. Sections 6 to 9 of chapter 754, Oregon Laws 2009 is printed as a note following ORS 468A.270 in the 2011 Edition. The 2015 Oregon Legislature amended those provisions

when it adopted Senate Bill 324 (chapter 4, Oregon Laws 2015), which was codified in ORS 468A.265 through 468A.277. ORS 468A.265 through 468A.277 were further amended by the 2017 Oregon Legislature in House Bill 2017. OAR chapter 340, division 253 implements that law.

(4) LRAPA. Notwithstanding Lane Regional Air Pollution Agency authorization in OAR 340-200-0010(3), DEQ administers this division in all areas of the State of Oregon.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277
History:
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0040
Definitions

The definitions in OAR 340-200-0020, 340-272-0020, 340-257-0030, and this rule apply to this division. If the same term is defined in this rule and in another listed rule, the definition in this rule applies to this division. If a term that is not defined in this rule is defined in more than one of the other rules referenced in the preceding sentence, then the definition that applies shall be the definition in OAR 340-272-0020, if any, or else the definition in OAR 340-257-0030 will apply.

(1) “Above the rack” means sales of transportation fuel at pipeline origin points, pipeline batches in transit, barge loads in transit, and at terminal tanks before the transportation fuel has been loaded into trucks.

(2) “Advance Credits” refers to credits advanced under OAR 340-253-1100 for actions that will result in real reductions of the carbon intensity of Oregon’s transportation fuels.

(3) “Aggregation indicator” means an identifier for reported transactions that are a result of an aggregation or summing of more than one transaction of the same type with, where applicable, the same business partner. An entry of “True” indicates that multiple transactions have been aggregated and are reported with a single transaction number. An entry of “False” indicates that the record reports a single fuel transaction.

(4) “Aggregator” or “Credit aggregator” means a person who registers to participate in the Clean Fuels Program, described in OAR 340-253-0100(3), on behalf of one or more credit generators to facilitate credit generation and trade credits.

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

(6) “Alternative Fuel Portal” or “AFP” means the portion of the Oregon Fuels Reporting System where fuel producers can register their production facilities and submit fuel pathway code applications and physical pathway demonstrations.

(7) “Alternative Jet Fuel” means a fuel, made from petroleum or non-petroleum sources, which can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure. The fuel must have a lower carbon intensity than the applicable annual standard under Table 3 under OAR 340-253-8010. This includes alternative jet fuel derived from co-processed feedstocks at a conventional petroleum refinery.

(8) “Animal fat” means the inedible fat that originates from a rendering facility as a product of rending the by-products from meat processing facilities, including animal parts, fat, and bone. “Animal fat” includes all yellow grease except for the quantity of the yellow grease that is used cooking oil as documented by evidence provided to a verifier or DEQ.

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

(10) “Atmospheric leakage” means the intended or unintended CO2 leakage from a storage reservoir to the surface and atmosphere.

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

(12) “Backstop aggregator” means a qualified entity approved by DEQ under OAR 340-253-0330 to aggregate credits for electricity used as a transportation fuel, when those credits would not otherwise be generated.

(13) “Battery electric vehicle” or “BEV” means any vehicle that operates solely by use of a battery or battery pack, or that is powered primarily through the use of an electric battery or battery pack but uses a flywheel or capacitor that stores energy produced by the electric motor or through regenerative braking to assist in vehicle operation.

(14) “Base credits” refers to electricity credits that are generated by the carbon reduction between the gasoline or diesel standard and the carbon intensity of grid or utility electricity.

(15) “Below the rack” means sales of clear or blended gasoline or diesel fuel where the fuel is being sold as a finished fuel for use in a motor vehicle.

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

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

(18) “Biodiesel” means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, not including palm oil, designated as B100 and complying with ASTM D6751.

(19) “Biodiesel blend” means a fuel comprised of a blend of biodiesel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend.

(20) “Biogas” means gas, consisting primarily of methane and carbon dioxide, produced by the anaerobic decomposition of organic matter. Biogas cannot be directly injected into natural gas pipelines or combusted in most natural gas-fueled vehicles unless first upgraded to biomethane.

(21) “Biomass” means non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms, including: products, byproducts, residues and waste from agriculture, forestry, and related industries; the non-fossilized and biodegradable organic fractions of industrial and municipal wastes; and gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

(22) “Biomethane” or “Renewable Natural Gas” means refined biogas, or another synthetic stream of methane from renewable resources, that has been upgraded to a near-pure methane content product. Biomethane can be directly injected into natural gas pipelines or combusted in natural gas-fueled vehicles.

(23) “Blendstock” means a fuel component that is either used alone or is blended with one or more other components to produce a finished fuel used in a motor vehicle. A blendstock that is used directly as a transportation fuel in a vehicle is considered a finished fuel.

(24) “Bulk system” means a fuel distribution system consisting of refineries, pipelines, vessels and terminals. Fuel storage and blending facilities that are not fed by pipeline or vessel are considered outside the bulk transfer system.

(25) “Business partner” refers to the second party that participates in a specific transaction involving the regulated party. This can either be the buyer or seller of fuel, whichever applies to the specific transaction.

(26) “Buy/Sell Board” means a section of the Oregon Fuels Reporting System where registered parties can post that they are interested in buying or selling credits.

(27) “Book and claim” refers to the accounting methodology where the environmental attributes of an energy source are detached from the physical molecules or electricity when they are commingled into a common transportation and distribution system for that form of energy. The detached attributes are then assigned by the owner to the same form and amount of energy when it is used. For the purposes of this division, the common transportation and distribution system must be connected to Oregon.

(28) “Brown grease” means an emulsion of fat, oil, grease, solids, and water separated from wastewater in a grease interceptor, or grease trap, and collected for use as a fuel feedstock. Brown grease must be reported under an applicable used cooking oil pathway, i.e., reported as “unprocessed UCO” only if evidence is provided to the verifier or DEQ to confirm that it has not been processed prior to receipt by the fuel production facility.

(29) “Byproduct” means a secondary product with marginal economic value outside of its use in a biofuel pathway.

(30) “Carbon capture and sequestration project” or “CCS project” means a project that captures carbon dioxide by an eligible fuel producer under this division, transports that CO2 to an injection site, and injects and permanently sequesters that CO2 into the ground.

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

(32) “Carryback credit” means a credit that was generated during or before the prior compliance period that a regulated party acquires between January 1st and April 30th of the current compliance period to meet its compliance obligation for the prior compliance period.

(33) “Clean fuel” means a fuel whose carbon intensity is lower than the applicable clean fuel standard, which:

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

(b) For diesel and diesel substitutes and alternatives, is listed in Table 2 under OAR 340-253-8010; ~~or~~

(c) For alternative jet fuel, is listed in Table 3 under OAR 340-253-8010**; or**

(d) For electricity, is listed in Table 11 under OAR 340-253-8010.

(34) “Clean fuel standard” or “Low carbon fuel standard” means the annual average carbon intensity a regulated party must comply with, as listed in Table 1 under OAR 340-253-8010 for gasoline and gasoline substitutes and in Table 2 under 340-253-8010 for diesel fuel and diesel substitutes.

(35) “Clear diesel” means a light middle or middle distillate grade diesel fuel derived from crude oil that has not been blended with a renewable fuel.

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

(37) “CO2 leakage” means any movement of stored CO2 out of the intended sequestration zone and out of the storage complex.

(38) “Compliance period” means each calendar year during which regulated parties must demonstrate compliance.

(39) “Compressed natural gas” or “CNG” means natural gas stored inside a pressure vessel at a pressure greater than the ambient atmospheric pressure outside of the vessel.

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

(41) “Co-product” means a product with significant market value that is produced alongside a main primary product.

(42) “Credit” means a unit of measure generated when a fuel with a carbon intensity that is less than the applicable clean fuel standard is produced, imported, or dispensed for use in Oregon, such that one credit is equal to one metric ton of carbon dioxide equivalent not emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

(43) “Credit buyer” means a registered party that acquires credits from another registered party.

(44) “Credit facilitator” means a person in the Oregon Fuels Reporting System that a regulated party designates to initiate and complete credit transfers on behalf of the regulated party.

(45) “Credit generator” means a person eligible to generate credits by providing clean fuels for use in Oregon and who voluntarily registers to participate in the Clean Fuels Program, described in OAR 340-253-0100(2), and specified by fuel type under OAR 340-253-0320 through 340-253-0340.

(46) “Credit seller” means a registered party that sells or transfers credits to another registered party.

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

(48) “Deferral” means a delay or change in the applicability of a scheduled applicable clean fuel standard for a period of time, accomplished pursuant to an order issued under OAR 340-253-2000 or -2100, or under ORS 468A.273 and 468A.274.

(49) “Deficit” means a unit of measure generated when a fuel with a carbon intensity that is more than the applicable clean fuel standard is produced, imported, or dispensed for use in Oregon, such that one deficit is equal to one metric ton of carbon dioxide equivalent emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

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

(51) "Diesel fuel" or “diesel” means either:

(a) A light middle distillate or middle distillate fuel suitable for compression ignition engines blended with not more than 5 volume percent biodiesel and conforming to the specifications of ASTM D975 or;

(b) A light middle distillate or middle distillate fuel blended with at least 5 and not more than 20 volume percent biodiesel suitable for compression ignition engines conforming to the specifications of ASTM D7467.

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

(53) “Distillers grains and solubles” or “DGS” is a coproduct of ethanol production rich in protein and fiber, typically used for animal feed. DGS is subcategorized as Dry, Modified, or Wet (DDGS, MDGS, WDGS, respectively) based on the extent of moisture removal at an ethanol production facility.

(54) “Duty-cycle testing” means a test procedure used for emissions and vehicle efficiency testing.

(55) “E10” means gasoline containing 10 volume percent fuel ethanol.

(56) “Energy economy ratio” or “EER” means the dimensionless value that represents:

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

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

(57) “Electric cargo handling equipment” or “eCHE” means any off-road, self-propelled vehicle or equipment, other than yard trucks, used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. This equipment uses electric batteries to store propulsion and functional energy and only has electric motors. Equipment includes, but is not limited to, rubber-tired gantry cranes, top handlers, side handlers, reach stackers, loaders, aerial lifts, excavators, tractors, and dozers.

(58) “Electric transport refrigeration units” or “eTRUs” means refrigeration systems powered by electricity designed to refrigerate or heat perishable products that are transported in various containers, including, but not limited to, semi-trailers, truck vans, shipping containers, and rail cars.

(59) “Electric ground support equipment” or “eGSE” means self-propelled vehicles used off-road at airports to support general aviation activities that use electric batteries for propulsion and functional energy and only has electric motors. For the purpose of this division, that includes, but is not limited to, pushbacks, belt loaders, and baggage tractors.

(60) “Electric forklift” or “eForklift” means a Class I, II, or III powered industrial truck as defined by the US Occupational Safety and Health Administration in the December 1, 1998 Powered Industrial Truck Operator Training final rule notice.

(61) “Electric service supplier” has the same definition as in OAR 860-038-005.

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

(63) “Emissions factor” is a measure of greenhouse gas emissions per unit of a specific product or activity (such as grams of CO2 emitted per mile transported). Emissions factors are used extensively in Tier 1 calculators to provide simplified results of more complex lifecycle analysis equations derived from the OR-GREET model.

(64) “Environmental justice community” means communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including but not limited to seniors, youth and persons with disabilities.

(65) “Export” means to have ownership title to transportation fuel from locations within Oregon, at the time it is delivered to locations outside Oregon by any means of transport, other than in the fuel tank of a motor vehicle for the purpose of propelling the motor vehicle.

(66) “Feedstock transfer document” means a document, or combination of documents, that demonstrates the delivery of specified source feedstocks from the point of origin to the fuel production facility as required under OAR 340-253-0400(6).

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

(68) “Fish oil” means the fat that originates from fish processing operations as a product of rendering fat from residual fish parts.

(69) “Fixed guideway” means a public transportation facility using and occupying a separate right-of-way for the exclusive use of public transportation using rail, a fixed catenary system, or an aerial tramway.

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

(71) “Food scraps” is the organic portion of municipal solid waste that consists of wastes derived from plants or animals for the explicit preparation for consumption by humans or other animals that is predominantly disposed of by landfilling, but sometimes by composting. This includes inedible waste from foods processed or consumed at residences, hospitality facilities (such as hotels, restaurants, amusement parks, stadiums, and special events), institutions (such as hospitals, schools, and prisons) and grocery stores. Food scraps do not include liquid wastes, fat/oils/greases (FOG) materials, or other by-products of industrial food processing, manufacturing, and distribution facilities.

(72) “Fuel pathway” means a detailed description of all stages of fuel production and use for a fuel, including feedstock generation or extraction, distribution, and combustion of the fuel by the consumer. The fuel pathway is used to calculate the carbon intensity of each fuel.

(73) “Fuel pathway code” or “FPC” means the identifier used in the Oregon Fuels Reporting System that applies to a specific fuel pathway as approved or issued under OAR 340-253-0400 through 0470.

(74) “Fuel pathway holder” means the entity that has received a certified fuel pathway code from DEQ, including those that are recertifications of a CARB-approved fuel pathway under the process in OAR 340-253-0450.

(75) “Fuel production facility” means the facility at which a regulated or opt-in fuel is produced. With respect to biomethane, a fuel production facility means the facility at which the fuel is upgraded, purified, or processed to meet the standards for injection to a natural gas common carrier pipeline or for use in natural gas vehicles.

(76) “Fuel supply equipment” or “FSE” means equipment registered in the Oregon Fuels Reporting System that dispenses alternative fuel into vehicles, including but not limited to electric vehicle chargers, hydrogen fueling stations, and natural gas fueling equipment.

(77) “Fugitive methane” is methane emitted atmospherically from leaks, venting, or incomplete combustion. Fugitive methane sources may be quantified either using standard values or a site-specific energy balance of methane inside of the fuel pathway system boundary.

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

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

(80) “Green-e” or “Green-e Program” means the certification program run by the Center for Resource Solutions.

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

(82) “Hydroprocessed ester and fatty acid fuel” or “HEFA fuel” means any lipid feedstock converted to transportation fuel with the addition of hydrogen in the presence of a catalyst. HEFA fuel can include renewable diesel, renewable naphtha, renewable propane, and alternative jet fuel.

(83) “Gasification” means the non-combustion thermal decomposition of biomass or organic matter in the presence of limited oxygen, air, or steam to produce heat and a mixture of gases, including but not limited to carbon monoxide, hydrogen, and solid hydrocarbon products.

(84) “Illegitimate credits” means credits that were not generated in compliance with this division, as described in OAR 340-253-1005(7).

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

(86) “Importer” means:

(a) With respect to any liquid fuel, the person who imports the fuel; or

(b) With respect to any biomethane, the person who owns the biomethane when it is either physically transported into Oregon or injected into a pipeline located outside of Oregon and contractually delivered for use in Oregon through a book and claim accounting methodology.

~~(87) “Incremental aggregator” means a qualified entity approved by DEQ under OAR 340-253-0330(10) to earn incremental credits, when those credits would not otherwise be claimed.~~

(88) “Incremental credit” means a credit that is generated by an action to further lower the carbon intensity of electricity from that of the statewide mix or a utility-specific mix. Incremental credits are calculated from the difference between the carbon intensity of the grid electricity and the carbon intensity of renewable electricity.

(89) “Indirect land use change” means the average lifecycle greenhouse gas emissions caused by an increase in land area used to grow crops that is caused by increased use of crop-based transportation fuels and expressed as grams of carbon dioxide equivalent per megajoule of energy provided (gCO2e/MJ). Indirect land use change values are listed in Table 10 under OAR 340-253-8010.

(a) Indirect land use change for fuel made from corn feedstocks is calculated using the protocol developed by the Argonne National Laboratory.

(b) Indirect land use change for fuel made from sugarcane, sorghum, soybean, canola and palm feedstocks is calculated using the protocol developed by the California Air Resources Board.

(90) “Invoice” means the receipt or other record of a sale transaction, specifying the price and terms of sale, that describes an itemized list of goods shipped.

(91) “Large importer of finished fuels” means any person who imports into Oregon more than 500,000 gallons of finished fuels in a given calendar year.

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

(93) “Lifecycle greenhouse gas emissions” are:

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

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

(c) Stated in terms of mass values for all greenhouse gases as adjusted to CO2e to account for the relative global warming potential of each gas.

(94) “Liquefied compressed natural gas” or “L-CNG” means natural gas that has been liquefied and transported to a dispensing station where it was then re-gasified and compressed to a pressure greater than ambient pressure.

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

(96) “Liquefied petroleum gas” or “propane” or “LPG” means a petroleum product composed predominantly of any of the hydrocarbons, or mixture thereof; propane, propylene, butanes and butylenes maintained in the liquid state.

(97) “Material information” means:

(a) Information that would result in a change of the carbon intensity of a fuel, expressed in a gCO2e/MJ basis to two decimal places; or

(b) Information that would result in a change by any whole integer of the number of credits or deficits generated under OAR 340-253-1000 through OAR 340-253-1030.

(98) “Missing data” means a loss of reliable data for a period of time during which a piece of data is not collected, is invalid, or is collected while the measurement device is not in compliance with the applicable quality assurance requirements, such as calibration requirements.

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

(100) “Motor vehicle” means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is self-propelled.

(101) “~~M-RETS Renewable Thermal~~**Clean Counts Fuels Registry**” means the electronic tracking and trading system for North American biomethane and other renewable thermal attributes run by the ~~M-RETS~~**Clean Counts** organization. The attributes are serialized and issued as renewable thermal certificates. For the purposes of this division, only the biomethane or renewable natural gas certificates generated by this system are recognized as legitimate.

(102) "Multi-family housing" means a structure or facility established primarily to provide housing that provides four or more living units, and where the individual parking spaces that an electric vehicle charger serves, and the charging equipment itself, are not deeded to or owned by a single resident.

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

(104) “Natural gas common carrier pipeline” means a natural gas pipeline that offers natural gas transportation services to any third party under a standard set of terms. For the purpose of this division, any common carrier pipeline used for book and claim must be part of a larger network directly or indirectly connected to Oregon.

(105) “Oregon Fuels Reporting System” means the interactive, secured, web-based, electronic data tracking, reporting and compliance system that DEQ develops, manages and operates to support the Clean Fuels Program.

(106) “Oregon Fuels Reporting System reporting deadlines” means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

(107) “OR-GREET” means the Greenhouse gases, Regulated Emissions, and Energy in Transportation (GREET) model developed by Argonne National Laboratory that DEQ modifies and maintains for use in the Oregon Clean Fuels Program. The most current version is OR-GREET 4.0. DEQ has made available a copy of OR-GREET 4.0 on its website (https://www.oregon.gov/deq/ghgp/cfp/Pages/Clean-Fuel-Pathways.aspx). As used in this rule, OR-GREET refers to both the full model and the simplified calculators that the program has adopted.

(108) “Ocean-Going Vessel” or “OGV” means a commercial, government, or military watercraft meeting any one or more of the following criteria:

(a) A vessel greater than or equal to 400 feet in length overall;

(b) A vessel greater than or equal to 10,000 gross tons pursuant to the convention measurement (international system); or

(c) A vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

(109) “OPGEE” or “OPGEE Model” means the Oil Production Greenhouse Gas Emissions Estimator version 3.0b posted at https://ww2.arb.ca.gov/fuelsresources/documents/lcfs/life-cycle-analysis-models-and-documentation .

