

Draft Rules – Edits Highlighted

Key to Identifying Changed Text:

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New/inserted text

DEPARTMENT OF ENVIRONMENTAL QUALITY

Division 253

OREGON CLEAN FUELS PROGRAM

340-253-0040

Definitions

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

() “Bulk transfer/terminal 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.

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

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

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

(b) “Purchased with obligation” means the transportation fuel was purchased with the compliance obligation passing to the purchaser in the bulk system;

(c) “Purchased without obligation” means the transportation fuel was purchased with the compliance obligation retained by the seller in the bulk system;

(d) “Sold with obligation” means the transportation fuel was sold with the compliance obligation passing to the purchaser in the bulk system;

(e) “Sold without obligation” means the transportation fuel was sold with the compliance obligation retained by the seller in the bulk system;

() “Position holder sales” means the transportation fuel was sold without compliance obligation to an entity below the rack.

() “Position holder sales for Export” means the transportation fuel was sold below the rack to an entity who immediately exported the fuel, as documented on the bill of lading or other product transfer document issued at the time of the transaction.

() “Purchase without obligation”

() “Purchase below rack for export”

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

(g) “Loss of inventory” means the fuel exited the Oregon fuel pool due to volume loss, such as through evaporation or due to different temperatures or pressurization;

(h) “Gain of inventory” means the fuel entered the Oregon fuel pool due to a volume gain, such as through different temperatures or pressurization;

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

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

(k) “Import – Bulk System” means the transportation fuel was moved into Oregon from a location outside of Oregon and placed into the bulk system;

() “Import – Outside the bulk system” means the transportation fuel was moved into Oregon from a location outside of Oregon and delivered outside of the bulk system;

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

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

(n) “Used in exempt fuel uses” means that the fuel was delivered or sold into vehicles or fuel users that are exempt under OAR 340-253-0250.

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

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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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

340-253-0310

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

(1) Regulated party. The regulated party is the producer or importer of the regulated fuel under OAR 340-253-0200(2).

(2) Recipient notification requirement. If a regulated party intends to transfer ownership of fuel, it is the recipient's responsibility to notify the transferor whether the recipient is a producer, [a position holder](#), an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, or is not an importer or otherwise registered under this program. The notification does not have to be in writing.

(3) Recipient is an importer of blendstocks or a large importer of finished fuels above the rack. If a regulated party transfers the fuel to an importer of blendstocks or a large importer of finished fuels above the rack, the transferor and the recipient have the options and responsibilities under this section.

(a) Unless the transferor elects to remain the regulated party under (3)(b):

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

(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;

(ii) Is responsible for compliance with the clean fuel standard for the fuel under OAR 340-253-0100(6); and

(iii) Is eligible to generate credits for the fuel, as applicable.

(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the recipient is now the regulated party.

(C) The transferor is no longer responsible for compliance with the clean fuel standard for such fuel, except for maintaining the product transfer documentation under OAR 340-253-0600.

(b) The transferor may elect to remain the regulated party for the transferred fuel. If the transferor elects to remain the regulated party:

(A) The transferor remains the regulated party who:

(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;

(ii) Is responsible for compliance with the clean fuel standard for such fuel under OAR 340-253-0100(6); and

(iii) Is eligible to generate credits for the fuel, as applicable.

(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the transferor remains the regulated party.

(C) The recipient:

(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;

(ii) Is not responsible for compliance with the clean fuel standard for such fuel under OAR 340-253-0100(6); and

(iii) Is not eligible to generate credits for the fuel, as applicable.

(4) Recipient is a large importer of finished fuels below the rack. If a regulated party transfers clear or blended gasoline or diesel to a large importer of finished fuels below the rack:

(A) The transferor remains the regulated party who:

(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel; and

(ii) Is responsible for compliance with the clean fuel standard for such fuel under OAR 340-253-0100(6).

(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the transferor remains the regulated party.

(C) The recipient:

(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;

(ii) Is not responsible for compliance with the clean fuel standard for such fuel under OAR 340-253-0100(6); and

(iii) Is not eligible to generate credits for the fuel, as applicable.

(D) This provision does not apply if the fuel is meant for export.

(5) Recipient is a producer, a small importer of finished fuels, or is not an importer. If a regulated party transfers the fuel to a producer, a small importer of finished fuels, or a person who is not an importer, the transferor and the recipient have the options and responsibilities under this section.

(a) Unless the recipient and the transferor agree in writing the recipient is the regulated party under subsection (5)(b):

(A) The transferor remains the regulated party who:

(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;

(ii) Is responsible for compliance with the clean fuel standard for such fuel for such fuel under OAR 340-253-0100(6); and

(iii) Is eligible to generate credits for the fuel, as applicable.

(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the transferor remains the regulated party.

(C) The recipient is not the regulated party.

