



State of Oregon Department of Environmental Quality

EER Application Draft Rules

**Nov. 19, 2020, Clean Fuels Program Electricity 2021
Rulemaking Advisory Committee Meeting**

OAR 340-253-0???

EER-Adjusted carbon intensity applications

- (1) EER-Adjusted CI Applications. Applications submitted under this provision are modified Tier 2 pathway applications under OAR 340-253-0450.
- (2) Eligibility to submit an application under this rule:
 - (a) Vehicle owners or operators that would be eligible to generate credits for their vehicles;
 - (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) Multiple vehicle owners or operators or manufacturers of vehicles applicants can submit a single application that combines data from each of them.
- (3) Applications made under this provision must be for electric vehicles capable of full normal operation using energy from onboard batteries or fuel cells.
- (4) Application requirements. 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 do not apply;
 - (b) The applicant must provide a detailed description of the methodology used, 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) The applicant must provide 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 [carbon intensity of electricity OAR] to request an EER-adjusted CI then they do not need to provide the fuel facility information required under OAR 340-253-0450(3)(e) through (h) and (5).
- (5) Minimum data requirements.
 - (a) Any application made under this rule must include at least three months of operating data that represents typical usage for the vehicle, except that the application must cover at least 300 hours of operating data for each vehicle included in the application.

- (b) Notwithstanding (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 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.
 - (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 Clean Fuels Program.
 - (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 believes it should approve an application, it must present a review report with a proposed EER value and pathway conditions to the applicant or applicants. If the applicant or applicants accept the proposed review report and EER value, 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.
 - (d) Based on comments received during that public comment period, DEQ may move forward with approving the application, 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, DEQ may issue an EER-adjusted fuel pathway 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.
- (8) Adding Joint Applicants after a value is approved. If a value has been issued 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 the manufacturer stating that they support the addition of the joint applicant;
 - (b) Any current operational data by the new joint applicant, or other data elements required to be reported under the value's pathway conditions; and

- (c) A statement by the new joint applicant that they understand and accept any and all pathway conditions associated with the value.
- (9) Ongoing reporting requirements.
 - (a) Applicants must annually submit vehicle usage and energy consumption data for each vehicle using a value approved under this section to generate credits or deficits in the Clean Fuels Program. 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. w
 - (b) Notwithstanding the eligibility requirements of OAR 340-272, DEQ may require third party verification of the annual fuel pathway report submitted by the applicant or joint applicants. That requirement must be included in the pathway conditions presented to and accepted by the applicant or applicants under this rule prior to approval.
- (10) Modifications to values issued under this provision. Based on the ongoing reported data required under (10) or additional applications for vehicles that DEQ determines to be in the same category, DEQ may modify any value issued under this provision for reporting beginning with the next full calendar quarter following its notice that the agency is modifying the value. DEQ will provide notice to the applicants prior to doing so, and may request comment from them prior to modifying the value.