(110) “Operating condition” means a specific requirement developed by DEQ and accepted by a fuel producer or fuel pathway holder as a condition of the approval of a fuel pathway application.

These conditions dictate operational changes and conditions, and how operational data or other information must be gathered, kept, reported, or calculated for a fuel pathway or set of pathways. They may also control how the fuel pathway can be used in reporting.

(111) “Operational data period” means the date range for site specific data in a given fuel pathway application or annual fuel pathway report.

(112) “Organic waste” means material that meets the definitions of both biomass and waste.

(113) “Physical transport mode” means the applicable combination of actual fuel delivery methods, such as truck routes, rail lines, pipelines and any other fuel distribution methods through which the regulated party reasonably expects the fuel to be transported under contract from the entity that generated or produced the fuel to any intermediate entities and ending in Oregon.

(114) “Plug-In Hybrid Electric Vehicle” or “PHEV” means a hybrid vehicle with the capability to charge a battery from an off-vehicle electric energy source that cannot be connected or coupled to the vehicle in any manner while the vehicle is being driven.

(115) “Position holder” means any person that has an ownership interest in a specific amount of fuel in the inventory of a terminal operator. This does not include inventory held outside of a terminal, retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

(116) “Power Purchase Agreement” means a written agreement between an electricity service supplier and a customer that specifies the source or sources of electricity that will supply the customer.

(117) “Primary product” is a product that a system is optimized to produce, and typically represents the highest economic value of all system product outputs.

(118) “Producer” means:

(a) With respect to any liquid fuel and renewable propane, the person who makes the fuel; or

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

(119) “Product transfer document” or “PTD” means a document, or combination of documents, that authenticates the transfer of ownership of fuel between parties and must include all information identified in OAR 340-253-0600(2). A PTD may include bills of lading, invoices, contracts, meter tickets, rail inventory sheets or RFS product transfer documents.

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

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

(122) “Pyrolysis” means the non-combustion thermal decomposition of biomass or organic matter by the addition of heat with little or no added oxygen, air, or steam in order to produce a mixture of liquids, solid hydrocarbon products, and combustible gases, including but not limited to carbon monoxide, hydrogen, bio-oil, and biochar.

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

(124) “Registered party” means a regulated party, credit generator, aggregator, or an out-of-state fuel producer that has a DEQ-approved registration under OAR 340-253-0500(1) to participate in the Clean Fuels Program.

(125) “Regulated fuel” means a transportation fuel identified under OAR 340-253-0200(2) and (3).

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

(127) “Related entity” means any direct parent company, direct subsidiary, or a company with common ownership or control.

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

(129) "Renewable hydrocarbon diesel blend" or “renewable diesel blend” means a fuel comprised of a blend of renewable hydrocarbon diesel with petroleum or fossil-based diesel fuel or biodiesel, designated RXX. In the abbreviation RXX, the XX represents the volume percentage of renewable hydrocarbon diesel fuel in the blend.

(130) “Renewable gasoline” means a spark ignition engine fuel that substitutes for fossil gasoline and that is produced from non-fossil renewable resources.

(131) “Renewable propane” means liquefied petroleum gas (LPG, also known as propane) that is produced from non-fossil renewable resources.

(132) “Renewable naphtha” means naphtha that is produced from non-fossil renewable resources.

(133) “Small importer of finished fuels” means any person who imports into Oregon 500,000 gallons or less of finished fuels in a given calendar year, including the aggregate total of finished fuels imported by persons that are related, or share common ownership or control.

(134) “Specified source feedstocks” are feedstocks for fuel pathways that require chain of custody evidence to be eligible for a reduced CI associated with the use of a waste, residue, by-product, or similar material under the fuel pathway certification process under OAR 340-253-0400(6).

(135) “Standard value” is an input value established or developed by DEQ, which may be used under specified conditions and is typically not subject to validation or verification.

(136) “Substitute fuel pathway code” means a fuel pathway code that is used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use when the seller of a fuel does not pass along the credits

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

(137) “Subsurface leakage” means CO2 leakage from a storage reservoir that does not reach the atmosphere.”

(138) “Tier 1 calculator”, “Simplified calculator” or “OR-GREET 4.0 Tier 1 calculator” means the tools used to calculate lifecycle emissions for commonly produced fuels, including the instruction manuals on how to use the calculators. DEQ will make available copies of these simplified calculators and the instruction manual on its website (https://www.oregon.gov/deq/Pages/index.aspx). The simplified calculators used in the program are:

(a) Tier 1 Simplified Calculator for Starch and Corn Fiber Ethanol;

(b) Tier 1 Simplified CI Calculator for Sugarcane-derived Ethanol;

(c) Tier 1 Simplified CI Calculator for Biodiesel ;

(d) Tier 1 Simplified CI Calculator for LNG and L-CNG from North American Natural Gas;

(e) Tier 1 Simplified CI Calculator for Biomethane from North American Landfills;

(f) Tier 1 Simplified CI Calculator for Biomethane from Anaerobic Digestion of Wastewater Sludge;

(g) Tier 1 Simplified CI Calculator for Biomethane from Food, Green and Other Organic Wastes;

(h) Tier 1 Simplified CI Calculator for Biomethane from AD of Dairy and Swine Manure;

(i) Tier 1 Simplified CI Calculator for Biomethane to Electricity from Anaerobic Digestion of Dairy and Swine Manure;

(j) Tier 1 Simplified CI Calculator for Hydrotreated Ester and Fatty Acid Fuels; and

(k) Tier 1 Simplified CI Calculator for Hydrogen.

(139) “Tier 2 calculator” or “OR-GREET 4.0 model” means the tool used to calculate lifecycle emissions for fuels that do not have a simplified calculator, including the instruction manual on how to use the calculator. Next-generation fuels include, but are not limited to, cellulosic alcohols, drop-in fuels, or fuels produced using innovative production processes. DEQ will make available a copy of the Tier 2 calculator on its website (https://www.oregon.gov/deq/Pages/index.aspx).

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

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

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

(a) “Produced in Oregon” means the transportation fuel was produced at a facility in Oregon;

(b) “Import within the bulk system” means the transportation fuel was imported into Oregon and placed into the bulk system;

(c) “Import outside the bulk system” means the transportation fuel was imported into Oregon and delivered outside the bulk system;

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

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

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

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

(h) “Position holder sale without obligation” means the transportation fuel was sold below the rack without a transfer of the compliance obligation;

(i) “Position holder sale with obligation” means the transportation fuel was sold below the rack with a transfer of the compliance obligation;

(j) “Position holder sale for export” means the transportation fuel was sold below the rack to an entity who exported the fuel;

(k) “Purchase below the rack for export” means the transportation fuel was purchased below the rack and exported;

(l) “Export” means a transportation fuel that was reported under the Clean Fuels Program but was later moved from a location inside of Oregon to a location outside of Oregon;

(m) “Loss of inventory” means the fuel exited the Oregon fuel pool due to volume loss, such as through evaporation or due to different temperatures or pressurization, or the fuel was transferred to a new fuel pathway code;

(n) “Gain of inventory” means the fuel entered the Oregon fuel pool due to a volume gain, such as through different temperatures or pressurization, or the fuel was transferred from a different fuel pathway code;

(o) “Not used for transportation” means a transportation fuel that was used in an application unrelated to the movement of goods or people, such as process heat at an industrial facility, home or commercial building heating, or electric power generation;

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

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

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

(s) "Exempt fuel use - Aircraft", "Exempt fuel use - Racing Activity Vehicles (ORS 801.404)", "Exempt fuel use - Military tactical and support Vehicle and equipment", "Exempt fuel use - Locomotive", "Exempt fuel use - Watercraft", "Exempt fuel use - Farm vehicles, tractors,

implements of husbandry", "Exempt fuel use - Motor trucks primary used to transport logs", "Exempt fuel use - Off-highway construction vehicles which must meet OAR 340-253-0250(2)(a)(J)" means that the fuel was delivered or sold into the category of vehicles or fuel users that are exempt under OAR 340-253-0250. Each of these categories is further defined as follows:

(A) “Aircraft” has the same definition as in ORS 836.005;

(B) “Racing Activity Vehicles” has the same definitions in ORS 801.404;

(C) “Military tactical and support vehicle and equipment” means a motor vehicle or equipment designed to be operated in combat or to directly support combat, combat service support, tactical, or relief operations that is owned by the United States Department of Defense, the Oregon Military Department, or another United States military service;

(D) “Railroad Locomotive” means a locomotive operated on and by a railroad as defined in ORS 824.020(2);

(E) “Watercraft” means a vehicle designed for exclusive operation in water;

(F) “Farm Vehicles” means motor vehicles registered as farm vehicles under the provisions of ORS 805.300;

(G) “Tractors” means Farm Tractors as defined in ORS 801.265;

(H) “Implements of Husbandry” has the same definition as in ORS 801.310;

(I) “Motor trucks primary used to transport logs” means motor trucks, as defined in ORS 801.355, used primarily to transport logs; and

(J) “Off-highway construction vehicles” means motor vehicles that are not designed primarily to transport persons or property, that are operated on highways only incidentally and that are used primarily for construction work;

(t) “Importing production for import gallons inside of the bulk system” means reporting the Import into Oregon of fuel from outside of Oregon into the bulk system; and

(u) “Importing production for import gallons outside of the bulk system” means reporting the import into Oregon of fuel from outside of Oregon outside of the bulk system.

(143) “Transportation fuel” means gasoline, diesel, any other flammable or combustible gas or liquid, and electricity that can be used as a fuel for the operation of a motor vehicle. Transportation fuel does not mean unrefined petroleum products.

(144) “Technical corn oil”, “Distillers corn oil”, or “DCO” means inedible oil recovered from thin stillage or the distiller's grains and solubles produced by a dry mill corn ethanol plant, termed distiller's corn oil, or other non-food grade corn oil from food processing operations.

(145) “Technical sorghum oil”,”, “Distillers sorghum oil”, or “DSO” means inedible oil recovered from thin stillage or the distiller's grains and solubles produced by a dry mill sorghum ethanol plant, termed distiller's sorghum oil, or other non-food grade sorghum oil from food processing operations.

(146) “Used cooking oil” or “UCO” means fats and oils originating from commercial or industrial food processing operations, including restaurants, that have been used for cooking or frying. UCO does not include feedstock that contains any material other than fats, oils, or greases that were previously used for cooking or frying operations. There are two sub-categories of UCO, as follows:

(a) “Unprocessed UCO” means UCO that has not been processed prior to its receipt by a fuel production facility, as demonstrated by evidence provided to a verifier or DEQ; and

(b) “Processed UCO” means UCO that is not unprocessed UCO.

(147) “Urban landscaping waste” means organic municipal solid waste collected from landscaping activities, including leaves, grass, branches, and stumps.

(148) “Unit of fuel” means fuel quantities expressed to the largest whole unit of measure, with any remainder expressed in decimal fractions of the largest whole unit.

(149) “Unit of measure” means either:

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

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

(c) Commodity Specific Units defined in either:

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

(B) OAR chapter 603, division 027.

(150) “Unspecified source of electricity” or “unspecified source” means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity. Such electricity will be assigned a smokestack emission factor of 0.428 metric tons carbon dioxide equivalent per megawatt-hour and be treated as natural gas-generated electricity in OR-GREET for the purpose of assigning an upstream emissions factor.

(151) “Utility Renewable Electricity Product” means a product where a utility customer has elected to purchase renewable electricity through a product that retires renewable energy certificates (RECs) or represents a bundled purchase of renewable electricity and its RECs.

(152) “Wastewater sludge” is a residual, semi-solid byproduct generated from wastewater treatment processes that can serve as a feedstock for biogas production.

(153) “Yellow grease” means a commodity produced from a mixture of used cooking oil and rendered animal fats that were not used for cooking. This mixture is often combined from multiple points of origin.

[NOTE: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
History:

DEQ 2-2025, amend filed 01/09/2025, effective 01/09/2025
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 160-2018, minor correction filed 04/12/2018, effective 04/12/2018
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14
DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0250

Exemptions

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

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

(b) Small volume fuel producer. A transportation fuel under OAR 340-253-0200(2) supplied for use in Oregon if the producer documents that:

(A) The producer has an annual production volume of less than 10,000 gallons of liquid fuel per year;

(B) The producer uses the entire volume of fuel produced in motor vehicles used by the producer directly and has an annual production volume of less than 50,000 gallons of liquid fuel; or

(C) The producer is a research, development or demonstration facility.

(2) Exempt fuel uses.

(a) Transportation fuels supplied for use in any of the following motor vehicles are exempt from regulation, subject to subsections (b) and (c):

(A) Aircraft;

(B) Racing activity vehicles defined in ORS 801.404;

(C) Military tactical vehicles and tactical support equipment;

(D) Locomotives;

(E) Watercraft;

(F) Motor vehicles registered as farm vehicles as provided in ORS 805.300;

(G) Farm tractors defined in ORS 801.265;

(H) Implements of husbandry defined in ORS 801.310;

(I) Motor trucks defined in ORS 801.355 if used primarily to transport logs; and

(J) Motor vehicles that meet all of the following conditions:

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

(ii) Operated on highways only incidentally; and

(iii) Used primarily for construction work.

~~(b)~~**(b) Each gallon of fuel may only be claimed as exempt by a single registered party.** To claim as exempt a regulated fuel used as described in subsection (a), the regulated party must provide **or cause others to provide** the following documentation that the fuel was supplied for use in a motor vehicle listed in subsection (a):

(A) Individual receipts or invoices for each fuel sale claimed as exempt that list the specific customer and exempt vehicle type;

(B) If the fuel is sold through a dedicated tank for a single customer, electronic or paper records that document that the customer's vehicle(s) being fueled are in an exempt category under subsection (a), and that the tank is not used to fuel any other vehicles; or

(C) Other comparable documentation approved in writing by DEQ prior to exemptions being claimed. The documentation must:

(i) Establish that the fuel was sold through a dedicated source to use in a type of vehicle specified in subsection (a); or

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

(c) The records described in subsection (b) must be kept **or caused to be kept** by the person asserting the exemption for not fewer than five years after the year in which they occurred, and the person must provide them to DEQ ~~upon request.~~**or a verification body upon request. Failure to maintain or provide any such records will result in the exempt use claim being disqualified and the registered party being responsible for any deficits that fuel would create.**

(d) Registered parties who transact fuel with each other may enter into agreements to allow one entity to claim exemptions for fuel that the other delivers to the exempt fuel user. Both registered parties are responsible for ensuring each gallon is only claimed as exempt by one of them. Such agreements must be submitted in full to DEQ via email, and transactions claiming those exemptions must include the name of the registered party that delivered the fuel in the transaction description field.

(e) A registered party may claim as exempt fuel that an unregistered party deliveries to an exempt fuel user so long as the registered party has access to the records to prove the fuel was delivered to an exempt use, or contractually requires the unregistered party to make those records available to the registered party's verifier and DEQ. Such agreements must be submitted in full to DEQ via email, and transactions claiming those

exemptions must include the name of the unregistered party that delivered the fuel in the transaction description field.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277
History:
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14
DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0330
Credit Generators: Providers of Electricity

(1) Applicability. This rule applies to providers of electricity used as a transportation fuel.

(2) For residential charging. For electricity used to charge an electric vehicle at a residence, subsections (a) and (b) determine the person who is eligible to generate credits.

(a) Electric Utility. In order to generate credits for the following year, an electric utility must notify DEQ by October 1 of the current year whether it will generate credits. The utility must have an active registration approved by DEQ under OAR 340-253-0500~~.~~ **and be in good standing with the reporting and spending requirements in OAR 340-253-XXXX(XX).** Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to DEQ.

(b) Backstop ~~and Incremental Aggregators.~~**Aggregator.** If an electric utility does not register or designate an aggregator under subsection (a), ~~then~~ **or is not in good standing with the program for failing to meet the reporting and residential credit revenue spending requirements, then the** backstop and ~~incremental aggregators are~~**aggregator is** eligible to claim any credits that the utility could have generated for the following year, as provided in sections (10~~) and (11~~), as applicable. The backstop aggregator may claim any base credits and ~~the incremental aggregator may claim~~ any incremental credits.

(3) For non-residential charging. For electricity used to charge an electric vehicle at non-residential locations, such as in a public space, for a fleet, at a workplace, or at multi-family housing sites, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) The owner of the electric-charging equipment may generate the credits. If the owner of charging equipment is not registered and that charging equipment is part of an electric vehicle supply equipment network, then the network service provider may register until and unless the owner registers.

(b) Electric Utility. If the owner of the electric-charging equipment does not generate the credits, then an electric utility or an aggregator designated to act on the utility's behalf is eligible to generate the credits. The utility or its aggregator must have an active registration approved by DEQ under OAR 340-253-0500. Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to DEQ.

(c) Backstop ~~and Incremental Aggregators.~~**Aggregator.** If an electric utility does not elect to generate the credits elect to generate the credits, then the backstop ~~and incremental aggregators are~~**aggregator is** eligible to claim any credits that the utility could have generated for the following year, as provided in sections (10~~) and (11~~), as applicable. The backstop aggregator may claim any base credits and ~~the incremental aggregator may claim~~ any incremental credits.

(4) Public Transit. For electricity used to power fixed guideway vehicles such as light rail systems, streetcars, aerial trams, or transit buses, a transit agency may generate the credits. The transit agency must have an active registration approved by DEQ under OAR 340-253-0500.

(5) Electric Forklifts. For electricity used to power forklifts, the forklift owner may generate the credits. If the forklift is being operated by a person other than the owner, the owner may generate the credits if they have detailed data that enables them to accurately report the electricity used to operate the forklift as required by OAR 340-253-1000(2), otherwise the operator of the forklift may generate the credits.

(6) Electric Transportation Refrigeration Units. The owner of the electric transportation refrigeration unit may generate credits for electricity used in transport refrigeration units.

(7) Electric Cargo Handling Equipment. The owner of the electric-charging equipment may generate the credits.

(8) Electric Ocean-Going Vessel. The owner of the equipment that provides electrical power from the shore to the vessel is eligible to generate credits.

(9) Electric Ground Support Equipment. The owner of the charging equipment for Ground Support Equipment is eligible to generate credits.

(10) Responsibilities to generate credits. Any person specified under sections (2) through (9) may generate clean fuel credits by complying with the registration, recordkeeping and reporting requirements of this division.

(11) Backstop Aggregator. The backstop aggregator that serves as the credit generator of electricity credits that have not been claimed by an electric utility, an aggregator designated by an electric utility, or an owner or service provider of electric charging equipment under sections (2) and (3).

(a) To qualify to submit an application to be a backstop aggregator, an organization must:

(A) Be an organization exempt from federal taxation under section 501(c)(3) of the U.S. Internal Revenue Code;

(B) Complete annual independent financial audits.

(b) An entity that wishes to be the backstop aggregator must submit an application with DEQ that includes:

(A) A description of the mission of the organization and how being a backstop aggregator fits into its mission;

(B) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being a backstop aggregator;

(C) A plan describing:

(i) How the organization will promote transportation electrification statewide or in specific utility service territories, if applicable;

(ii) Any entities that the organization might partner with to implement its plan;

(iii) How the organization plans to use the revenue from the sale of credits, which may include, without limitation, programs that provide incentives to purchase electric vehicles or install electric vehicle chargers, opportunities to educate the public about electric vehicles, and anticipated costs to administer its plan; and

(iv) The financial controls that are, or will be put, in place to segregate funds from the sale of credits from other monies controlled by the organization.