(b) The recipient may elect to be the regulated party for the transferred fuel. If the recipient elects to be the regulated party:

(A) The recipient is the regulated party who:

(i) Must comply with the registration, recordkeeping and reporting requirements under OAR 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, and 340-253-0650 for the fuel;

(ii) Is responsible for compliance with the clean fuel standard for such fuel for such fuel under OAR 340-253-0100(6); and

(iii) Is eligible to generate credits for the fuel, as applicable.

(B) The transferor must provide the recipient a product transfer document by the time of transfer. The product transfer document must prominently indicate that the recipient is now the regulated party.

(C) The transferor is not the regulated party, except for maintaining the product transfer documentation under OAR 340-253-0600.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0600

Records

(1) Records Retention. Regulated parties, credit generators, and aggregators must retain the following records for at least 5 years:

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

(b) Records related to obtaining a carbon intensity described in OAR 340-253-0450;

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

(d) Records related to each fuel transaction; ~~and~~

(e) Records used for compliance or credit calculations; ~~and~~ [and](#)

[\(f\) Records related to third party verification.](#)

(2) Documenting Fuel Transactions. A product transfer document must prominently state the information specified below.

- (a) Transferor company name, address, and contact information;
 - (b) Recipient company name, address, and contact information;
 - (c) Transaction date;
 - (d) Fuel pathway code;
 - (e) Carbon intensity;
 - (f) Volume/amount;
 - (g) A statement identifying whether the transferor or the recipient has the compliance obligation; and
 - (h) The EPA fuel production company identification number and facility identification number as registered with the RFS program.
- (3) For transactions of clear and blended gasoline and diesel below the rack where the fuel is not destined for export, only the records described in subsections (2)(a), (b), (c), (f), and (g) are required to be retained.
- (4) Documenting Credit Transactions. Regulated parties, credit generators, and aggregators must retain the following records related to all credit transactions for at least 5 years:
- (a) The contract under which the credits were transferred;
 - (b) Documentation on any other commodity trades or contracts between the two parties conducting the transfer that are related to the credit transfer in any way; and
 - (c) Any other records relating to the credit transaction, including the records of all related financial transactions.

(5) Documents related to validation and verification.

(5) Review. All data, records, and calculations used by a regulated party, a credit generator, or an aggregator to comply with OAR chapter 340, division 253 are subject to inspection and verification by DEQ. Regulated parties, credit generators, and aggregators must provide records retained under this rule within 60 days after the date DEQ requests a review of the records, unless DEQ specifies otherwise.

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

(78) 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.

(89) Attestations regarding environmental attributes. An entity reporting any biomethane as a transportation fuel in the Clean Fuels Program, and a fuel pathway holder using biogas or biomethane as process energy, must obtain and keep attestations from each upstream party collectively demonstrating that (a) the entity claiming the environmental attributes has the exclusive right to claim environmental attributes associated with the sale or use of the biogas or biomethane, and (b) the environmental attributes have not been used or claimed in any other program or jurisdictions with the exception of the federal RFS. The attestations must be made available to DEQ upon request. The inability to promptly produce the attestations constitutes ground for credit invalidation pursuant to OAR 340-253-0670.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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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

340-253-0620

CFP Online System

(1) Online reporting. ~~R~~-regulated parties, credit generators, and aggregators must use the CFP Online System to submit all required reports, including quarterly progress reports under OAR 340-253-0630 and annual compliance reports under OAR 340-253-0650.

~~(b) Small importers of finished fuels may submit annual compliance reports using the EZ-Fuels Online Reporting Tool for Fuel Distributors in lieu of using the CFP Online System.~~

(2) Credit transactions. Regulated parties, credit generators, and aggregators must use the CFP Online System to transfer credits.

(3) Establishing an account. After DEQ approves a registration application, the regulated party, credit generator, or aggregator must establish an account in the CFP Online System and must include the following information to register as a user in the CFP Online System:

(a) Business name, address, state and county, date and place of incorporation, and FEIN;

(b) The name of the person who will be the primary contact, and that person's business and mobile phone numbers, email address, CFP Online System username and password;

(c) Name and title of a person who will act as the Administrator for the account;

(d) Optionally the name and title of one or more persons who will be Contributors on the account;

(e) Optionally the name and title of one or more persons who will be Reviewers on the account;

(f) Optionally the name and title of one or more persons who will be Credit Facilitators on the account; and

(g) Any other information DEQ may require in the CFP Online System.

(4) Account management roles.

(a) Administrators are:

(A) Authorized to sign for the account;

(B) Responsible for submitting quarterly progress and annual compliance reports;

(C) Makes changes to the company profile; and

(D) May designate other persons who can review and upload data, but not submit reports.