(D) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified them as qualifying as an exempt organization under 501(c)(3);

(c) Initial applications to be a backstop aggregator are due to DEQ no later than March 15, 2018, to be eligible to be the backstop aggregator beginning in 2018. If the EQC does not approve the designation of a backstop aggregator under subsection (e), then DEQ may set a new deadline for applications if it decides to undertake a new selection process.

(d) Applications will be evaluated by DEQ with the assistance of relevant experts selected by DEQ. DEQ will evaluate applications based on the likelihood that the applicant will maximize the benefits from the credits it receives to expand the use of alternative fuel vehicles and reduce greenhouse gas emissions from the transportation sector in Oregon.

(e) DEQ may recommend an organization be designated as the initial backstop aggregator to the EQC by May 31, 2018. If DEQ does not recommend an organization to be the backstop aggregator or the EQC does not approve DEQ's recommendation, then DEQ may undertake a new selection process at a later date under the same criteria in subsections (b) and (d).

(f) Following EQC approval of an organization to be the backstop aggregator, DEQ and the organization may enter into a written agreement regarding its participation in the program. A written agreement must be in place prior to the backstop aggregator registering an account in the OFRS and receiving credits for the first time. The backstop aggregator must:

(A) By March 31st of each year, submit a report that summarizes the previous year's activity including:

(i) How much revenue was generated from the credits it received;

(ii) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes; and

(iii) The results of its most recent independent financial audit.

(B) Maintain records and make them available upon request by DEQ, including records required to be maintained under OAR 340-253-0600 and, in addition, any records relating to its application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.

(g) If DEQ determines that a backstop aggregator is in violation of this division or the agreement that it enters into with DEQ to be the backstop aggregator, DEQ may rescind its designation and solicit applications to select a new backstop aggregator.

(h) If backstop aggregator wishes to terminate its agreement with DEQ, then DEQ may solicit applications to select a new backstop aggregator.

(i) After a backstop aggregator has been in place for three years, DEQ may hold a new selection process to appoint a backstop aggregator for future years. Unless DEQ has rescinded an organization as backstop aggregator under subsection (g), the current backstop aggregator may apply to be re-designated as the backstop aggregator for future years.

~~(12) Incremental Aggregator.~~

~~(a) For non-residential charging, incremental credits may be claimed by the eligible credit generator identified in sections (3)-(9) of this rule.~~

~~(b) For residential charging, the following entities may claim incremental credits:~~

~~(A) An electric utility claiming base credits for the same vehicles under subsection (2)(a) or its designated aggregator if it notifies DEQ by June 15 or December 15 that it wishes to begin generating incremental credits starting with the charging covered by the next period of residential electric vehicle charging. A utility's election remains in place until it informs DEQ otherwise; or~~

~~(B) Incremental Aggregator. The incremental aggregator that serves as the credit generator of incremental electricity credits that have not been claimed by an electric utility, an aggregator designated by an electric utility, or the eligible credit generator under sections (3)-(8). The incremental aggregator will be selected as provided in subsection (c).~~

~~(c) Selection of the incremental aggregator.~~

~~(A) To qualify to submit an application to be the incremental aggregator, an organization must:~~

~~(i) Be an organization exempt from federal taxation under section 501(c)(3) of the U.S. Internal Revenue Code; and~~

~~(ii) Complete annual independent financial audits.~~

~~(B) An entity that wishes to be the incremental aggregator must submit an application with DEQ that includes:~~

(i) A description of the mission of the organization and how being the incremental aggregator fits into its mission;

(ii) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being the incremental aggregator;

(iii) How the organization plans to promote transportation electrification statewide in an equitable manner and conduct programs on a statewide basis;

(iv) The financial controls that are, or will be put, in place to segregate funds from the sale of credits from other monies controlled by the organization; and

(v) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified them as qualifying as an exempt organization under 501(c)(3).

(C) Initial applications to be the incremental aggregator are due to DEQ no later than December 31, 2022, to be eligible to be selected by the EQC to be the incremental aggregator beginning with 2020 residential EV crediting. If the EQC does not approve the designation of an incremental aggregator under subsection (11)(e), then DEQ may set a new deadline for applications if it decides to undertake a new selection process.

(D) Applications to be the incremental aggregator will be evaluated by DEQ in partnership with the equity advisory committee selected under subsection (11)(j). DEQ will evaluate applications based on the likelihood that the applicant will use the revenue from the credits it receives to advance transportation electrification statewide with a focus on actions that will help vulnerable populations and communities impacted by air pollution and climate change.

(E) Based on DEQ's review of applications to be the incremental aggregator, DEQ may recommend that an applicant organization be designated as the initial incremental aggregator to the EQC by August 15, 2021. If DEQ does not recommend an organization to be the incremental aggregator or the EQC does not approve DEQ's recommendation, then DEQ may undertake a new selection process at a later date under the same process and criteria in paragraphs (11)(c)(A) through (D).

(F) Following EQC approval of an organization to be the incremental aggregator, DEQ and the organization may enter into a written agreement regarding the selected organization's participation in the program. In addition to the requirements described in paragraph (11)(c)(K), a written agreement must be in place prior to the incremental aggregator receiving credits for the first time. The incremental aggregator must:

(i) By March 31st of each year, submit a report that summarizes the previous year's activity including:

(I) How much revenue was generated from the credits it received;

(II) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes; and

(III) The results of its most recent independent financial audit; and

(ii) Maintain records and make them available to DEQ upon request by DEQ, including records required to be maintained under OAR 340-253-0600 and, in addition, any records relating to its

~~application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.~~

~~(G) If DEQ determines that an incremental aggregator is in violation of this division or the agreement that it enters into with DEQ to be the incremental aggregator, DEQ may rescind its designation and solicit applications to select a new incremental aggregator.~~

~~(H) If the incremental aggregator wishes to terminate its agreement with DEQ, then DEQ may solicit applications to select a new incremental aggregator.~~

~~(I) After an incremental aggregator has been in place for three years, DEQ may hold a new selection process to appoint an incremental aggregator for future years. Unless DEQ has rescinded an organization as incremental aggregator under paragraph (11)(c)(G), the current backstop aggregator may apply to be re-designated as the incremental aggregator for future years.~~

~~(J) Equity advisory committee. DEQ will appoint and convene an advisory committee to help the agency design projects and programs for the incremental aggregator to implement that prioritize the revenue for transportation electrification projects that equitably distribute benefits and address the needs and interests of impacted communities that are the most vulnerable to the adverse effects of transportation air pollution and climate change. The committee will also advise DEQ in its review of reports on utility spending, and:~~

~~(i) The committee will advise DEQ in:~~

~~(I) The selection of the incremental aggregator;~~

~~(II) Establishing criteria that will be used to set priorities to be carried out by the incremental aggregator;~~

~~(III) Developing the annual work plan for the incremental aggregator;~~

~~(IV) Identifying areas of need that should be prioritized by utility projects and programs paid for by revenue from CFP incremental credit sales in order to ensure equitable outcomes and benefits;~~

~~(V) Reviewing the utility reports submitted under OAR 340-253-0640(9); and~~

~~(VI) Reviewing the performance of the incremental aggregator;~~

~~(ii) DEQ will solicit applications for residents of the state of Oregon to be appointed to the equity advisory committee. DEQ will seek representatives with the following interests and areas of expertise as well as representatives from the following communities:~~

~~(I) Transportation and transportation electrification; and~~

~~(II) Environmental Justice Communities~~

~~(iii) DEQ will solicit applications to serve on the equity advisory committee in May 2021 and may select the committee from those applicants. Committee members may serve terms of three years and DEQ may annually solicit applications and make additional selections to serve on the committee.~~

~~(K) The incremental aggregator must consult with DEQ and the equity advisory committee to propose an annual workplan to guide its spending for the next year, subject to approval by DEQ. DEQ will not award credits to the incremental aggregator unless DEQ has approved such workplan and the incremental aggregator has followed such workplan. The incremental aggregator and DEQ may mutually agree to modify the annual workplan at any time, after consultation with the equity advisory committee. Projects to be undertaken by the incremental aggregator may include:~~

~~(i) Electrification and battery swap programs for school or transit buses;~~

~~(ii) Electrification of drayage trucks;~~

~~(iii) Investment in public EV charging infrastructure and EV charging infrastructure in multi-family residences;~~

~~(iv) Investment in electric mobility solutions, such as EV sharing and ride-hailing programs;~~

~~(v) Multilingual marketing, education, and outreach designed to increase awareness and adoption of EVs and clean mobility options that includes information about their benefits to individuals, the environment, and human health;~~

~~(vi) Additional rebates and incentives for low-income individuals beyond existing local, federal and state rebates and incentives, for:~~

~~(I) Purchasing or leasing new or previously owned EVs;~~

~~(II) Installing EV charging infrastructure in residences and related electrical work;~~

~~(III) Promoting the use of public transit and other clean mobility; and~~

~~(IV) Off-setting costs for residential or non-residential EV charging; and~~

~~(vii) Other projects that promote transportation electrification in or for Environmental Justice Communities and that are reviewed by the equity advisory committee and approved by DEQ. Individuals and organizations may submit proposals for such projects to DEQ for consideration, and the application must include:~~

~~(I) A complete description of the project, the demonstration that the project promotes transportation electrification in Environmental Justice, or that the project provides increased access to electric transportation for those communities; and~~

~~(II) Evidence that the project was developed in coordination with local environmental justice advocates, local community-based organizations, local units of government, or multiple such entities.~~

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
History:
DEQ 2-2025, amend filed 01/09/2025, effective 01/09/2025
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 1-2019, minor correction filed 01/03/2019, effective 01/03/2019

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0400

Carbon Intensities

(1) OR-GREET. Carbon intensities for fuels must be calculated using OR-GREET 4.0 or a model approved by DEQ. If a party wishes to use a modified or different lifecycle carbon intensity model, it must be approved by DEQ in advance of an application under OAR 340-253-0450.

(2) DEQ review of carbon intensities. DEQ will regularly review the carbon intensities used in the CFP and must consider, at a minimum, changes to:

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

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

(c) Fuel economy standards and energy economy ratios;

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

(e) Methods to calculate lifecycle greenhouse gas emissions;

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

(g) Methods to quantify other indirect effects.

(3) Statewide carbon intensities.

(a) Registered parties must use the statewide average carbon intensities listed in Table 4 under OAR 340-253-8010 for the following fuels:

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

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

(C) Fossil CNG~~,~~ **or LNG;** and

(D) Fossil LPG.

(b) For electricity suppliers,

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

(B) A registered party may use an electricity carbon intensity different from the statewide average under subsection (b)(A) if:

(i) The utility **supplying electricity** has applied for and received an individual carbon intensity under OAR 340-253-0470(3);

(ii) The party generates lower carbon electricity at the same location as it is dispensed into a motor vehicle consistent with the conditions of the approved fuel pathway code under OAR 340-253-0470(4); or

(iii) The party retires RECs to claim renewable electricity from offsite consistent with the requirements of OAR 340-253-0470(5).

(4) Carbon intensities for established fuel pathways. Except as provided in sections (3) or (5), registered parties may use a carbon intensity that:

(a) CARB has certified for use in the California Low Carbon Fuel Standard program, that has been adjusted for fuel transportation distances, indirect land use change and other comparable adjustments, and that has been reviewed and approved by DEQ as being consistent with OR-GREET ~~3~~4.0; ~~or~~

~~(b~~**(b) Ecology has certified for use in the Washington Clean Fuels Standard program once that program begins using the WA-GREET 4.0 model, that has been adjusted for fuel transportation distances, indirect land use change, and other comparable adjustments, and that has been reviewed and approved by DEQ as being consistent with OR-GREET 4.0; or**

(c) Matches the description of a fuel pathway listed in Table 4 under OAR 340-253-8010.

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

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

(A) Starch- and sugar-based ethanol, and ethanol from corn kernel fiber cellulose;

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

(C) Renewable diesel, propane, naphtha, or alternative jet fuel produced from conventional feedstocks such as plant oils, tallow and related animal wastes and used cooking oil using a hydrotreater;

(D) Natural Gas;

(E) Biomethane from landfills; anaerobic digestion of dairy and swine manure or wastewater sludge; and food, vegetative or other organic waste;

(F) Biogas to electricity;

(G) Hydrogen;

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

(A) Cellulosic alcohols;

(B) Biomethane from other sources;

(C) Biogenic feedstocks co-processed at a petroleum refinery;

(D) Tier 1 fuels using innovative methods, including but not limited to carbon capture and sequestration or a process that cannot be accurately modeled using the simplified calculators, or where the applicant seeks to modify any emissions factor contained in a Tier 1 calculator; and

(E) Any other fuel not listed as a Tier 1 fuel.

(6) Specified source feedstocks. Fuels that are produced from a specified source feedstock may be eligible for a reduced carbon intensity value when applying under OAR 340-253-0450 so long as they meet all of the following requirements:

(a) Specified source feedstocks are non-primary products of commercial or industrial processes for food, fuel or other consumer products and include, but are not limited to:

(A) Used cooking oil, animal fats, fish oil, yellow grease, distiller's corn oil, distiller's sorghum oil, brown grease, and other fats, oils, and greases;

(B) Small-diameter, non-merchantable forestry residues removed for the purpose of forest fire fuel reduction, or forest stand improvement, and from a treatment where non-clear cutting occurred;

(C) Municipal solid waste that is diverted from landfill disposal; and

(D) Any feedstock designated as such under OAR 340-253-0450(10)(d).

(b) The specified source feedstocks are used in fuel pathways for biodiesel; renewable diesel; alternative jet fuel; co-processed refinery products; biomethane supplied using book and claim accounting and claimed as a feedstock for CNG, LNG, L-CNG; or steam-methane reformation produced hydrogen;

(c) Under OAR 340-253-0450(10)(d), any feedstock can be designated as a specified source feedstock if requested by a supplier using site-specific carbon intensity data or if it is specified in a fuel pathway approval condition; and

(d) Chain-of-custody evidence must be used to demonstrate the proper characterization and accuracy of the quantity of the specified source feedstocks going into a fuel production facility or claimed as biomethane, subject to all of the following provisions:

(A) Chain-of-custody evidence must be provided to the verifier and to DEQ upon request;

(B) Joint applicants may assume responsibility for different portions of the chain-of-custody evidence;

(C) Fuel pathway applicants using specified source feedstocks must maintain either:

(i) Delivery records that show shipments of feedstock type and quantity directly from the point of origin to the fuel production facility; or

(ii) Information from material balance or energy balance systems that control and record the assignment of input characteristics to output quantities at relevant points along the feedstock supply chain between the point of origin and the fuel production facility; and

(e) In order to maintain the fuel pathway, the fuel producer and any joint applicant must meet the following requirements:

(A) Maintain records of the type and quantity of feedstock obtained from each supplier, including feedstock transaction records, feedstock transfer documents pursuant to (f), weighbridge tickets, bills of lading or other documentation for all incoming and outgoing feedstocks;

(B) Maintain records used for material balance and energy balance calculations; and

(C) Ensure DEQ staff and verifier access to audit feedstock suppliers to demonstrate proper accounting of attributes and conformance with certified CI data.

(f) Requirements for Feedstock Attestation Letter. Each entity in the supply chain for a specified source feedstock must maintain a specified source feedstock attestation letter. This applies to ~~both~~ pathways that are originally certified by DEQ and those that are recertifications of **either** CARB**- or Ecology**-approved pathways. The specified source feedstock attestation must make the following specific attestations:

(A) The specified source feedstocks have not undergone additional processing, such as drying or cleanup, except as explicitly included by the fuel producer in their lifecycle analysis and pathway carbon intensity;

(B) All data and information supplied to the fuel producer and DEQ are true and accurate in all areas, including but not limited to:

(i) Specified Source Feedstocks meet the applicable definitions of this division or as defined in the pathway conditions approved by DEQ during the certification of this producer's fuel pathway application;

(ii) Deliveries of the specified source feedstock(s) consist entirely of what is documented on the feedstock transfer documents and are not mixed or altered with any materials that do not meet the definition of that specified source feedstock; and

(iii) The specified source feedstocks were not intentionally produced, modified, or contaminated to meet the definition; and

(C) The signed specified source feedstock supplier attestation letter must:

(i) Be maintained by that feedstock supplier, and submitted as an electronic copy upon request by a verifier, verification body, or DEQ;

(ii) Be on company letterhead;

(iii) Be maintained separately for each specified source feedstock;

(iv) Be signed by an authorized representative employee of the specified source feedstock supplier; and

(v) Include the following attestation that has been signed and dated:

"I certify that the [insert name of specified source feedstock in question] supplied by [insert name of facility or company] meets all of the following requirements: 1) the specified source feedstock meets the definition under the Oregon Administrative Rule 340-253-0040, or the

specified source feedstock definition included in the operating conditions of the fuel producer's pathway application this feedstock is being supplied to; 2) the specified source feedstock has not undergone additional processing, such as drying or clean-up, except as explicitly included in the pathway lifecycle analysis and carbon intensity; 3) deliveries of the specified source feedstock consist entirely of what is documented on the feedstock transfer documents and are not mixed with any other materials that do not meet the definition of specified source feedstock; and 4) the specified source feedstock was not intentionally modified or contaminated to meet this definition.

By signing this letter, [insert name of feedstock supplier] accepts responsibility for the information herein. I certify under penalty of perjury under the laws of the State of Oregon that I have personally examined, and am familiar with, the statements and information in this document. I certify that the statements and information are true, accurate, and complete."

(7) The carbon intensity value certified under OAR 340-253-0450, including any margin of safety requested by the fuel producer or imposed as a condition of approving a pathway, is the maximum carbon intensity value that a fuel can be reported in the CFP. The actual operational carbon intensity of a fuel will be calculated from the most recent production data covering 24 months of the fuel production facility's operation. Registered parties may not report fuel transactions under any certified carbon intensity unless the actual operational carbon intensity is equal to or less than the certified CI.

(8) Fuel producers labeling fuel sold in Oregon with a carbon intensity under the CFP and registered parties using those labeled carbon intensities to report in the Oregon Fuels Reporting System, must ensure that the fuel so labeled and reported will be found to have an actual operational lifecycle carbon intensity equal to or below its certified carbon intensity.

~~(9) Transition from OR-GREET 3.0 to OR-GREET 4.0. OR-GREET 3.0 pathways and recertifications of CA-GREET 3.0 pathways shall remain valid for 2025 reporting. Only OR-GREET 4.0 or recertified CA-GREET 4.0 pathways may be used for reporting from 2026 onward. New fuel pathway applications made using OR-GREET 3.0 will not be accepted in 2025, but DEQ will review any pending OR-GREET 3.0 pathway applications it receives prior to January 1, 2025. New recertification applications for CA-GREET 3.0 pathways will not be accepted after March 31, 2025.~~

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
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DEQ 2-2025, amend filed 01/09/2025, effective 01/09/2025
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14

DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0450
Obtaining a Carbon Intensity

(1) Fuel producers can apply to obtain a carbon intensity by following the process to obtain a carbon intensity under this rule.

(2) Applicants seeking approval to use a carbon intensity that is currently approved by the CARB **or Washington Department of Ecology** must provide:

(a) The application package submitted to CARB **or Ecology**;

(b) The CARB-approved Tier 1 or Tier 2 CA**-GREET 4.0 or WA**-GREET 4.0 calculator, and the OR-GREET 4.0 equivalent with the fuel transportation distance and mode modified for the fuel pathway to Oregon;

(c) The CARB **or Ecology** review report or staff summary for the approved fuel pathway;

(d) A positive or qualified positive validation or verification statement for the pathway issued under the CARB verification program required by California Code of Regulations Title 17, § 95500 **or the Ecology verification program required by Washington Administrative Code Chapter 174-424**;

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

(f) If the applicant is seeking to use a provisional fuel pathway approved by CARB **or Ecology**, then the applicant must submit to DEQ the ongoing documentation it provides to CARB **or Ecology**, and as required in section (6). The applicant must provide DEQ within fourteen calendar days:

(A) Any additional documentation it has submitted to CARB **or Ecology**; and

(B) A notification of any changes to the status of its CARB**- or Ecology**-approved provisional fuel pathway.

(3) Applicants seeking to obtain a carbon intensity using either the Tier 1 or Tier 2 calculator must submit the following information:

(a) Company name and full mailing address;

(b) Company contact person's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website address;

(c) Facility name (or names if more than one facility is covered by the application);

(d) Facility address (or addresses if more than one facility is covered by the application);

(e) EPA's assigned Facility ID for facilities covered by the RFS program;

(f) Facility geographical coordinates (for each facility covered by the application);

(g) Facility contact person's contact information including the name, title or position, phone number, mobile phone number, facsimile number, and email address;

(h) Facility nameplate production capacity in million gallons per year for each facility covered by the application, or an equivalent figure for facilities that do not produce liquid fuels;

(i) If applicable, consultant's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website URL; and

(j) Declaration whether the applicant is applying for a carbon intensity for a Tier 1 or Tier 2 fuel.

(4) In addition to the items in section (3), applicants seeking to obtain a carbon intensity for a Tier 1 fuel using one of the simplified calculators must submit the following and any other materials or information related to the fuel pathway requested by DEQ:

(a) The applicable simplified calculator with all necessary inputs completed, following the instructions in the applicable instruction manual dated December 2024 for that calculator;

(b) The most recent RFS third party engineering report, if one has been conducted for the facility; and

(c) Proof that the inputs completed in the simplified calculator supplied under subsection (a) are correct in the form of a positive or qualified positive verification statement from an approved verification body, provided in compliance with OAR chapter 340, division 272, stating that it has reviewed and validated all of the data used to form the inputs for the Tier 1 calculator submitted under subsection (a).

(5) In addition to the items in section (3), applicants seeking to obtain a carbon intensity for a Tier 2 fuel using the full OR-GREET 4.0 model must first submit the information required in subsections (b) through (h) to DEQ and request approval of their proposed approach for modeling the carbon intensity of their pathway or pathways. In response to such a submission, DEQ may either approve it, deny it, or approve it with draft operating conditions that a verifier can use to determine the scope of the verification services they must provide. If DEQ denies the submission, DEQ must provide the applicant with an explanation why it was denied, and the applicant may resubmit information to seek an approval. Once the applicant gains DEQ's initial approval, they may then seek verification of their application under OAR chapter 340, division 272, in order to satisfy subsection (a). Then they must submit the following and any other materials or information related to the fuel pathway requested by DEQ:

(a) Proof that the Tier 2 model inputs are correct in the form of a positive or qualified positive verification statement from an approved verification body, provided in compliance with OAR chapter 340, division 272, stating that it has reviewed and validated all the data used to form the inputs for the Tier 2 calculator submitted under subsection (c);

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

(c) A completed Tier 2 model;

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

(e) Applicable air permits issued for the facility;

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

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

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

(6) Applicants seeking a provisional carbon intensity. If a fuel production facility has been in full commercial production for at least 90 calendar days but less than 24 months, it can apply for a provisional carbon intensity. An existing facility that undergoes a major modification that affects its fuel production process and energy use may also apply for a provisional carbon intensity.

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

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

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

(d) If, after a plant has been in full commercial production for more than 24 months of full commercial production, the facility's operational carbon intensity is higher than the provisionally certified carbon intensity, DEQ will replace the certified carbon intensity with the operational carbon intensity in the Oregon Fuels Reporting System and adjust the credit balance accordingly.

(e) If the facility's operational carbon intensity appears to be lower than the certified carbon intensity, DEQ will take no action. The applicant may, however, petition DEQ for a new carbon intensity that reflects the operational data. In support of such a petition, the applicant must submit a revised application packet that fully documents the requested reduction.

(7) Applicants employing co-processing at a petroleum refinery. Applicants employing co-processing of biogenic feedstocks at a petroleum refinery must submit all information required under sections (3) and (5).

(a) For the renewable diesel or other renewable refinery product of the fuel, the applicant must also submit:

(A) The planned proportions of biogenic feedstocks to be processed;

(B) A detailed methodology for the attribution of biogenic feedstocks to the renewable products; and

(C) The corresponding carbon intensities from each biogenic feedstock.

(b) The attribution methodology will be subject to approval by DEQ and may be modified at DEQ's discretion based on ongoing reporting of production data at the refinery.

(c) DEQ may adjust the carbon intensities applied for under this section as it determines is appropriate.

(8) Temporary Fuel Pathway Codes for Fuels with Indeterminate Carbon Intensities. A registered party that has purchased a fuel without a carbon intensity must submit a request to DEQ for

permission to use a temporary fuel pathway code found in Table 9 under OAR 340-253-8010, or a temporary fuel pathway code otherwise approved and posted by DEQ under OAR 340-253-0450(12). A fuel producer may also apply to DEQ for approval to have a temporary fuel pathway code assigned to its facility.

(a) The request must:

(A) Be submitted within 45 calendar days of the end of the calendar quarter for which the applicant is seeking to use a temporary fuel pathway code; and

(B) Explain and document that the production facility is unknown or that the production facility is known but there is no approved fuel pathway code.

(b) Temporary fuel pathway codes may be used for up to two calendar quarters. If more time is needed to obtain a carbon intensity, the party that obtained the temporary fuel pathway must submit an additional request to DEQ for an extension of the authorization to use a temporary fuel pathway code.

(c) If DEQ grants a request to use a temporary fuel pathway code, credits and deficits may be generated subject to the quarterly reporting provisions in OAR 340-253-0630. DEQ may impose conditions on the use of a temporary fuel pathway code by an applicant in order to ensure the accuracy and proper reporting of the carbon intensity being used.

(9) For hydrogen Tier 1 or Tier 2 applications where the hydrogen is produced using either or both biomethane and renewable electricity through a book and claim method:

(a) The producer of the hydrogen must submit retirement records from an electronic tracking system recognized by DEQ such as WREGIS or M-RETS Renewable Thermal on an annual basis demonstrating that the environmental attributes of the renewable electricity and biomethane, as applicable, were not claimed in any other program except for one or more of the following:

(A) The federal RFS;

(B) Any federal tax credit program; and

(C) The greenhouse gas reporting program under OAR chapter 340, division 215 or an equivalent emissions inventory applicable to hydrogen production that is out-of-state and the producer is required to report its energy consumption to such an inventory; and

(b) If the producer of the hydrogen is making any claim regarding the use of the hydrogen as a vehicle fuel under any program described in subsection (a), the producer's CFP claim must be for the same use and volume of hydrogen as is being claimed in the other program(s);

(10) Review and approval process to use carbon intensities for fuels other than grid electricity and renewable electricity with a deemed CI of zero under OAR 340-253-0470.

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

(A) Confirm that the proposed fuel pathway is consistent with OR-GREET 4.0; and

(B) Review the materials submitted under subsection (2) and request additional materials if necessary.

(b) For applications proposing to use a Tier 1 or Tier 2 calculator, DEQ may approve the application if it can:

(A) Replicate the calculator outputs;

(B) Verify the energy consumption and other inputs; and

(C) Agrees with the following in the application:

(i) Its classification of its feedstock(s);

(ii) The scope of its lifecycle and, for Tier 2 applications, how the process has been modeled and if the carbon intensity values are scientifically defensible in the DEQ's engineering and scientific judgement;

(iii) Any modifications to emissions factors;

(iv) Any other aspects of the pathway(s) in the application that affect the carbon intensity value.

(D) For Tier 2 pathway applications, if DEQ intends to approve an application, it first must:

(i) Present a review report with a proposed carbon intensity value or values and operating conditions to the applicant or applicants. If the applicant or applicants accept the proposed review report, carbon intensity value(s) and operating conditions, DEQ will post the review report and application on its website for a 14-day public comment period. DEQ staff will work with the applicant to aggregate and summarize any submitted data in order to ameliorate concerns regarding trade secrets included in the application. The aggregated data must still allow external stakeholders to understand the pathway(s) and carbon intensity value(s) that DEQ is proposing to approve; and

(ii) Based on comments received during that public comment period, DEQ may move forward with approving the application as provided in this section, deny the application, request additional information from the applicant or applicants, or modify the review report. If DEQ modifies the review report or receives additional information that has a material bearing on the proposed EER value, it will issue the modified review report and any affected supplemental materials for another round of public comment.

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

(d) DEQ may impose conditions in its approval of a carbon intensity under this rule. Conditions may include specific limitations, recordkeeping or reporting requirements, adherence to protocols to assure carbon reduction or sequestration claims, or operational conditions that DEQ determines should apply to assure the ongoing accuracy and proper use of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked, an enforcement action being taken by DEQ, or both.

(A) For applicants seeking a provisional fuel pathway, DEQ will specify the conditions used to establish the fuel pathway.

(i) In order to maintain an active provisional fuel pathway eligible to generate credits, the applicant must file the annual fuel pathway report and seek third-party verification if required under OAR 340-253-0700.

(ii) At any point during the 24 months following the certification of a provisional fuel pathway, DEQ may revise as appropriate the CI score for the provisional fuel pathway based on new information or a better understanding of the fuel pathway.

(iii) DEQ may remove the provisional status of the fuel pathway after the applicant provides 24 months of operational data with a positive or qualified positive verification status.

(iv) For fuel pathways that are not subject to verification, DEQ may remove the provisional status upon review of 24 months of operational data demonstrating that the fuel pathway data supports the provisional CI.

(B) For a CARB-approved fuel pathway that DEQ has approved for use in Oregon, if at any time the fuel pathway approval is revoked by CARB **or Ecology** then:

(i) The fuel pathway holder must inform DEQ within seven calendar days of the revocation and provide DEQ with documentation related to that decision.

(ii) Upon DEQ request, the fuel pathway holder must provide to DEQ additional documentation.

(iii) DEQ may at its discretion revoke its approval of the fuel pathways for use in Oregon at any time.

(iv) If CARB **or Ecology** modifies its approval of the fuel pathway, then the fuel pathway holder must notify DEQ of the modification not later than 14 calendar days after ~~CARB's~~**CARB or Ecology's** modification and must provide to DEQ any accompanying documentation the fuel pathway holder received from CARB **or Ecology**.

(v) Based on the underlying facts that led to ~~CARB's~~**CARB or Ecology's** modification of the fuel pathway status, within 30 calendar days DEQ may modify its approval, take no action, or revoke its approval and will provide the fuel pathway holder with written notice of its decision.

(e) In order to receive and maintain an active fuel pathway code under this rule, the producer of any fuel must:

(A) Maintain an active registration with the AFP;

(B) Provide proof of delivery to Oregon through a physical pathway demonstration in the quarter in which the fuel is first reported in the Oregon Fuels Reporting System;

(C) Comply with the requirements of this division and OAR chapter 340, division 272. In addition to, and not in lieu of, any other remedies for violations of this division, failure to timely submit an annual fuel pathway report or a required verification statement for fuel pathways will result in the deactivation of those fuel pathways;

(D) For non-provisional fuel pathways, a fuel producer must inform DEQ within fourteen calendar days after it becomes aware that its operational carbon intensity will exceed its certified carbon intensity on one or more fuel pathways; and

(E) If a fuel pathway employs carbon capture and sequestration, the fuel pathway holder or joint applicant must submit annual reports of greenhouse gas emissions reductions, project operations, and ongoing monitoring results. Reports must include measurements of relevant parameters sufficient to ensure that the quantification and documentation of CO2 sequestered is replicable and verifiable. DEQ may specify a protocol for measuring and reporting such information in its approval of such an application;

(f) Annual Fuel Pathway Reports. Each fuel pathway holder must submit an annual fuel pathway report into the AFP no later than March 31st of each calendar year. The annual fuel pathway report must include:

(A) The certified version of the simplified OR-GREET or full OR-GREET calculator, as applicable, updated to include the most recent two calendar years of operational data;

(B) If the fuel pathway is a recertification of a CARB-approved fuel pathway, the fuel pathway holder must comply with regulations under OAR 340-253-0450(10)(d)(B);

(C) The annual fuel pathway report for renewable electricity and hydrogen pathways, in addition to -the applicable calculator, must include invoices or metering records substantiating the quantity of renewable electricity or biomethane or low-CI inputs procured from a qualifying source. If the renewable electricity, biomethane, or other qualifying source of low-CI inputs is owned by another party, the unredacted contract by which the fuel pathway holder obtained those environmental attributes must be provided;~~(~~;

(D) If a fuel or fuel production process involves biomethane, biogas, or renewable electricity, the fuel producer must provide the attestation regarding environmental attributes or proof of non-generation or retirement of any RECs or RTCs as required by OAR 340-253-0640 or OAR 340-253-0470(5)(d); and

(E) For biomethane injected into a natural gas common carrier pipeline, then:

(i) The retirement records for the RTCs from M-RETS Renewable Thermal or another renewable thermal tracking system recognized by DEQ. The use of an electronic tracking system is required instead of an attestation, and the specific volume of biomethane claimed as being used as a feedstock for the fuel production process must have been injected into the pipeline in the current or prior quarter as the fuel is being produced;

(ii) If the renewable electricity, biomethane, or other qualifying source of low-CI inputs is owned by another party, the unredacted contract and unredacted invoices by which the fuel pathway holder obtained those environmental attributes must be provided; and

(iii) Biomethane can only be claimed in this manner in a fuel pathway application as the feedstock for CNG, LNG, L-CNG or hydrogen production, and cannot be claimed as an energy source for another fuel production process;

(F) Any fuel pathway holder, including a joint applicant, who is not subject to site visits by a third party verifier, whose fuel pathway involves the use of renewable or low-CI process energy, must submit invoices for that energy to the AFP. Additionally, for any renewable electricity, including an on-site or directly connected generator, that is used to reduce the carbon intensity of electricity used as a fuel or hydrogen production via electrolysis, the fuel pathway holder must

upload records demonstrating that any renewable energy certificates generated were retired in WREGIS or another comparable, recognized REC tracking system for the purpose of lowering the certified CI, or for credit generation. Any offsite source of renewable electricity must meet the qualifications in OAR 340-253-0470(5).;

(G) Any temporally-variable information that was requested or required by DEQ to be included in the initial application as supplemental information, or any required data or documentation listed in the pathway's operating conditions;

(H) Any additional information requested by DEQ after its review of the annual fuel pathway report; and

(I) If the verified operational CI as calculated from the operational data covering the prior two calendar years of production is found to be lower than the certified CI, and a positive verification statement is issued for this period, the fuel pathway holder may elect to keep the original certified CI or may request to replace the certified CI with the verified operational CI. The new certified CI will take effect for the following reporting year. DEQ may elect to make the new certified CI a provisional pathway if it determines that the fuel production facility or fuel pathway has undergone a significant modification from its original certification, or is a novel fuel or fuel pathway from that facility. The fuel pathway holder may elect to add a margin of safety to the new certified CI. Prior to DEQ certifying the new pathways, the fuel pathway holder must submit an attestation that the new CI can be maintained through the next reporting period with the acknowledgement that exceeding the newly certified CI in subsequent annual reports or verifications is a violation of the requirements of this division. For a fuel pathway with a carbon capture and sequestration project, that margin of safety elected to be added by a fuel producer must be added on top of any required contribution of credits to the reserve account established under OAR 340-253-1060.

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

(h) Notwithstanding OAR 340-253-0670, DEQ may modify any approved fuel pathway CI or approval conditions upon receipt of a verification statement that shows that the verified operational CI is higher than the certified CI.

(i) Any applicant for a fuel pathway under this rule may include a margin of safety in its application which will increase its certified CI in order to account for potential process variability and to reduce the risk that it will violate this division by having its operational CI exceed its certified CI.

(j) In approving applications or adjusting certified CIs through an Annual Fuel Pathway Report for fuel producers that employ carbon capture and sequestration, DEQ may require the applicant to make a contribution of credits to the reserve account as described in OAR 340-253-1060.

(11) Completeness determination process. DEQ will follow the steps described in subsections (a) through (d) to determine whether a fuel pathway application is complete.

(a) For Tier 2 applications, DEQ will seek to determine whether the proposed modeling approach and application package is complete and valid within 1 month after receiving a application prior to releasing it for validation.

(b) If DEQ determines the proposal is complete, DEQ will notify the applicant in writing of the completeness determination.

(c) If DEQ determines the proposal is incomplete, DEQ will notify the applicant of the deficiencies. The applicant has 30 calendar days to address the deficiencies or DEQ will deny the application. Upon request, DEQ may grant an extension of up to 30 additional days.

(d) If the applicant submits supplemental information, DEQ will determine if the supplemental submittal is complete within 30 calendar days, or will notify the party and identify the continued deficiencies within that time. This process may repeat until the application is deemed complete or 180 calendar days have elapsed from the date that the applicant first submitted the application.

(12) Issuing additional substitute and temporary fuel pathway codes. For new fuels or new fuel blends being provided within Oregon, registered parties may request that DEQ issue additional fuel pathway codes that can be used in the same manner as those in Tables 8 or 9 (substitute or temporary fuel pathway codes) under OAR 340-253-8010. DEQ may approve such substitute or temporary fuel pathway codes if it concludes they are technically sound and supported by appropriate evidence. If any are approved, DEQ will post these additional fuel pathway codes in the Oregon Fuels Reporting System and on its public website for the Clean Fuels Program. All of the following requirements apply to such requests:

(a) Requests must be made in writing to DEQ.

(b) If DEQ concludes the proposed fuel pathway may be technically sound and supported by appropriate evidence, then it will post the proposed new substitute or temporary fuel pathway codes on its website and take comments for:

(A) 14 calendar days in the case of a substitute fuel pathway code; or

(B) 45 calendar days in the case of a temporary fuel pathway code.

(c) DEQ will consider any comments received, make any modifications, if necessary, and make a final decision on the proposed fuel pathway.

(d) If DEQ concludes the proposed fuel pathway is technically sound and supported by appropriate evidence, then DEQ may approve it and publish its final decision on its website.

(e) Any newly approved substitute or temporary fuel pathway code will be effective for use in the quarter in which it is approved.

(13) Measurement accuracy.

(a) All measurement devices that log or record data for use in a fuel pathway application must comply with the manufacturer-recommended calibration frequency and precision requirements. If manufacturer-recommendations are not provided, the measurement devices must be calibrated at least every six years.

(b) Requests to Postpone Calibration. For units and processes that operate continuously with infrequent outages, it may not be possible to meet manufacturer-recommended calibration deadlines for measurement devices as required under subsection (a). In such cases, the owner or operator may submit a written request to DEQ to postpone calibration or inspection until the next scheduled maintenance outage. Such postponements are subject to the procedures of paragraphs (A) through (C) below and must be documented in the monitoring plan required under OAR 340-253-0600.

(A) A written request for postponement must be submitted to DEQ not less than 30 calendar days before the required calibration, recalibration or inspection date. DEQ may request additional documentation to validate the operator's claim that the device meets the accuracy requirements of this section. The operator shall provide any additional documentation to DEQ within 14 calendar days of a request for documentation.