(b) Contributors are:

(A) Authorized to submit quarterly progress and annual compliance reports, if given signature authority; but

(B) Cannot make changes to the account profile.

(c) Reviewers are:

(A) Provided read-only access; but

(B) Cannot submit quarterly progress and annual compliance reports.

(d) Credit Facilitators are:

(A) Authorized to initiate and complete credit transfers on behalf of the registered party;

(B) Add postings to the CFP Online System's "Buy/Sell Board";

(C) Provided read-only access to quarterly and annual reports.

(5) Signature. An administrator or a contributor authorized by the registered party to sign reports on its behalf must sign each report to certify that the submitted information is true, accurate, and complete.

(6) Alternative Fuels Registration System. Fuel producers registered under OAR 340-253-0500 must establish an account in the AFP portion of the CFP Online System and must designate an administrator for their account. The fuel producer may:

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

(b) Submit fuel pathway code applications through the AFP for each of its facilities for DEQ approval; and

(c) Submit the physical transport mode demonstration package through the AFP for DEQ approval, once a fuel pathway code has been approved.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

340-253-0640

Specific Requirements for Reporting

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

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

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

(c) For CNG, L-CNG, and LNG, the carbon intensity as listed in Table 4 under OAR 340-253-8040.

(d) For biomethane-based CNG, LNG, and L-CNG, the carbon intensity as approved under OAR 340-253-0450 and the EPA production company identification number and facility identification number. Additionally, the registered party must submit the following attestation at the time of filing the annual report: "I certify that to the extent that the gas used in the fuel pathway or supplied as transportation fuel is characterized as biomethane,

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

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

(a) The information specified for electricity in Table 5 under OAR 340-253-8050;

(b) For each public access charging facility, fleet charging facility, workplace private access charging facility, or multi-family dwelling, the amount of electricity dispensed in kilowatt hours to vehicles.

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

(A) Separated by use for light rail, streetcars, aerial trams, or electric transit buses; and

(B) Separated by electricity used in portions of their system placed in service before and after January 1, 2012.

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

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

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

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

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

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

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

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

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

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

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

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

Statutory/Other Authority: OAR 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: OAR 468.020 & ORS 468A.265 through 468A.277

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340-253-0650

Annual Compliance Reports

(1) Annual compliance reports.

(a) Except as provided in subsection (b), regulated parties, credit generators, and aggregators must use the CFP Online System to submit an annual compliance report to DEQ not later than April 30 for the compliance period ending on December 31 of the previous year.

(b) Small importers of finished fuels may submit [a supplemental](#) annual ~~compliance~~ reports using the ~~EZ-Fuels-Online-Reporting-Tool-for-Fuel-Distributors-under-OAR-chapter-340,~~

~~division 215, in lieu of using the~~ CFP Online System, not later than ~~March 31~~[April 30](#) for the compliance period ending on December 31 of the previous year.

(2) General reporting requirements for annual compliance reports. Regulated parties, credit generators, and aggregators must submit annual compliance reports that meet, at minimum, the general and specific requirements for quarterly progress reports and include the following information:

- (a) The total credits and deficits generated by the regulated party, credit generator, or aggregator in the current compliance period, calculated in the CFP Online System as provided in the equations in OAR 340-253-1020;
- (b) Any credits carried over from the previous compliance period;
- (c) Any deficits carried over from the previous compliance period;
- (d) The total credits acquired from other regulated parties, credit generators, and aggregators;
- (e) The total credits sold or transferred; and
- (f) The total credits retired within the CFP Online System to meet the compliance obligation.

(3) All pending credit transfers must be completed prior to submittal of the annual compliance report.

(4) Correcting a previously submitted report. A regulated party, credit generator, or aggregator may ask DEQ to re-open a previously submitted quarterly progress or annual compliance report for corrective edits and re-submittal. The requestor must submit an “Unlock Report Request Form” within the CFP Online System. The requestor is required to provide justification for the report corrections and must indicate the specific corrections to be made to the report. Each submitted request is subject to DEQ approval. DEQ approval of a corrected report does not preclude DEQ enforcement based on misreporting.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

[DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019](#)

[DEQ 27-2017, amend filed 11/17/2017, effective 11/17/2017](#)

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2014, f. & cert. ef. 6-26-14

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DEQ 8-2012, f. & cert. ef. 12-11-12

340-253-0670

Authority to Suspend, Revoke, or Modify

(1) If DEQ determines that any basis for invalidation set forth in section (2) below has occurred, in addition to taking any other authorized enforcement action, DEQ may take any of the actions described in subsections (a) through (d). For the purposes of this section an approved carbon intensity refers both to carbon intensities approved by DEQ under OAR 340-253-0450 and under OAR 340-253-0400(4).