(B) The request under paragraph (B) must include:

(i) The date of the required calibration, recalibration, or inspection;

(ii) The date of the last calibration or inspection;

(iii) The date of the most recent field accuracy assessment, if applicable;

(iv) The results of the most recent field accuracy assessment, if applicable, clearly indicating a pass/fail status;

(v) The proposed date for the next field accuracy assessment, if applicable;

(vi) The proposed date for calibration, recalibration, or inspection which must be during the time period of the next scheduled shutdown. If the next shutdown will not occur within three years, this must be noted and a new request must be received every three years until the shutdown occurs and the calibration, recalibration or inspection is completed;

(vii) A description of the meter or other device, including at a minimum the: make, model, installation date, location, parameter measured by the meter or other device, the rate of data capture by the meter or other device, description of how data from the meter or other device is used in a fuel pathway, calibration or inspection procedure, reason for delaying the calibration or inspection, proposed method to ensure that the precision requirements listed by the manufacturer are upheld, and the contact details for an individual at the fuel production facility who can answer questions about the meter or other device; and

(C) DEQ will approve or deny the request at its discretion based on whether or not it concludes that the device's calibration is reasonably reliable.

(14) Missing Data Provisions.

(a) Meter Record, Accuracy, or Calibration Requirements Not Met. If a measurement device is not functional, not calibrated within the time period recommended by the manufacturer, or fails a field accuracy assessment, the fuel production facility operator must otherwise demonstrate to a verifier or DEQ that the reported data are accurate within +/-5 percent. The following requirements apply to such demonstration:

(A) If the operator can demonstrate to the verifier or DEQ that reported data are accurate, the data are acceptable. The entity must then provide a detailed plan describing when the measurement device will be brought into calibration. This plan is subject to approval by DEQ; and

(B) If the operator cannot demonstrate to the verifier or DEQ that reported data are accurate, the data is not acceptable and the missing data provisions in subsection (b) apply.

(b) Missing Data Provisions. If missing data exists, the entity must submit for DEQ approval an alternate method of reporting the missing data. Alternate methods shall be evaluated on a case-by-case basis for reasonableness and continuity with the rest of the dataset. DEQ may choose to require a more conservative approach to the missing data if it is concerned that the alternative method may understate actual lifecycle emissions associated with the fuel or fuels produced by the facility.

(c) Force Majeure Events. In the event of a facility shutdown or disruption drastically affecting production attributable to a force majeure event, the fuel pathway applicant or holder must notify DEQ.

(15) Biomethane applications. In addition to the other requirements of this division, for any fuel pathway where biomethane is being injected into a natural gas common carrier pipeline to be reported in the CFP using book and claim accounting, the fuel pathway holder, fuel producer, or both must ensure that no other party can make a claim on the specific biomethane attributes that are being used in the CFP. If the biomethane is being injected into the pipe of a local distribution company, the fuel producer must have an agreement with that company along with any other purchaser of the physical gas that they will not make any claims on the biomethane reported through book and claim in this program. That agreement must be submitted at the time of the fuel pathway application or in the next annual fuel pathway report if the fuel pathway is currently certified.

(16) For non-provisional pathways, if a fuel pathway's operational CI is found to be greater than its certified CI, the fuel pathway holder is out of compliance with this division and may be subject to investigation and enforcement by DEQ.

(17) ~~Transition from OR-GREET 3.0 to OR-GREET 4.0.~~

~~(~~**Requesting** a~~) 2025 and 2026~~ **Margin of Safety outside of a fuel pathway application or** Annual Fuel Pathway ~~Reports. In addition to all the materials required to be submitted for the Annual~~**Report.** Fuel ~~Pathway report due in 2025 and 2026 under OAR 340-253-0400(9)(f), all fuel pathway holders must submit filled out copies of both the applicable OR-GREET 3.0 and OR-GREET 4.0 calculators for their fuel production facility, or the CA-GREET equivalent for recertification pathways. If the~~ **producers may request to add an additional margin of safety at any time to an already-certified** fuel pathway ~~holder is required to go through verification, they must have their verifier review and confirm the data in both calculators.~~

~~(b) All OR-GREET 3.0 fuel pathway codes may no longer be used for~~**once per** reporting ~~as of January 1, 2026, unless the purpose of that reporting is to re-assign~~ **year.**

(a ~~quantity of~~) **The** fuel ~~from the 3.0~~**producer must submit a request in writing via email to add a margin of safety. That request must include:**

(A) The affected fuel pathway code ~~to the 4.0~~**or codes and their currently certified CI values, including identifying any existing margins of safety added to them;**

(B) A detailed description of what is causing the producer to submit this request, including information on what is changing in the fuel pathway or pathways that is causing them to be concerned that they will exceed their certified CI value or values;

(C) The proposed additional margin of safety for each fuel pathway code~~, where that quantity of fuel is in existing storage or transit in the state as~~ **the producer is requesting the change for, and the quarter in which the producer wishes them to take effect. DEQ will only consider making an additional margin** of ~~midnight on December 31, 2025.~~**safety effective in an open reporting period if the request is submitted in the first 45 days of that reporting period, otherwise the request will be considered for the next reporting period.**

(b) DEQ will review such requests and may request additional information from the fuel producer or a joint applicant(s) prior to making a decision. The DEQ may deny a request if it is incomplete or insufficiently detailed, or request that the fuel producer revise a request if feels the proposed margins of safety are insufficient to guard against the likelihood of the producer exceeding the certified CI values. If DEQ agrees that a margin of safety should be added, it may approve the request and issue new fuel pathway codes with the additional margins of safety added.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
History:
DEQ 2-2025, amend filed 01/09/2025, effective 01/09/2025
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0460
Energy Economy ~~Ratio-Adjusted carbon intensity applications~~Ratios

(1) EER-adjusted CI Applications submitted under this rule are modified Tier 2 pathway applications under OAR 340-253-0450. The vehicles covered by these applications must not be currently covered by a vehicle-category specific EER.

(2) The following persons are eligible to submit an application under this rule:

(a) Vehicle owners or operators that would be eligible to generate credits for their vehicles based in Oregon, including for vehicles otherwise exempt from this program under OAR 340-253-0250, subject to section (7);

(b) Manufacturers of vehicles that would be eligible to generate credits may make a joint application with an owner or operator of their vehicles based in Oregon; and

(c) A single, joint application may be submitted on behalf of, and combining data from, any combination of multiple vehicle owners, operators, and manufacturers except that at least one of the applicants must qualify under subsection (a).

(3) Applications made under this rule must be for electric vehicles capable of full normal operation using energy from onboard batteries or fuel cells.

(4) Application requirements for an EER-adjusted CI under this rule. Applications can be made in connection with a Tier 1 or Tier 2 electricity or hydrogen fuel pathway application, or the applicant can apply for a value that can be used in conjunction with one of the generally available or already-approved electricity or hydrogen fuel pathway codes. In addition to the application requirements for a Tier 2 pathway application under OAR 340-253-0450, the applicant or applicants must include:

(a) A letter of intent to request an EER-adjusted CI and why the EER values provided in OAR 340-253-8010 are inapplicable. The letter must demonstrate using data that electricity is not the majority of the fuel currently used in the particular vehicle category;

(b) A detailed description of the methodology used in its calculations, all assumptions made, and provide all data and references to calculations. The methodology used must compare the useful output from the alternative fuel-vehicle technology under consideration to comparable conventional fuel-vehicle technology;

(c) Supplemental information including records and datasets used to establish any part of the application provided under (b); and

(d) If the applicant or applicants plan to use a value in the lookup table in OAR 340-253-8010 for the carbon intensity of the fuel, or an electricity fuel pathway code issued under OAR 340-253-0470, to request an EER-adjusted CI then they do not need to provide the fuel facility-specific information required for a Tier 1 or Tier 2 fuel pathway application under OAR 340-253-0450(3)(e) through (h) and (5).

(5) Minimum data requirements to apply for an EER-adjusted CI under this rule:

(a) Any application made under this rule must include at least three months of operating data that represents typical usage for each individual vehicle included in the application, except that the application must cover at least 300 hours of operating data for each individual vehicle included in the application; and

(b) Notwithstanding subsection (a), an application from a manufacturer may provide data from duty-cycle testing. A manufacturer seeking to apply using duty-cycle testing data must consult with DEQ prior to submitting an application and receive written, advanced approval from the

agency for the duration and test cycles it is including in the application in addition to or in lieu of operational data.

(6) Application review process to apply for an EER-adjusted CI under this rule:

(a) DEQ will review an application for completeness, soundness of the assumptions and comparison to the conventional fuel technology, and accuracy of the data. DEQ may deny an application without prejudice if it is incomplete. DEQ may deny any application that it believes is adequately covered by an existing EER value in OAR 340-253-8010 or that it believes does not fit the intent and purpose of the CFP;

(b) DEQ may prioritize its review of applications under this provision to those that cover a greater number of entities or that the agency believes are critical to the state's transportation electrification goals;

(c) If DEQ intends to approve an application, it first must present a review report with a proposed EER value and operating conditions to the applicant or applicants. If the applicant or applicants accept the proposed review report and EER value and operating conditions, DEQ will post the review report and application on its website for a 30-day public comment period. DEQ staff will work with the applicant to aggregate and summarize any submitted data in order to ameliorate concerns regarding trade secrets included in the application. The aggregated data must still allow external stakeholders to understand and replicate the EER value that DEQ is proposing to approve; and

(d) Based on comments received during that public comment period, DEQ may move forward with approving the application as provided in section (7), deny the application, request additional information from the applicant or applicants, or modify the review report. If DEQ modifies the review report or receives additional information that has a material bearing on the proposed EER value, it will issue the modified review report and any affected supplemental materials for another round of public comment.

(7) Based on its review of the application materials and any comments submitted upon the application under section (6), DEQ may issue an EER-adjusted CI or issue a value that it would post on its website that could be used similarly to the EER values contained in Table 7 of OAR 340-253-8010. Values issued under this rule can only be used by the applicant or applicants for that value. In its consideration of these applications, DEQ may, at its sole and complete discretion, deny applications for vehicles otherwise exempt under OAR 340-253-0250 if DEQ determines granting such an application is not in the best interests of program administration and goals.

(8) Adding Joint Applicants after a value is approved. If DEQ has issued a value under section (7) as part of an application that includes the manufacturer of the vehicle(s), owners or operators who begin to operate the same vehicle(s) covered in that application in Oregon may request to be added as a joint applicant. In order to do so they must provide the following:

(a) A letter from at least one of the applicants that qualify under either subsection (2)(a) or (2)(b);

(b) A statement by the new joint applicant that they understand and accept any and all operating conditions associated with the EER-adjusted CI; and

(c) Any current operational data by the new joint applicant, or other elements requested by DEQ.

(9) Ongoing reporting requirements.

(a) For any EER-adjusted CI approved by DEQ under section (7), the applicant for such approval must annually submit vehicle usage and energy consumption data for each individual vehicle using the value approved by DEQ to generate credits or deficits. DEQ may specify additional data elements that must be reported annually as part of its pathway conditions for an application that is approved under this rule.

(b) Notwithstanding the applicability requirements of OAR chapter 340, division 272, for any EER-adjusted CI approved by DEQ under section (7), DEQ may require third party verification of the annual fuel pathway report submitted by the applicant or joint applicants for such approval. If DEQ determines that third party verification is required, DEQ will include that as an operating condition presented to the applicant or applicants under this rule as part of its approval of the EER value.

(10) Modifications to EER values issued under this rule. Based on the ongoing reported data required under section (9) or additional applications for vehicles that DEQ determines to be in the same category, DEQ may modify any EER values issued under this provision for reporting beginning within the next full calendar quarter following its notice that the agency is modifying the value. DEQ will provide notice to the applicant(s) for such EER value prior to doing so and may request comment from them and the public prior to modifying the value.

(11) Light Duty Electric Vehicle EERs. Starting in 2029 for the 2030 reporting year, DEQ will recalculate the EER value for light duty electric vehicles using the best data that it has available to it for the energy efficiency of the Oregon fleet and using that data to compare the energy efficiency of electric and conventional light duty vehicles. DEQ will post the updated EER value by December 31, 2029 on its website for use in reporting light duty electric vehicle charging in 2030 and 2031. Every other year thereafter, DEQ will conduct a review of the fleet efficiency data every other year and publish the results of that review by December 31, including if it is updating the light duty electric vehicle EER value for the following two reporting years.

Statutory/Other Authority: ORS 468.020, ORS 468A.266, ORS 468A.268 & ORS 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
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DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, adopt filed 03/26/2021, effective 03/26/2021

340-253-0470
Determining the Carbon Intensity of Electricity

(1) Statewide electricity mix. The carbon intensity for the statewide electricity mix will reflect the average carbon intensity of electricity served in Oregon and be calculated by using the carbon-intensity of electricity from the most recent year as submitted to DEQ under OAR chapter 340, division 215. In calculating the statewide mix DEQ will exclude the energy and emissions related

to utilities that have received utility-specific carbon intensity values under section (3) of this rule for that year. No later than December 31 of each year DEQ will:

(a) Post the updated statewide electricity mix carbon intensity for the next year on the DEQ webpage;

(b) Post the updated utility-specific carbon intensities for the next year on the DEQ webpage; and

(c) Add the new fuel pathway codes to the Oregon Fuels Reporting System effective for the first quarter reporting for the next year.

~~(2) Retirement of major fossil-fuel generators. For the 2021 and 2022 statewide mixes and any applicable utility-specific mixes, DEQ will replace the direct emissions associated with power from the Boardman coal-fired power plant with an emissions rate of 0.428 metric tons CO2e per megawatt-hour. For indirect emissions, DEQ will continue to use the most recent fuel mix data available.~~

~~(3~~**(2)** Utility-specific carbon intensity. An electric utility may apply to obtain a utility-specific carbon intensity under OAR 340-253-0400 that reflects the average carbon intensity of electricity served in that utility district.

(a) The carbon intensity will be calculated by using the carbon intensity of electricity over the most recently reported year.

(b) Once DEQ has calculated a utility-specific carbon intensity, DEQ will propose its draft carbon intensity to the utility.

(A) If the utility does not agree with DEQ's proposed carbon intensity, then it must provide DEQ with an explanation of why it believes the proposed carbon intensity is not accurate within seven calendar days of receiving DEQ's proposal. DEQ will consider whether to change its proposed carbon intensity based on the information it receives from the utility. If DEQ determines not to change it proposed carbon intensity within 30 calendar days, then the utility may choose to accept the proposed carbon intensity or use the statewide electricity mix carbon intensity.

(B) If the utility agrees with DEQ's proposed carbon intensity, then the draft carbon intensity is made final and approved.

(C) If the utility fails to submit a timely objection to the calculation, then the draft carbon intensity is made final and approved.

(c) A utility that wants to discontinue a utility-specific carbon intensity may submit a written request to DEQ by October 31 for the following year. A utility can reapply for a utility-specific carbon intensity at any time in the future.

(~~4~~**3**) For on-site generation of electricity using renewable generation systems such as solar or wind, applicants must document that:

(a) The renewable generation system is on-site or directly connected to the electric vehicle chargers;

(b) The fuel pathway codes listed in Table 3 under OAR 340-253-8010 for solar-generated or wind-generated electricity can only be used for the portion of the electricity dispensed from the charger that is generated by that dedicated renewable energy system;

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

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

(~~5~~**4**) Offsite renewable electricity. In order to lower the carbon intensity of electricity claimed as a fuel in the CFP, credit generators and aggregators may retire renewable electricity certificates that meet the following qualifications:

(a) RECs retired in order to claim a carbon intensity other than the statewide mix or utility-specific mix must **either** be certified by the Green-e Program under the Green-e Renewable Energy Standard for Canada and the United States version 4.3~~,~~ or by a certification system approved by DEQ as being substantially equivalent, **or be third-party verified under the rules of OAR 340-272;** and:

(A) Unbundled RECs being used to claim low-carbon electricity through book and claim accounting must be certified at the wholesale level; and

(B) RECs used in a power purchase agreement or Utility Renewable Electricity Product may be certified at the retail level;

(b) RECs must be generated by an electric generator that was placed into service after 2015, or in the case of biogas generators they must meet the new date requirements of the Green-e Standard;

(c) RECs must be generated from facilities located in the Western Electricity Coordinating Council **region**; and

(d) RECs must be recorded and retired in a recognized REC tracking system, and:

(A) In addition to recognizing the WREGIS, DEQ may recognize additional REC tracking systems upon a request from a registered party; and

(B) In reviewing a request from a registered party referenced in paragraph (A), DEQ may consider whether the tracking system is comparable to WREGIS and whether it has systems in place to ensure accurate issuance and tracking of RECs.

~~(6~~**(e) RECs eligible for review under Third-Party Verification. In addition to the qualifications in (a), RECs being submitted in quarterly reports where the registered party is opting to submit them for verification according to this division and Chapter 340, division 272 must:**

(A) Be reasonably certain to be free of multiple claims on the carbon attributes of that power, except that it is permissible for a utility to use RECs where that utility has reported the underlying power for those RECs to the program in OAR chapter 340, division 215. If the underlying power has been sold into an organized power market, the

generator or marketer must be able to show that it was designated for delivery outside of greenhouse gas compliance zones.

(B) Be from a generator in a state that has a clean electricity policy, a cap-and-invest program, or other carbon policy recognized by DEQ as potentially creating double-counting concerns. Generators in another state that are under contract to deliver power to an Oregon utility, or that are included in a Oregon Public Utility Commission-approved cost allocation for a multi-jurisdiction utility that operates in Oregon, also qualify for this provision as long as documentation can be provided to the verifier that their power and RECs were conveyed to the Oregon utility. DEQ will maintain a list of such states on its website.

(C) In addition to the REC retirement requirements in (d), RECs using this third party verification path must be accompanied by a signed attestation from the electricity generator stating the following:

"These RECs are not sourced from an electricity generator that is under a power contract that conveys the resource's environmental attributes to, or that supports a specified clean-energy import claim in, a greenhouse gas compliance zone such as those in California and Washington.

These RECs and their associated underlying power have not been and will not be used for compliance under another jurisdiction's carbon emissions or clean energy regulatory program. Nor have they been claimed under a separate voluntary instrument or agreement that conveys the ability to claim the carbon or renewable attributes of the RECs and their associated underlying power.

By signing this letter, [insert name of renewable electricity generator] accepts responsibility for the information herein. I certify under penalty of perjury under the laws of the State of Oregon that I have personally examined, and am familiar with, the statements and information in this document. I certify that the statements and information are true, accurate, and complete."

(D) Vintage requirement. The RECs must be generated from power delivered to the grid during the current reporting year, or the second half of the prior year or the first three months of the next year.

(E) If a REC or RECs are found to be invalid during third-party verification, the registered entity may request to replace them with RECs that meet the requirements of this division so long as such requests are made more than two weeks prior to the due date for the verification statement. (5) Carbon intensity of renewable electricity.

(a) The carbon intensity of solar, wind, hydropower, and ocean power renewable electricity is deemed to be zero.

(b) For renewable electricity generated from biomass, biogas, biodiesel, geothermal, and hydrogen, the generator must file a Tier 1 or Tier 2 fuel pathway application to determine the carbon intensity of its electricity following the process in OAR 340-253-0400 and -0450.

(c) DEQ shall adopt an efficiency adjustment factor for biogas to electricity pathways that include emissions reduction credits in order to maintain the program's incentive for energy efficiency.

(~~7~~6) Utility Renewable Electricity Products and Power Purchase Agreements. Electric utilities and Electric Service Suppliers may apply for DEQ to assign a carbon intensity to one or more of their renewable electricity products or a specific power purchase agreement, which may then be used to generate credits from charging electric vehicles attributable to the use of such products or agreements. All of the following requirements apply to such applications:

(a) Applications made under this section must include:

(A) A letter describing the power purchase agreement or Utility Renewable Electricity Product, the existing or planned source, or sources, of electricity and environmental attributes, and the terms by which it is being offered to customers;

(B) Samples or examples of bills, invoices, contracts, or other documentation that an entity claiming renewable energy under this product could provide to DEQ to prove that their electric vehicle charging is covered by the product or agreement;

(C) In the case of a Utility Renewable Electricity Product, any filings with, and orders by, the Oregon Public Utility Commission or a local governing board that approves the product; and

(D) An estimate of the amount of electric vehicle charging attributable to customers for the product or agreement.

(b) DEQ will review applications under this section to determine if they result in a substantially similar environmental outcome to the sources of renewable energy required under section (5) of this rule. In reviewing a utility product or agreement that contains multiple sources of power, DEQ may use the estimate under paragraph (a)(C) of this section to determine if sufficient renewable energy that is substantially similar to the requirements of section (5) is included in the product to cover charging that may be claimed under the CFP. DEQ may revisit this determination annually using the annual fuel pathway report for these products or agreements.

(c) Annual Report for renewable electricity products and agreements. If DEQ has approved an application under this section then, the applicant must submit a report annually by June 30 for pathways covered by this section that includes:

(A) An update of the source(s) of electricity or environmental attributes that were used in the prior year and are planned for use in the year in which the report is submitted;

(B) Retirement records for any RECs used to lower the claimed carbon intensity of the electricity being used by customers of those products approved for use in the CFP for the prior year;

(C) If the product is certified by the Green-e Program, proof of completion of final verification of the product must be included, or a validation statement if the product is undergoing the program's Customer Procurement Review;

(D) An update the estimate of the amount of electric vehicle charging attributable to customers using the products or agreements; and

(E) Annual reports required by this section are due by June 30 of each year.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
History:
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DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-0500
Registration

(1) Registering as a regulated party, credit generator, aggregator, or an out-of-state producer voluntarily registering under 340-253-0100(1)(c).

(a) To register as a regulated party, credit generator, aggregator, or an out-of-state producer voluntarily registering under 340-253-0100(1)(c), the following information must be included in a registration application and approved by DEQ:

(A) Company identification, including physical and mailing addresses, phone numbers, e-mail addresses, contact names, EPA RFS identification numbers where applicable, and the Oregon Secretary of State Corporations Division business registry number where applicable;

(B) The status of the registrant as a producer, importer of blendstocks, small importer of finished fuels, large importer of finished fuels, credit generator, or aggregator;

(C) The category of each fuel that the company or organization will be producing, importing, or dispensing for use in Oregon;

(D) A list of all related entities for the registrant, and any registered parties that share common ownership or control;

(E) For registrants dispensing natural gas, propane, or hydrogen, using FSE, the number of dispensing facilities located in Oregon and their locations;

(F) For registrants charging electric vehicles using FSE, the number of chargers located in Oregon and their locations;

(G) For registrants that are also electric utilities, whether they want to:

(i) Aggregate the residential electric credits in their service territory under OAR 340-253-0330(2) or (3); or

(ii) Obtain a utility-specific carbon intensity under OAR 340-253-0470;

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

(b) After DEQ approves the registration application, the regulated party, credit generator, or aggregator must establish an account in the OFRS and fill out an Account Administrator Designation form.

(c) Modifications to the registration.

(A) The registrant must submit an amended registration to DEQ within 30 days of any change occurring to information described in section (1).

(B) DEQ may require a registrant to submit an amended registration based on new information DEQ receives.

(C) If a registrant amends its registration under this section, the registrant must also update the registrant's account in the OFRS to accurately reflect the amended information, as appropriate.

(d) Cancellation of the registration.

(A) A regulated party, credit generator, or aggregator must cancel its registration if it is:

(i) A regulated party that no longer meets the applicability of the program under OAR 340-253-0100(1); or

(ii) A credit generator or aggregator that is registered and reporting to the CFP and decides to voluntarily opt-out of the CFP. The credit generator or aggregator must provide a 90-day notice of intent to opt out of the CFP by letter and a proposed effective date for the completion of the opt-out process.

(B) A regulated party, credit generator, or aggregator that is canceling its registration under this section must submit any outstanding quarterly and annual reports and be in full compliance with the program's standards. Any party canceling its registration will not be allowed to do so until they comply with any outstanding deficits on their account.

(C) Any credits that remain in an account of a regulated party, credit generator or aggregator that is cancelling its registrations under this section shall be forfeited and the account in the OFRS shall be closed.

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

(e) Registered parties must submit to DEQ an updated version of the related entity form required in paragraph (1)(a)(D) within 30 days of any event that necessitates a change or update to that form, or on 30 April of each year.

(2) Registering as a fuel producer.

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

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

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

(b) DEQ will review the registration application for completeness and validity.

(c) Upon registration approval by DEQ, the fuel producer must establish an account in the AFP portion of the OFRS and comply with the requirements of this division and any conditions placed upon the fuel pathway codes that it holds.

(3) Registering FSE and certain vehicles. Credit generators and aggregators reporting on behalf of credit generators for use of electricity, hydrogen, alternative jet fuel, and fossil and bio-based or renewable LPG, CNG, and LNG, must register their fuel supply equipment (FSE), certain vehicles, or both, to report fuel volumes used, as provided in section (5). An FSE registration is not valid until approved by DEQ.

(4) DEQ will not review or approve FSE and vehicle registrations submitted in the second 45 days of a calendar quarter until the following quarter.

(5) Fuel Supply Equipment. **Each piece of fuel supply equipment may only be registered by a single registered party.** Registered parties may register their active and operational FSE, vehicles, or both to report fueling of vehicles with electricity, natural gas, renewable natural gas, propane, renewable propane, or hydrogen as follows:

(a) To register FSE and vehicles the following must be provided in OFRS:

(A) The entity registering the FSE and vehicles and, if they have been designated as an aggregator, the entity that designated them;

(B) The location of the FSE, including the name of the facility, the address, and latitude and longitude;

(C) For CNG fueling equipment, the utility meter number for a CNG station and an invoice from utility demonstrating fuel delivery to the site or FSE;

(D) For LNG fueling equipment, the fueling station identification number and the owner of the station, as well as the type of station and an invoice demonstrating fuel delivery to the site or FSE;

(E) For propane fueling equipment, the fueling station identification number and the fueling station owner, and an invoice or other documentation demonstrating service to the site or FSE;

(F) For hydrogen fueling equipment, the fueling station identification number, and an invoice or other documentation demonstrating service to the site or FSE; and~~;~~

(G) For electrical fuel equipment, the type of charger, the **hardware** serial number of the fueling equipment, the manufacturer of the fueling equipment, and documentation that the electrical fueling equipment being registered is active and operational~~;~~**. DEQ may designate an alternative to the hardware serial number for certain types of chargers where a different serial number would better guard against the risk of chargers being registered twice upon request from the charger OEM or EVSE.**

(b) To register off-road electrical and hydrogen vehicles or their fueling equipment, the registered party must provide the following information:

(A) The quarter and year of the registration;

(B) The address where the vehicle or FSE is based;

(C) The category of FSE;

(D) The type of equipment or vehicle;

(E) The name of the equipment manufacturer;

(F) The unique serial number assigned to by the manufacturer;

(G) The model year;

(H) The vehicle identification number, if applicable;

(I) The date that the information being submitted was collected or last updated; and

(J) Any other information that DEQ requests in order to reduce the likelihood of multiple entities registering the same equipment or reporting the same quantity of fuel, or to ensure that the correct fuel application and energy economy ratio is being used when credits or deficits are being calculated. Information must be provided to DEQ within 14 calendar days of such a request, or the registration will be rejected;

(c) DEQ may request additional documentation or evidence prior to approving a registration of FSE, and DEQ may deny the registration if the applicant fails to provide the requested documentation or evidence within 7 calendar days or another deadline set by DEQ;

(d) For electric vehicle chargers on a single dedicated circuit or panel, a single meter for that circuit or panel may be registered and used as the FSE so long as the registered party can prove that no other electrical equipment is or will be connected to that circuit, so the meter is only recording EV charging. The chargers on that circuit must also be registered with the program to prevent potential double-counting; and

(e) Registrations will only be processed for active and operational FSE or vehicles. Registered parties must inform DEQ if registered FSE or vehicles are replaced or retired, or if they have a maintenance outage that last for more than 90 days. Registered parties must note any maintenance outages in the FSE transaction description of each quarterly report.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
History:
DEQ 2-2025, amend filed 01/09/2025, effective 01/09/2025
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14
DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0600
Records

(1) Records Retention. Registered parties must retain the following records for at least seven years:

(a) Product transfer documents as described in section (2);

(b) Records related to obtaining a carbon intensity or other value described in OAR 340-253-0450, OAR 340-253-0460, and OAR 340-253-0470;

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

(d) Records related to each fuel transaction;

(e) Records used for compliance or credit calculations;

(f) Records used to establish that feedstocks are specified source feedstocks; and

(g) Records related to third-party verification, if required under OAR 340-253-0700.

(2) Documenting Fuel Transactions.

(a) Except as provided in subsection (b), fuel transactions must be documented through a product transfer document and include the information specified below:

(A) Transferor company name, address, and contact information;

(B) Recipient company name, address, and contact information;

(C) Transaction date;

(D) Fuel pathway code;

(E) Carbon intensity;

(F) Volume/amount;

(G) A statement identifying whether the transferor or the recipient has the compliance obligation;

(H) The EPA fuel production company identification number and facility identification number as registered with the RFS program; and

(I) The state where the fuel will be delivered, if known at the time of sale. If unknown, then the PTD must state the destination as unknown.

(b) For transactions of clear and blended gasoline and diesel below the rack where the fuel is not destined for export, only the records described in paragraphs (2)(a)(A), (B), (C), (F), and (G) are required to be retained.

(3) Documenting Credit Transactions. Registered parties must retain the following records related to all credit transactions for at least seven years:

(a) The contract under which the credits were transferred;

(b) Documentation on any other commodity trades or contracts between the two parties conducting the transfer that are related to the credit transfer in any way; and

(c) Any other records relating to the credit transaction, including the records of all related financial transactions.

(4) Review by DEQ. All data, records, and calculations used by a registered party, a fuel producer, or fuel pathway holder registered under OAR 340-253-0500(2) to comply with OAR

chapter 340, division 253 are subject to inspection and verification by DEQ. Registered parties, fuel producers, and fuel pathway holders must provide records retained under this rule within 30 calendar days after the date DEQ requests a review of the records, unless DEQ specifies otherwise.

(5) Information exempt from disclosure. Pursuant to the provisions of the Oregon public records law, ORS 192.410 to 192.505, all information submitted to DEQ is subject to inspection upon request by any person unless such information is determined to be exempt from disclosure under the Oregon public records law or other applicable Oregon law.

(6) Attestations regarding environmental attributes used for book and claim for renewable electricity, biomethane, or biogas.

(a) A registered party reporting any fuel claimed in the CFP using a book and claim accounting method must retire RTCs or RECs that embody the full environmental attributes of that fuel in an electronic tracking system approved by DEQ. The quantity of energy covered by the RTC or the REC must match or exceed the volume of fuel claimed in the CFP. The environmental attributes embodied by that RTC or REC must not have been used or claimed in any other program or jurisdiction with the exception of the federal RFS, any reporting required under OAR chapter 340, division 215, and the program under OAR chapter 340, division 273. To be validly used in compliance with this division, any such claims under the federal RFS or OAR chapter 340, divisions 215 and 273, must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP.

(b) A fuel pathway holder using directly delivered renewable electricity, biogas or biomethane as a process energy or feedstock must obtain and keep attestations from each upstream party collectively demonstrating that such holder has exclusive right to use those environmental attributes. The attestation must include documentation that shows:

(A) The entity claiming the environmental attributes for renewable electricity, biogas or biomethane in the CFP must have the exclusive right to claim the environmental attributes associated with the use of that fuel; and

(B) The environmental attributes have not been used or claimed in any other program or jurisdictions with the exception of the federal RFS and any reporting required under OAR chapter 340, divisions 215 and 273. To be validly used in compliance with this division, any such claims under the federal RFS or OAR chapter 340, divisions 215 and 273 must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP.

(c) Any attestation or retirement records for biogas, biomethane, and renewable electricity must be provided to DEQ within seven calendar days of receiving a request for such attestation by DEQ. Failure to provide such attestations is grounds for credit invalidation under OAR 340-253-0670.

(7) Monitoring plan for registered parties who are required to obtain third-party verification services under OAR 340-253-0700. Each registered party responsible for obtaining third-party verification of their data under OAR chapter 340, division 272 must complete and retain a written monitoring plan for review by a verifier or DEQ. If a fuel production facility is required to complete and maintain a monitoring plan by CARB, the same monitoring plan may be used to

meet the requirements of this rule unless there are substantive differences between the two programs' treatment of the fuel production process. A monitoring plan must include the following, as applicable:

(a) All of the following general items are required for all monitoring plans:

(A) Information to allow DEQ and the verification team to develop a general understanding of boundaries and operations relevant to the entity, facility, or project, including participation in other markets and other third-party audit programs;

(B) Reference to management policies or practices applicable to reporting pursuant to this division, including recordkeeping;

(C) Explanation of the processes and methods used to collect necessary data for reporting pursuant to this division, including identification of changes made after January 1, 2020;

(D) Explanations and queries of source data to compile summary reports of intermediate and final data necessary for reporting pursuant to this division;

(E) Reference to one or more simplified block diagrams that provide a clear visual representation of the relative locations and positions of measurement devices and sampling locations, as applicable, required for calculating reported data (e.g., temperature, total pressure, LHV or HHV, fuel consumption); the diagram(s) must include storage tanks for raw material, intermediate products, and finished products, fuel sources, combustion units, and production processes, as applicable;

(F) Clear identification of all measurement devices supplying data necessary for reporting pursuant to this division, including identification of low flow cutoffs as applicable, with descriptions of how data from measurement devices are incorporated into the submitted report;

(G) Descriptions of measurement devices used to report CFP data and how acceptable accuracy is demonstrated, e.g., installation, maintenance, and calibration method and frequency for internal meters and financial transaction meters; this provision does not apply to data reported in the Oregon Fuels Reporting System for generating credits for EV charging;

(H) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems, flow meters, and other instrumentation used to provide data for CFP reports;

(I) Original equipment manufacturer (OEM) documentation or other documentation that identifies instrument accuracy and required maintenance and calibration requirements for all measurement devices used to collect necessary data for reporting pursuant to this division;

(J) The dates of measurement device calibration or inspection, and the dates of the next required calibration or inspection;

(K) Requests for postponement of calibrations or inspections of internal meters and subsequent approvals by DEQ. The entity must demonstrate that the accuracy of the measured data will be maintained pursuant to the measurement accuracy requirements of OAR 340-253-0450(13);

(L) A listing of the equation(s) used to calculate flows in mass, volume, or energy units of measurement, and equations from which any non-measured parameters are obtained, including meter software, and a description of the calculation of weighted average transport distance;

(M) Identification of job titles and training practices for key personnel involved in CFP data acquisition, monitoring, reporting, and report attestation, including reference to documented training procedures and training materials;

(N) Records of corrective and subsequent preventative actions taken to address verifier and DEQ findings of past nonconformance and material misstatements;

(O) Log of modifications to a fuel pathway report conducted after attestation in response to review by third-party verifier or DEQ staff;

(P) Written description of an internal audit program that includes data report review and documents ongoing efforts to improve the entity's CFP reporting practices and procedures, if such an internal audit program exists; and

(Q) Methodology used to allocate the produced fuel quantity to each fuel pathway code;

(b) Any monitoring plan related to a fuel pathway carbon intensity or reporting quantities of fuels must also include the following elements specific to fuel pathway carbon intensity calculations and produced quantities of fuels per fuel pathway code:

(A) Explanation of the processes and methods used to collect necessary data for fuel pathway application and annual fuel pathway reports and all site-specific OR-GREET 3.0 inputs, as well as references to source data;

(B) Description of steps taken, and calculations made to aggregate data into reporting categories, for example aggregation of quarterly fuel transactions per fuel pathway code;

(C) Methodology for assigning fuel volumes by fuel pathway code, if not using a method prescribed by DEQ. If using a DEQ prescribed methodology, the methodology should be referenced;

(D) Methodologies for testing conformance to specifications for feedstocks and produced fuels, particularly describing physical testing standards and processes;

(E) Description of procedure taken to ensure measurement devices are performing in accordance with the measurement accuracy requirements of OAR 340-253-0450(12);

(F) Methodology for monitoring and calculating weighted average feedstock transport distance and modes, including the specific documentation records that will be collected and retained on an ongoing basis;

(G) Methodology for monitoring and calculating fuel transport distance and modes, including the specific documentation records that will be collected and retained on an ongoing basis;

(H) References to contracts and accounting records that confirm fuel quantities were delivered into Oregon for use in carbon intensity determination, and confirm feedstock and finished fuel transportation distance; and

(I) All documentation required pursuant to OAR 340-253-0600(8) for specified source feedstocks, defined in OAR 340-253-0400(6); and

(c) The monitoring plan must also include documentation that can be used to justify transaction types reported for fuel in the Oregon Fuels Reporting System, including the production amount, sale/purchase agreements and final fuel dispensing records. Such documentation must be specific to quarterly fuel transactions reports for importers of blendstocks, importers of finished fuels, Oregon producers, credit generators, aggregators, and out-of-state producers.

(8) Feedstock Transfer Documents. A feedstock transfer document for specified source feedstocks must prominently state the following information:

(a) Transferor company name, address and contact information;

(b) Recipient company name, address and contact information;

(c) Type and amount of feedstock, including units; and

(d) Transaction date.

(9) Monitoring plans for entities voluntarily undergoing verification of RECs under [RULE CITE TKTKTKTK]. Each registered party voluntarily obtaining third-party verification of their RECs under OAR chapter 340, division 272 must complete and retain a written monitoring plan for review by a verifier or DEQ. If the registered entity is also required to undergo verification, the following may be included in the same monitoring plan as required under (7). The monitoring plan must include:

(a) A description of the processes and methods used to collect necessary data for reporting pursuant to this division, including identification of changes made after January 1, 2020;

(b) Descriptions of how the registered entity sources RECs and where retirement records and the required attestations from electric generators are kept by the registered entity. If the registered entity

(c) The location of any documentation outside of the attestations used to confirm the RECs and their underlying power have not had their carbon attributes claimed for voluntary purposes or a compliance program, except that an electric utility may use RECs where it has reported the underlying power to the program in OAR chapter 340, division 215.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
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DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2014, f. & cert. ef. 6-26-14
DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0640

Specific Requirements for Reporting Under this Division

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

(a) For CNG and L-CNG, the amount of fuel in therms dispensed per reporting period for all LDV and MDV, HDV-CIE, and HDV-SIE.

(b) For LNG, the amount of fuel dispensed in gallons per compliance period for all LDV and MDV, HDV-CIE, and HDV-SIE.

(c) For fossil CNG, L-CNG, and LNG, the carbon intensity as listed in "Table 4 – Oregon Carbon Intensity Lookup Table," under OAR 340-253-8010 or approved under OAR 340-253-0450.