(a) Suspend, restrict, modify, or revoke an account in the CFP Online System, or take one combination of two or more such actions;

(b) Modify or delete an approved carbon intensity;

(c) Restrict, suspend, or invalidate credits; and

(d) Recalculate the deficits in a regulated party's CFP Online System account.

(2) DEQ may take any of the actions described in section (1) based on any of the following:

(a) Any of the information used to generate or support the approved carbon intensity was incorrect, including if material information was omitted or the process changed following the submission of the carbon intensity application;

(b) Any material information submitted in connection with the approved carbon intensity or a credit transaction was incorrect;

(c) Fuel reported under a given pathway was produced or transported in a manner that varies in any way from the methods set forth in any corresponding pathway application documents submitted under OAR 340-253-0400 and OAR 340-253-0450 such that the variance would meet the threshold to be material information;

(d) Fuel transaction data or other data reported into the CFP Online System and used to calculate credits and deficits was incorrect or omitted material information;

(e) Credits or deficits were generated or transferred in violation of any provision of this division or in violation of other laws, statutes, or regulations; or

(f) A party obligated to provide records under this division refused to provide such records or failed to do so within the required timeframe in OAR 340-253-0600(4).

(3) Providing Notice of an Initial Determination.

(a) Upon making an initial determination that a credit calculation, deficit calculation, or an approved carbon intensity may be subject to an action described in section (1), DEQ will notify all potentially affected parties.

(b) The notice shall state the reason for the initial determination and may also include a specific request from any party for information relevant to any of the bases described in section (2).

(c) Within 20 days of the issuance of the notice, the affected parties shall make records and personnel available to DEQ as it conducts its investigation.

(d) Any party receiving the notice may submit any information it believes is relevant to the investigation and that it wants DEQ to consider in its evaluation.

(4) Interim Account Suspension. Once a notice has been issued under section (3), DEQ may immediately take one or both of the following actions:

(a) Deactivate an approved carbon intensity in the AFP; or

(b) Suspend an account in the CFP Online System. In cases where a discrete number of credits are being investigated, DEQ may place an administrative hold on a specific number of credits rather than suspending an entire account.

(5) Final Determination. Within 50 days after making an initial determination under sections (2) and (3) above, the DEQ shall make a final determination based on the available information.

(a) The final determination should include:

(A) Whether any of the bases for invalidation in section (2) exist;

(B) Identification of the affected parties; and

(C) What actions in section (1) DEQ will impose and how many credits, deficits, or approved carbon intensities are affected. If the final determination invalidates credits or deficit calculations, the corresponding credits and deficits will be added or subtracted from the appropriate accounts in the CFP Online System.

(b) The affected parties may contest the final determination by providing DEQ with a written request for a hearing within 20 days of receipt of the final determination.

(c) The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR chapter 340, division 11. Any action taken in subsection (a) will remain in place pending the outcome of the contested case.

(6) Responsibility for invalidated credits or miscalculated deficits. Any party that generated, previously held, or holds invalidated credits or whose account reflects an invalid deficit calculation is responsible for returning its account to compliance without regard to its fault or role with respect to the invalidation of the credits or miscalculation of deficits.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017

340-253-0700

Third Party Verification Requirements

(1) Applications and reports listed in this rule are subject to third party verification requirements in accordance with OAR 340-272-0110:

(a) Fuel pathway applications submitted under OAR 340-253-0450

(b) Annual fuel pathway reports required under OAR 340-253-0450

(c) Quarterly reports submitted under OAR 340-253-0630

(c) Project reports submitted under this division.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

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

340-253-1010

Fuels to Include in Credit and Deficit Calculation

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

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

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

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

(3) Voluntary inclusion. A regulated party, credit generator, or aggregator may choose to include in its credits and deficits calculations fuel that is exempt under OAR 340-253-0250(1) and fuel that is sold to an exempt fuel user in Oregon under 340-253-0250(2), provided that the credit and deficit calculation includes all fuels listed on the same invoice.

(4) Fuels that are exported from Oregon. Any ~~bulk~~ quantity of fuel that is exported above or below the rack must be reported by the person who holds title to the fuel when it is exported, except for quantities in the fuel tank of a motor vehicle.

(a) Exported fuels ~~will not incur compliance obligations or generate credits, unless the exporter has purchased the fuel without the compliance obligation~~ are not subject to the Clean Fuels Program, except in cases where ~~or the~~ credits or deficits have ~~already~~ been generated and separated from the fuel, ~~such as through a transfer without obligation or if the fuel was imported in one quarter and exported in the next~~. In those cases, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits detached from the fuel.

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

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.268 & 468A.277

Statutes/Other Implemented: ORS 468.020 & ORS 468A.265 through 468A.277

History:

DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019

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DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

DEQ 8-2012, f. & cert. ef. 12-11-12

Note: All the tables will be relocated into a single rule OAR 340-253-8010.