(d) For biomethane-based CNG, LNG, and L-CNG, the carbon intensity as approved under OAR 340-253-0450 and the EPA production company identification number and facility identification number. In addition:

(A) If the biomethane-based volumes are being reported using a book-and-claim methodology, the registered party must submit records showing the retirement of RTCs representing the biomethane environmental attributes from that facility in M-RETS Renewable Thermal system or another approved and recognized tracking system with the quarterly report. The retirement records must show enough RTCs were retired to cover the volume of biomethane claimed as a fuel in the CFP and those certificates must be from the same biomethane production facility to which the fuel pathway code is assigned; and

(B) If biogas or biomethane is being used that is directly delivered to a vehicle and not injected into a pipeline, the registered party must provide the following attestation when it files file the quarterly report for the corresponding volume of biogas or biomethane claimed.

"I certify that to the extent that the gas used in the fuel pathway or supplied as a fuel is characterized as biogas or biomethane, _____ (registered party name) owns the exclusive rights to the corresponding environmental attributes. _____ (registered party name) has not sold, transferred, or retired those environmental attributes in any program or jurisdiction other than the federal RFS. Based on diligent inquiry and review of contracts and attestations from our business partners, I certify under penalty of perjury under the laws of the State of Oregon that no other party has or will sell, transfer, or retire the environmental attributes corresponding to the biomethane for which _____(registered party name) claims credit in the CFP program."

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

(a) The information specified for electricity in Table 5 under OAR 340-253-8010;

(b) For each public access charging facility, fleet charging facility, workplace private access charging facility, multi-family dwelling, or other on-road or off-road vehicle charging, the amount of electricity dispensed in kilowatt hours in that calendar quarter to vehicles by each registered and approved FSE;

(c) For each public transit agency, the amount of electricity dispensed to or consumed by vehicles used for public transportation in kilowatt hours in that calendar quarter. The report must:

(A) Separately report uses for light rail, streetcars, aerial trams, or electric transit buses; and

(B) For light rail, streetcars, and aerial trams, separately report electricity used in portions of their system placed in service before and after January 1, 2012;

(d) To claim a carbon intensity other than a statewide or utility-specific mix, or directly connected renewable power under the Lookup Table in OAR 340-253-8010, a registered party must:

(A) Submit documentation that qualifying RECs were retired in a recognized renewable electricity tracking system for the unique purpose of covering that specific charging at the same time as the submittal of the quarterly report; or

(B) Submit documentation at least annually that the electric vehicle chargers are covered by a Utility Renewable Electricity Product or a power purchase agreement that has been approved by DEQ for a carbon intensity. The carbon intensity assigned to the product or agreement can only be used for reporting if the electric vehicle chargers are covered by that same product or agreement for the time period which is being reported;

(e) Any entity that claims a carbon intensity using paragraph (2)(d)(A) must annually submit proof of completion of final verification or a validation statement from the Green-e Program for the RECs used to generate incremental credits. Failure to submit such proof is grounds for DEQ to invalidate any incremental credits issued to the entity under the procedures of OAR 340-253-0670;

(f) For entities reporting forklift charging, the amount of electricity dispensed to, or consumed by, forklifts, and separately reported for each registered and approved FSE. The report must separately report electricity used to charge forklifts built in or before model year 2015 and electricity used to charge forklifts built in model year 2016 and after; and

(g) For entities reporting electricity dispensed into electric vehicles or mobile equipment where the vehicle or equipment is registered as an FSE, the entity must annually attest at the time of the annual report that all electric charging reported to the CFP occurred in the state of Oregon. The following attestation must be used: “I certify that all electrical charging reported by _____ (registered party name) in ____ (year) occurred within the borders of the State of Oregon.”

(3) For renewable hydrocarbon diesel or gasoline co-processed at a petroleum refinery, any registered party must report the following information required under this division, as applicable:

(a) If the registered party is also the producer, then DEQ may require the registered party to report the ongoing information required under OAR 340-253-0450; and

(b) If the registered party is not the producer, and the producer has not met its obligations under OAR 340-253-0450, then DEQ may require the registered party to report the volume of fuel under a temporary fuel pathway code or the fuel pathway code for clear gasoline or diesel, as applicable.

(4) Temperature Correction. All liquid fuel volumes reported in the OFRS under this division must be adjusted to the standard temperature conditions of 60 degrees Fahrenheit (net gallons) as follows:

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

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

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

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

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

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

(5) Reporting transfers of regulated fuel between parties. In all reports under this division, all transfers of ownership of a regulated fuel above the rack and sales to below the rack by a position holder must be reported as documented in the product transfer documents. Transfers of ownership of a regulated fuel may be reported below the rack.

(6) All reporting of fuels transferred in and out of commingled storage under this division must comply with the following:

(a) For reporting liquid fuels that are being transferred in and out of a commingled storage tank or that are commingled in production or in transport, the reporting entity may mass balance transfers out of that commingled tank or system by fuel pathway code based on the gallons input into that tank or system in the current or prior quarter. Liquid gallons reported under a

specific fuel pathway code may only be reported as transferred out of commingled storage if they were put into a tank two or more quarters prior if the reporting entity demonstrates to DEQ that the tank has not fully turned over by the quarter it is reporting the volume being transferred out; and

(b) For biomethane injected into a common carrier pipeline, the biomethane may only be reported as being fueled into vehicles if it was injected in the current or prior quarter.

(7) Reporting Exempt Gallons. When a registered party is claiming an exemption for fuel sold to exempt fuel users as defined in OAR 340-253-0250, that registered party must use the exempt fuel transaction which covers that specific category of fuel user. The registered party must report the precise volume of fuel that was delivered to that exempt fuel user. For blended fuels, all components of the blended fuel must be reported as exempt.

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

(9) All reports of position holder transactions under this division must comply with the following:

(a) Registered parties that are position holders must report fuel sold below the rack;

(b) Registered parties that are position holders that sell fuel to entities not registered in the CFP may aggregate and report those sales in a single transaction using the “Undefined” business partner descriptor; and

(c) Registered parties that are position holders that sell fuel below the rack for export must identify each recipient of such fuel that is registered in the CFP.

(10) Reporting Below the Rack Exports. Purchasers of fuel from a position holder that is directly exported without modification must report such fuel, in all applicable reports under this division, using the “Purchase below the rack for export” transaction category. Such purchasers must also report a transaction for the same gallons using an “Export out of Oregon distribution system” transaction. They must also follow the methodology and notification requirements of OAR 340-215-0110(4)(a) and (b). In cases where the exporter is not a reporting entity, the position holder who sold those gallons to the exporter must use the “Export out of the Oregon Distribution System” transaction.

~~(11) Annual reporting of utility credit revenue. All electric utilities that receive base or incremental credits must annually report the following items to DEQ no later than April 30th. Failure to file such a report will result in the backstop aggregator or the incremental aggregator receiving credits for that utility until the utility files any past-due reports. Each utility must report the following information, for the prior calendar year:~~

~~(a) Total revenue from the sale of base and incremental credits attributable to residential vehicle charging, if applicable in the prior year;~~

~~(b) For entities whose revenue or expenditures exceed $250,000 in a given year, the percentages that result when dividing the utility's CFP-related administrative costs, including but not limited to submitting reports, selling credits, and to administer any programs that were funded by CFP revenue from the utility's sale of incremental credits, including but not limited to project management and development and management of contracts to operate such programs by the amount of revenue reported under subsection (a);~~

~~(c) A description of the programs that were funded by CFP revenue the utility received from its sale of base credits and the amount spent in each category in the prior year; and~~

~~(d) A description of the programs that were funded by CFP revenue from incremental credits, the amount spent in each category in the prior year, a description of the class of individuals or listing of organizations that benefited from the programs, and any other data elements that DEQ informs each utility receiving incremental credits that it will require following consultations with the Equity Advisory Committee created under OAR 340-253-0330(12)(j).~~

(12) Hydrogen reporting. Hydrogen reported using a lookup table value that includes biomethane as a feedstock must, in all applicable reports under this division, show that the biomethane or biogas is directly supplied to a hydrogen production facility or supplied via a common carrier pipeline through a book and claim methodology in order to claim biomethane-based hydrogen. If the biomethane is supplied by a book and claim methodology, retirement records for that biomethane must be provided from M-RETS Renewable Thermal Tracking system or another DEQ approved renewable thermal tracking system.

(13) Reporting blends of biodiesel, renewable diesel, and fossil diesel. In all applicable reports under this division, when blended, a mixture of biodiesel, renewable diesel, or fossil diesel must be reported according to its actual percentage mix as precisely as it is known by the reporting party. For example, if 100 gallons of a fuel that is labeled as containing 99% of one component and 1% of the other, then the volumes should be reported as 99 gallons of the first and 1 gallon of the second.

(14) Deadlines.

(a) In the case where a deadline for a quarterly report, annual compliance report, annual fuel pathway, or any other deadline for a requirement set by this program falls on a Saturday, Sunday, or State Holiday as defined by ORS 187.010, the requirements must be met no later than the next business day.

(b) Deadlines may be extended due to outages of DEQ's IT systems. If DEQ finds that the Oregon Fuels Reporting System or a successor system is partially or fully inaccessible, DEQ may extend the deadline for all affected parties to submit any report under the program, including but not limited to Quarterly Reports, Annual Reports, Annual Fuel Pathway Reports, and Verification Statements. The deadline would be extended to a date that gives reporting entities sufficient time to file their reporting after the IT system becomes operational again.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
History:

DEQ 2-2025, amend filed 01/09/2025, effective 01/09/2025
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

NEW RULE 340-235-0660

Utility residential credit revenue reporting and spending requirements

(1) Annual reporting of utility credit revenue. All electric utilities that receive base or incremental credits must annually report the following items to DEQ no later than April 30th. **Failure to file such a report will result in the backstop** aggregator receiving credits for that utility until the utility files any past-due reports. Each utility must report the following information, for the prior calendar year:

(a) Total revenue from the sale of base and incremental credits attributable to residential vehicle charging, if applicable in the prior year;

(b) For entities whose revenue or expenditures exceed $250,000 in a given year, the percentages that result when dividing the utility's CFP-related administrative costs, including but not limited to submitting reports, selling credits, and to administer any programs that were funded by CFP revenue from the utility's sale of incremental credits, including but not limited to project management and development and management of contracts to operate such programs by the amount of revenue reported under subsection (a);

(c) A description of the programs that were funded by CFP revenue the utility received from its sale of base and incremental credits and the amount spent in each category (including administrative costs) in the prior year; and

(e) For entities subject to the requirement in (2)(b), the percentage of that revenue that has been spent on consumer-focused incentives, and detailed narrative descriptions of those projects.

(2) All electric utilities receiving residential credits on behalf of the residents in their service territory must spend the revenue from selling those credits on transportation electrification and administrative costs associated with transportation electrification projects and programs in order to remain in good standing with the program.

(a) Transportation electrification projects and programs are defined here as those that directly support the electrification of the transportation sector, including but not limited to:

(A) Increasing the number of electric vehicles on the road through providing incentives to that utility's customers, ratepayers, or members;

(B) Supporting the electric grid in ways that have a direct connection to enable additional EV charging;

(C) Providing or supporting new EV charging equipment and access to public or workplace charging; and

(D) Engaging and educating businesses and communities about electric vehicles.

(b) All electric utilities whose revenue from residential credits exceeds $500,000 for two out of the last three calendar years as indicated in their reports submitted under (1) must budget to spend at least half of their residential credit revenue on direct incentives that support utility customers, ratepayers, and members purchasing EVs starting with their spending in 2028. A utility may request a one year delay of this requirement if they can show that additional time is needed to stand up these incentives. Those incentives must be available to residents of their service territories, such as individuals, small business, small commercial, or non-profit customers, and help them cover the cost of purchasing an EV, either through a vehicle rebate, rebates for home charging equipment, or rebates for customer-side electrical improvements needed to install level 2 chargers.(A) If a utility has not been able to spend all of its budgeted funds under (b) due to a lack of demand, it may submit a request to DEQ move the unspent funds to other transportation electrification work. Such a request must demonstrate that the utility has made a good faith effort to

(3) DEQ will use the reports received under (1) to determine if utilities' spending of proceeds from residential credits are in line with the requirements in (2)(a) and (b). DEQ may request additional information on projects or programs from utilities as part of its review of those reports.

(a) Starting with its review of the 2028 utility reports submitted in 2029, if DEQ determines that a utility has spent revenue from residential credits outside of what is allowed in (2), it will warn the utility.

(b) Starting with its review of the 2029 utility reports submitted in 2030 and for each year thereafter, if DEQ determines that a utility has spent a significant amount of revenue from residential credits outside of what is allowed in (2), it will inform the utility that it is no longer in good standing with the program and that the agency will re-assign its residential credits to the backstop aggregator for the year in which the review was completed and the next year.

(A) A utility may request to remain in good standing by submitting a plan for its spending in the next calendar year that meets the requirements in (b) to DEQ. If DEQ believes the plan is sufficient, it may allow the utility to remain in good standing.

(c) Any utility that has more than 500 credits in their account and does not monetize residential credits or spend revenue from credit sales for two consecutive years will be given a warning, and if it does not begin to use its residential credits in the next year they will lose their good standing and their current and future will be re-assigned to the backstop aggregator for two years.

340-253-1000

Credit and Deficit Basics

(1) Carbon intensities.

(a) Except as provided in subsections (b), (c), or (d), when calculating carbon intensities, registered parties must use the carbon intensity approved by DEQ under OAR 340-253-0450 for a given fuel.

(b) If a fuel pathway holder, which may be a registered party, has a provisional carbon intensity approved under OAR 340-253-0450 for a fuel, the registered parties reporting that fuel must use the DEQ-approved provisional carbon intensity.

(c) If a fuel pathway holder or a registered party has a temporary carbon intensity approved under OAR 340-253-0450 for a fuel, the party reporting that fuel must use the temporary carbon intensity for the period which it has been approved, unless DEQ has subsequently approved a permanent carbon intensity for that fuel.

(d) If a registered party purchases a blended finished fuel and the seller does not provide carbon intensity information, then the registered party must:

(A) Use the applicable substitute fuel pathway code in Table 8 under OAR 340-253-8010 or a fuel pathway code that has been otherwise approved and posted by DEQ under OAR 340-253-0450(12) if the fuel is exported, not used for transportation, or used in an exempt fuel use; and

(B) Report the volume using the applicable Table 8 fuel pathway code, or a fuel pathway code that has been otherwise approved and posted by DEQ under OAR 340-253-0450(12), for the fossil fuel and the applicable substitute fuel pathway code for the biofuel or biofuels if the finished fuel blend is not listed.

(2) Fuel quantities. Registered parties must express fuel quantities in the unit for each fuel according to the temperature correction requirements in OAR 340-253-0640(4) for liquid fuels, or according to accurate metering for all other fuels when they are dispensed into the vehicle or other qualifying equipment. If the fuel cannot be accurately metered at the point of dispensation, DEQ may approve an alternative methodology and all registered parties reporting in that circumstance must use that methodology.

(3) Compliance period. The annual compliance period under this division is January 1 through December 31 of each year.

(4) Metric tons of CO2 equivalent. In all reporting and transactions under this division, registered parties must express credits and deficits to the nearest whole metric ton of carbon dioxide equivalent.

(5) Deficit generation. Under this division:

(a) Deficits are generated at the time that a valid and accurate quarterly report is submitted in the OFRS;

(b) Deficits are generated for fuel that is produced, imported, or dispensed for use in Oregon, as applicable, and the carbon intensity of the fuel, as approved for use under OAR 340-253-0400 through -0470, is more than the clean fuel standard for gasoline and gasoline substitutes in Table 1 under OAR 340-253-8010**,** or for diesel fuel and diesel substitutes in Table 2 under **340-253-8010, or for electricity in Table 11 under OAR** 340-253-8010, as applicable;

(c) Each deficit is a separate denomination of the regulatory obligations of this program on the registered party; and

(d) Deficits may be generated by any registered party as a result of its reporting or assigned to a registered party by DEQ under OAR 340-253-0670.

(6) Credit generation. Under this division:

(a) Credits are generated at the time that a valid and accurate quarterly report is submitted in the OFRS;

(b) Credits are a regulatory instrument and do not constitute personal property, instruments, securities or any other form of property; and

(c) No credits may be generated or claimed for any transactions or activities occurring in a quarter for which the quarterly reporting deadline has passed, unless the credits are being generated for residential charging of electric vehicles, or for claiming incremental credits by a utility or the incremental aggregator, or for DEQ calculating any contribution of credits to the reserve account established under OAR 340-253-1060.

(7) Mandatory retirement of credits. All registered parties must comply with the clean fuels standards by retiring credits against any deficits they hold when filing the annual report at the end of a compliance period. Any registered party that possesses deficits on its annual report must retire a sufficient number of credits such that:

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

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

(c) Credit Retirement Hierarchy. The OFRS will use the following default hierarchy to retire credits for the purposes of meeting a compliance obligation:

(A) Credits acquired or generated in a previous compliance period will be retired prior to credits generated or acquired in the current compliance period;

(B) Credits with an earlier completed transfer "recorded date" will be retired prior to credits with a later completed transfer "recorded date;" and

(C) Credits generated in an earlier quarter will be retired prior to credits generated in a later quarter.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 - 468A.277
History:

DEQ 2-2025, amend filed 01/09/2025, effective 01/09/2025
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
DEQ 7-2021, amend filed 03/26/2021, effective 03/26/2021
DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1020

Calculating Credits and Deficits

(1) Except as provided in sections (2) and (3), credit and deficit generation must be calculated for all fuels included in OAR 340-253-1010:

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

(b) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 under OAR 340-253-8010;

(c) Calculating the adjusted energy in megajoules by multiplying the energy in megajoules from section (2) by the energy economy ratio of the fuel listed in Table 7 under OAR 340-253-8010 or as approved by DEQ under OAR 340-253-0460, as applicable;

(d) Calculating the carbon intensity difference by subtracting the fuel's carbon intensity as approved under OAR 340-253-0400 through -0470, adjusted for the fuel application's energy economy ratio as listed in Table 7 under OAR 340-253-8010 or as approved under OAR 340-253-0460 as applicable, from the clean fuel standard for gasoline or gasoline substitutes listed in Table 1 under OAR 340-253-8010**,** or diesel fuel and diesel substitutes listed in Table 2 under OAR 340-253-8010, or alternative jet fuel listed in ~~table 3~~**Table 3 under OAR 340-253-8010, or electricity as listed in Table 11** under OAR 340-253-8010, as applicable;

(e) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in megajoules in section (3) by the carbon intensity difference in section (4);

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

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

(2) Calculating credits for electricity used to power fixed guideway vehicles on track placed in service prior to 2012 and forklifts from model year 2015 and earlier. Credit generation must be calculated by:

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

(b) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 under OAR 340-253-8010;

(c) Calculating the carbon intensity difference by subtracting the fuel's carbon intensity as approved under OAR 340-253-0400 through -0470, adjusted for the fuel application's energy

economy ratio listed in Table 7 under OAR 340-253-8010 as applicable, from the clean fuel standard for gasoline or gasoline substitutes listed in Table 1 under OAR 340-253-8010 or diesel fuel and diesel substitutes listed in Table 2 under OAR 340-253-8010, as applicable;

(d) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in megajoules in section (3) by the carbon intensity difference in section (4);

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

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

(3) Calculating credits for electricity used in residential charging of electric vehicles. credit calculations must be based on the total electricity dispensed (in kilowatt hours) to vehicles, measured by:

(a) The use of direct metering (either sub-metering or separate metering) to measure the electricity directly dispensed to all vehicles at each residence; or

(b) For residences where direct metering has not been installed, DEQ will calculate the total electricity dispensed as a transportation fuel based on analysis of the total number of BEVs and PHEVs in a utility's service territory based on Oregon Department of Motor Vehicles records. DEQ will perform this analysis at least twice a year and issue credits based on it. DEQ will select one of the following methods for estimating the amount of electricity charged based on its analysis of which is more accurate and feasible at the time it is performing the analysis:

(A) An average amount of electricity consumed by BEVs and PHEVs at residential chargers, based on regional or national data; or

(B) An analysis of the average electric vehicles miles traveled by vehicle type or make and model, which compares the total amount of estimated charging for those electric vehicle miles travelled with the total reported charging in those territories in order to determine the amount of unreported charging that can be attributed to residential charging. The analysis may be done on a utility territory specific or statewide basis.

(c) If DEQ determines after the issuance of residential electric vehicle credits that the estimate under (b) contained a significant error that led to one or more credits being incorrectly generated, the error will be corrected by withholding an equal number of credits to the erroneous amount from the next generation of residential electric vehicle credits.

(d) A credit generator or aggregator may propose an alternative method, subject to the approval of DEQ upon its determination that the alternative method is more accurate than either of the methods described in subsection (b).

(e) Credits generated under this subsection will be calculated by DEQ under section 1 of this rule using the estimated amount of electricity under subsection (3)(b) and issued at least twice per year into the OFRS account of the utility or the backstop aggregator within three months of the close of that year.

(4) Calculating Incremental Credits. In calculating incremental credits for actions that lower the carbon intensity of electricity, the credit calculations must be performed based on section (1) of

this rule, except that the carbon intensity difference is calculated based on the carbon intensity of the renewable power and the carbon intensity used to calculate the base credits for that electric vehicle or charging equipment, and consistent with following requirements, as applicable:

(a) Incremental credits for non-residential charging are generated upon the retirement of RECs that qualify under OAR 340-253-0470(5) by the credit generator, its aggregator, or the incremental aggregator, or by another entity on their behalf. For credit generators and their aggregators, RECs must be retired prior to or at the same time as the submittal as the quarterly report where the charging is being reported and REC retirement records must be submitted with the quarterly report as supplemental documentation. RECs may be retired by another entity on behalf of the credit generator or aggregator for their electric vehicle charging so long as it is clearly documented, and that documentation is submitted with the quarterly report.

(b) For incremental credits generated using a Utility Renewable Electricity Product or Power Purchase Agreement, evidence that the chargers were covered by such a product must be submitted at least annually along with a quarterly report. Upon request by DEQ, any entity using a Power Purchase Agreement or a Utility Renewable Electricity Product must produce evidence that the charging equipment was covered by that agreement or product for all time periods when the entity was claiming incremental credits.

(c) For the incremental aggregator, incremental credits are generated when it retires RECs on behalf of non-residential electric vehicle charging.

(d) Incremental credits for residential charging are generated by a utility or its aggregator when RECs are retired on behalf of that charging, or when a utility demonstrates to DEQ that EVs are being charged by customers enrolled in its Utility Renewable Electricity Products.

(5) Additional credits.

(a) Except as provided in subsection (b), starting in 2023, fuel pathway holders that are registered parties may request additional credits from the prior year if their fuel facility has:

(A) Completed verification under OAR 340-253-0700 and OAR chapter 340, division 272; and

(B) The verified operational carbon intensity value for a given fuel pathway is more than 1gCO2e/MJ lower than the certified carbon intensity value for that year.

(b) Subsection (a) does not apply to lookup table, temporary, or provisional carbon intensities.

(c) DEQ will determine the number of additional credits to award in response to a request under subsection (a) by:

(A) Calculating the difference between the certified and verified operational carbon intensities;

(B) Multiplying the difference calculated under paragraph (A) by the total obligated volume for the year; and

(C) DEQ may adjust the obligated volume for a given year for this calculation if it is aware that a volume of the fuel under a given fuel pathway code was imported or produced in the fourth quarter of a year and exported or otherwise removed from the obligated fuel pool in the first quarter of the following year.

(d) DEQ will deposit the additional credits determined under subsection (c) into the fuel pathway holder's account.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277
History:
DEQ 18-2024, amend filed 11/22/2024, effective 11/22/2024
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DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15
DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-1100
Advance Crediting

(1) General Provisions.

(a) All advance credits must represent actual reductions of greenhouse gas emissions against the clean fuel standards ~~and~~**. (b) Vehicles must be registered in the State of Oregon to be eligible to earn advance credits.**

(~~b) Vehicles~~**c) Chargers** must be ~~registered~~**located** in the State of Oregon to be eligible to earn advance credits.

(2) Eligibility to generate Advance Credits.

(a) The following entities may apply for advance credits:

(A) Public Transit Agencies;

(B) Political subdivisions of the State of Oregon;

(C) Tribes;

(D) School Districts;

(E) Companies under contract to**, or who hold a license to,** provide **public** services to **or for** a political subdivision of the State of Oregon or an Oregon School District if the political subdivision endorses the application, and the vehicles covered by the application are intended to provide contracted services to the public; and

(F) Owners of electric charging equipment that is part of a project that receives funds from the National Electric Vehicle Infrastructure (NEVI) formula program under the Bipartisan Infrastructure Law (Paragraph 2 of Title VIII of Division J of Public Law 117-58).

(G) Owners of electric vehicle charging or hydrogen fueling equipment that is dedicated to or predominantly for medium- and heavy-duty vehicles.

(b) The entities identified in subsection (a)**(A) through (a)(E**) may apply to earn advance credits for the purchase and use of the following vehicle types:

(A) Zero emission medium and heavy duty vehicles; ~~and~~

(B) Zero emission light-duty vehicles if they are part of an organization's plan to fully convert its light-duty vehicle fleet to zero-emission vehicles within a 15-year time period~~.~~

(c) The entities identified in subsection (a)**(A) through (a)(G**) may apply to earn advance credits for the purchase, installation and use of the following fueling infrastructure types:

(A) Direct current (DC) fast charging equipment; ~~and~~

(B) Hydrogen fueling equipment, provided that the planned source or sources of the hydrogen achieve a CI rating of 117gCO2e/MJ or below~~.~~**; and**

(C) Level 2 charging equipment that is dedicated to medium- or heavy-duty vehicles.

(3) Applications for Advance Credits. All of the following requirements apply to applications for advance credits:

(a) Applications for advance crediting will be accepted by DEQ at least once per year from entities eligible to apply under section (2). DEQ will notify stakeholders when applications will be accepted and will provide application materials and guidance about how it will process and consider applications.

(b) Applicants must supply the following information to DEQ:

(A) A letter describing the activities or purchases that they want to receive advance crediting for, including the number of vehicles, charging equipment, and estimated timeframes for when those vehicles and equipment will be put into useful service;

(B) A detailed estimate of the potential credit generation that will result from the zero emissions vehicles and fueling or charging equipment they will purchase, install and use, as authorized under section (2). The estimate must include:

(i) In the case of zero-emission vehicles, an estimate of the number of miles each vehicle will travel within Oregon annually and the estimated amount of electricity or hydrogen needed for each vehicle;

(ii) If the covered zero-emission vehicles will mainly use existing charging or fueling equipment, the ownership of that charging or fueling equipment, and how the applicant will ensure that another entity will not generate credits from that vehicle until it has exited the payback period;

(iii) In the case of electric vehicles, where the vehicles will be charged, if they will be charged using grid or renewable electricity, and, if applicable, the utility-specific CI for where the charging equipment will be located;

(iv) In the case of hydrogen vehicles or fueling equipment, information on the CI(s) and supplier(s) of the hydrogen. including the contract(s) with their hydrogen supplier(s). If the applicant will be supplying their own hydrogen, then it must submit its plans for the hydrogen production system or systems if it does not already have an approved fuel pathway code;

(v) If the applicant is a company under contract to provide school bus services to an Oregon School District, it must also provide:

(I) A contract with the Oregon School District that the school buses will be serving that shows they will be the provider of school bus services to that district for at least three years following their purchase or lease of the school buses covered by the Advance Crediting Agreement; and

(II) A letter from the school district that is endorsing their application for advance crediting;

(vi) If the applicant is a company under a multi-year contract with a political subdivision of the State of Oregon, it must also provide:

(I) A contract with the political subdivision showing how the electric vehicles will be used and that they will be used in state for at least three years following their purchase or lease; and

(II) A letter endorsing the application from the political subdivision;

(vii) A proposed number of credits to be advanced for each vehicle or installed charger; and

(viii) An attestation that the applicant will remain the owner or lessee of the vehicle or equipment until they have paid back the advanced credits, or that, if the vehicle or equipment is sold prior to the end of the payback period, that the applicant will buy and retire credits against the remaining unpaid amount.

(c) In considering applications under this rule, DEQ will prioritize applications where the vehicles or charging equipment will reduce emissions in vulnerable communities disproportionately impacted by climate change, air toxics, and criteria air pollution.

(d) DEQ may request additional documentation from an applicant prior to making a decision on an application submitted under this section. If the applicant does not provide the requested documentation, then DEQ may deny the application without prejudice.

(4) Approval of Advance Credits. If DEQ determines that an application for advance credits meets the requirements of sections (2) and (3) and is in the best interest of the program, then DEQ will negotiate an agreement with the applicant to issue advance credits consistent with this division, and based on all of the following considerations and requirements:

(a) A clear and objective milestone for issuing advance credits that represents when the vehicles and equipment covered by the application are placed into useful service;

(b) The number of credits being advanced in total or per vehicle;

(c) The length of the payback period, which must be one year longer than the number of years of credits that will be advanced;

(d) An attestation from the applicant that it understands that the advanced credits must represent real reductions and that if the activity covered by the agreement does not generate sufficient credits within the payback period that it is responsible for retiring a sufficient number of credits to make up the difference. The attestation must also include a statement that the applicant understands that it is responsible for making up the difference in credits if it sells or relocates covered vehicles outside of Oregon; and

(e) An attestation from the applicant that it will ensure that actual credits are not generated from charging equipment serving these vehicles until the credits have been paid back.

(5) Issuance of Advance Credits. If DEQ approves an application and has executed an agreement with the applicant under section (4), then:

(a) DEQ will issue advance credits to the applicant only after the vehicles or equipment are placed into useful service as agreed to under section (4) of this rule;

(b) Credits will only be issued to the applicant named in the agreement; and

(c) DEQ may advance no more than six years of credits for any single vehicle or piece of infrastructure.

(6) Payback Period. Advanced credits issued under this rule are subject to the following requirements:

(a) The payback period for a vehicle or charging equipment will be specified in the agreement between DEQ and the applicant, except that the payback period may not exceed nine years. The payback period must be at least one year longer than the number of years of credits advanced to the applicant;

(b) In the event that the number of advanced credits was not realized during the payback period, the recipient is responsible for acquiring and retiring sufficient credits to ensure the environmental integrity of the program; and

(c) If a vehicle or charging equipment is sold to another entity prior to the close of the payback period, the applicant is responsible for purchasing and retiring credits against the volume of advanced credits that has not yet been covered by actual credit generation.

(7) Reporting Requirements. An applicant that has received advance credits under this rule must:

(a) File quarterly reports to DEQ showing the amount of charging going into the individual electric vehicles covered by the agreement; and

(b) May not generate additional credits for such charging until the advanced credits are paid back. DEQ and the applicant will monitor the amount of charging or fueling and credits that would have been generated to determine when an equal number of credits has been generated to the number of credits advanced.

(8) Overall limitation on advance credits. DEQ will process applications, negotiate and issue advance credits on a first-come, first served basis, and will stop working on any pending applications when it has issued advance credits equal to five percent of the number of deficits generated in the prior compliance year.

Statutory/Other Authority: ORS 468.020, ORS 468A.266, ORS 468A.268, ORS 468A.277 & ORS 468A.265 through 468A.277
Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277
History:
DEQ 17-2022, amend filed 09/23/2022, effective 01/01/2023
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Division 272
THIRD PARTY VERIFICATION

340-272-0110
Requirements for Validation of Fuel Pathway Applications Submitted under OAR Chapter 340, Division 253 and Verification of Annual Fuel Pathway Reports and CFP Quarterly Reports submitted under OAR Chapter 340, Division 253

(1) Validation of CFP fuel pathway (carbon intensity or CI) applications. Fuel pathway applicants supplying site-specific CI data for the fuel pathway application are required to:

(a) Engage the services of a verification body to perform validation for each fuel pathway application submitted under OAR chapter 340, division 253; or

(b) Submit to DEQ documentation generated during validation of the fuel pathway for the California ARB Low Carbon Fuel Standard program and a recertification fuel pathway application to DEQ, including the verification statement and report. If a verification statement has been completed for the fuel pathway under California ARB's Low Carbon Fuel Standard more recently than the latest validation statement, then the verification statement must also be submitted at the same time that the fuel pathway application and validation statement are submitted to DEQ.

(2)(a) Fuel pathway applicants submitting fuel pathway applications to DEQ that have been validated according to the requirements of this division must submit the validation statement and report to DEQ at the same time that the application is submitted.

(b) A fuel pathway application submitted to DEQ that includes an adverse validation statement will not be considered by DEQ.

(c) Fuel pathway applications submitted to DEQ that include an adverse validation statement issued under California ARB's Low Carbon Fuel Standard will not be considered by DEQ.

(3) Annual verification of CFP annual fuel pathway (carbon intensity or CI) reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification under this division, including required site visit(s), for each annual fuel pathway report submitted under OAR chapter 340, division 253, except as otherwise provided under subsection (b):

(A) Holders of certified fuel pathways that supplied site-specific CI data for pathway certification and are required to update site-specific CI data on an annual basis; and

(B) Specified source feedstock suppliers and other persons with site-specific CI data that apply for separate DEQ recognition as a joint applicant under OAR chapter 340, division 253 and elect to be responsible for separate verification.

(b) Exemptions. Holders of approved fuel pathways that do not generate at least 6,000 total credits and deficits during the previous calendar year for the quantity of fuel produced at a given production facility and reported in the CFP are not subject to the requirements of this division for that year.

(c) Verification schedule. Responsible entities that are subject to the subsection (a) requirement to engage the services of a verification body to perform verification of annual fuel pathway reports (CI) must ensure a fuel pathway verification statement for each fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(A) Quarterly review of operational CI data is optional and may only be included as part of annual verification services if the fuel pathway holder submits quarterly data to DEQ. Quarterly review may only be conducted after the fuel pathway holder submits the report and attests that the statements and information submitted are true, accurate, and complete. Quarterly review does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements for verification under this division, but a verification statement and verification report are not submitted after quarterly review.

(B) Facilities with California pathways recertified in Oregon. A responsible entity that must meet the requirements of this division for the purposes of annual verification for any fuel production facility that is also subject to annual or deferred verification under California ARB's Low Carbon Fuel Standard must submit its verification statement to DEQ within ten calendar days of its comparable submittal to California ARB. If the responsible entity received an adverse verification statement, it must also submit the log of issues at the same time it submits the verification statement to DEQ.

(i) For responsible entities that operate facilities with one or more Oregon fuel pathway codes that are a recertification of California fuel pathway codes, the verification statement submitted to California ARB must be submitted to DEQ according to the verification deadline specified under OAR 340-272-0100.

(ii) For responsible entities that operate facilities with one or more fuel pathway codes that are not a recertification of California fuel pathway codes, but have active California fuel pathway codes, the fuel pathway holder must ensure the following:

(I) That when verification services are provided, the inputs and annual operational carbon intensity are confirmed under OR-GREET as required under OAR 340-272-0450; and

(II) That a fuel pathway verification statement for each annual fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(C) If a fuel pathway holder is eligible for deferred verification under the California program, the fuel pathway holder must notify DEQ before April 30 of each year. If fuel from the facility generates 6,000 or more total credits and deficits in Oregon, then the fuel pathway holder must engage the services of a verification body to perform verification and ensure a fuel pathway verification statement for each annual fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(4) Annual verification of CFP quarterly reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification under this division,

including required site visit(s), for CFP quarterly reports submitted under OAR chapter 340, division 253, except as otherwise provided under subsection (b):

(A) For regulated parties, credit generators, and aggregators subject to OAR 340-253-0100, the scope of verification services is limited to the transaction types under paragraph (B), including associated corrections submitted into CFP quarterly and annual reports. Third party verification applicability for such persons is based on the annual report as of the annual reporting deadline, regardless of whether submitted corrections lower credits and deficits generated below the applicable thresholds.

(B) Except as provided in subsection (b), reporters of volumes for any of the following transaction types must engage the services of a verification body to perform verification for the following transaction types:

(i) All liquid fuels, including:

(I) Production in Oregon;

(II) Out of State Production for Import;

(III) All Import transactions;

(IV) Exports, other than Position Holder Sales for Export or export transactions reported on behalf of an unregistered exporter;

(V) Gain of inventory;

(VI) Loss of inventory;

(VII) Not used for transportation; and

(VIII) Transactions used to claim exempt uses under OAR 340-253-0250;

(ii) NGV fueling;

(iii) Propane fueling, and

(iv) Starting in 2026 for the 2025 data year, EV charging, except when related to residential charging.

(b) Exemptions. The following are not subject to the requirements of this division:

(A) Persons that do not generate 6,000 or more total credits and deficits (not counting residential charging credits), in the aggregate, during the previous calendar year. For the purposes of this rule, any credits or deficits generated by persons that are related entities or share full or partial common ownership or operational control must be aggregated together to determine whether or not the exemption applies;

(B) Persons, including their related entities, reporting fuel transactions only in one or more of the transaction types: Export, Position Holder Sale for Export, Gain of inventory, Loss of inventory, and Not used for transportation, if all of the following conditions are met:

(i) All such transactions do not generate 6,000 or more total credits and deficits, in the aggregate, during the previous calendar year;

(ii) The person did not report any liquid fuel using the transaction types: Production in Oregon or Import into Oregon; and

(iii) The person did not report any NGV fueling transactions.

(c) Verification schedule. Responsible entities under subsection (a) required to engage the services of a verification body to perform annual verification of CFP quarterly reports must ensure a transactions data verification statement is submitted to DEQ according to OAR 340-272-0100.

(d) Optional quarterly review. Quarterly review of a CFP quarterly report is optional and does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements of this division, but a verification statement and verification report are not submitted after quarterly review.

(e) Notwithstanding other portions of this division, understatements of exempt fuel use and EV charging transactions that are greater than 5% shall receive a qualified positive verification statements as they are not correctible errors under OAR 340-253. NGV and propane vehicle fueling transactions will receive the same treatment unless they are being used to report a regulated fuel. Overstatements for these transactions remain correctable errors.

(5) Annual verification of CFP annual project reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification, including required site visit(s), for CFP project reports required to be submitted as a condition of a fuel pathway's continued approval under OAR 340-253-0450(9)(e)(E):

(A) Project operators; and

(B) Joint applicants.

(b) Verification schedule. Responsible entities under subsection (a) required to engage the services of a verification body to perform verification of CFP project reports must ensure a project report verification statement is submitted annually to DEQ according to with OAR 340-272-0100.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.271 & 468A.277
Statutes/Other Implemented: ORS 468A.010, 468A.015 & 468A.265 - 468A.277
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