State of Oregon Department of Environmental Quality

Notice of Proposed Rulemaking

Dec. 19, 2019

Greenhouse Gas Reporting and Third-Party Verification 2019

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules – Edits Highlighted
    - Division 12 - Enforcement Procedure And Civil Penalties
    - Division 215 - Oregon Greenhouse Gas Reporting Program
    - Division 253 – Oregon Clean Fuels Program
- Draft Rules – Edits Included (final clean version)
    - Division 12 - Enforcement Procedure And Civil Penalties
    - Division 215 - Oregon Greenhouse Gas Reporting Program
    - Division 253 – Oregon Clean Fuels Program
    - Division 272 – Third Party Verification

Note for Readers:

This package contains multiple documents. If you want to read more than one document at a time, you can open multiple copies of this PDF by downloading the PDF and then opening it in Adobe. You can then either:

- Click on the "Windows" item in the top ribbon
- Click on "New Window"
- A second copy of the PDF will open in a new window

Or:

- Click on "File" in the top ribbon
- Click on "Open" in the top ribbon
- Double click on the name of the PDF you want to open
- A second copy of the PDF will open in a separate tab in the same window

Table of Contents

Introduction and Summary 1

Overview 1

Procedural Summary 2

Statement of need 5

Rules affected, authorities, supporting documents 8

Documents relied on for rulemaking 9

Fee Analysis 10

Statement of fiscal and economic impact 11

Housing cost 21

Federal relationship 22

Land use 23

EQC Prior Involvement 23

Advisory Committee 24

Public Engagement 26

Public Hearing 27

Accessibility Information 27

Introduction and Summary

The Department of Environmental Quality invites public input on the adoption of a program to require third-party verification of certain reports submitted to DEQ under its Greenhouse Gas Reporting and Clean Fuels Programs, and updates to those programs reporting requirements. This proposal includes permanent rule amendments to the existing Divisions 12, 215, and 253, and the adoption of a new Division 272 of chapter 340 of the Oregon Administrative Rules.

Interested persons may present their views on the proposed action by providing comments in writing or at the hearing scheduled on this proposed rulemaking, as described in more detail below, or as otherwise provided in this notice.

Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business or reduce other negative impacts that may result from the rules. Specifically, DEQ is asking for input on ways to lower the cost to regulated entities for third-party verification while retaining the additional level of review and quality assurance it can provide for the Greenhouse Gas Reporting and Clean Fuels Programs.

Overview

Short Summary

DEQ recommends the Oregon Environmental Quality Commission approve the proposed program amendments to incorporate changes to the Greenhouse Gas Reporting Program and the Clean Fuels Program. The proposed program changes include:

- Modifying the Greenhouse Gas Reporting Program (GHG RP) in Oregon Administrative Rules Chapter 340, Division 215 to provide a better understanding of greenhouse gas emissions in the state, better inform greenhouse gas policy decision-making, and improve the ability to track progress toward meeting emission reduction goals.
- Streamlining the reporting requirements of the GHG RP in OAR Chapter 340 Division 215 and the Clean Fuels Program (CFP) in OAR Chapter 340, Division 253 to enable entities that are subject to both programs to report into a single system.
- Requiring that some data that is submitted to DEQ to comply with the GHG RP and the CFP be verified by independent third-parties.
- Amending OAR Chapter 340, Division 12 to classify violations and establish or clarify enforcement criteria for violations of the GHG RP, the CFP and third-party verification regulations.

Brief History

Oregon Greenhouse Gas Reporting Program

In 2008, the EQC adopted the initial greenhouse gas reporting rules to provide DEQ with the authority to collect comprehensive data about Oregon's overall greenhouse gas emissions. The rules govern the collection of annual greenhouse gas emissions and related information from certain entities, including large commercial, institutional and industrial emitters, fuel suppliers, and electric utilities. The EQC subsequently adopted rules in 2010 and 2015 to expand the number and types of facilities and operations required to report and to align reporting requirements with the U.S. Environmental Protection Agency's quantification methodology.

Oregon Clean Fuels Program

The 2009 Oregon Legislature authorized the EQC to adopt rules to reduce lifecycle emissions of greenhouse gases from Oregon's transportation fuels by 10 percent over a 10-year period. The 2015 Oregon Legislature authorized the removal of the December 31, 2015 sunset date of the authorizing statute and further authorized the EQC to adopt rules for managing and containing the costs of compliance with the CFP. The 2017 Oregon Legislature authorized additional provisions to manage and contain the costs of compliance with the CFP. The EQC adopted Phase 1 rules in December 2012, Phase 2 rules in January 2015, and several rule revisions in December 2015, April 2016, August 2016, November 2017, and November 2018 to implement legislative mandates, update to the latest science, and improve the program.

Affected parties

The following parties are affected by the proposed rules:

- Regulated entities that are subject to the GHG RP in OAR Chapter 340, Division 215.
- Regulated entities that are subject to the CFP in OAR Chapter 340, Division 253.
- Regulated entities that meet the threshold applicability requirements for third-party verification and any verification bodies and verifiers that want to participate.

Procedural Summary

More information

Information about this rulemaking is on this rulemaking's web page:
https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rGHG2019.aspx

Public Hearings

DEQ plans to hold one public hearing. Anyone can attend a hearing in person, or by webinar or teleconference.

Date: Jan. 16, 2020
Start time: 3 p.m.
Street address: 700 NE Multnomah St.
Room: 610

City: Portland, OR 97232
Teleconference phone number: 888-278-0296
Participant code: 8040259
Webinar link: Webinar login page

Instructions on how to join webinar or teleconference: Webinar/teleconference instructions

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed programs and rules. Anyone can submit comments and questions about this proposal. A person can submit comments via email, by regular mail or at the public hearing.

Comment deadline

DEQ will only consider comments on the proposed programs and rules that DEQ receives by 4 p.m., on Jan. 28, 2020.

Submit comment by email

Any person can submit comments by sending an email. Commenters should include "GHG 2019 Rulemaking Comment" in the email subject line. Submit emails to: ghg2019@deq.state.or.us

Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

By mail

Oregon DEQ
Attn: Elizabeth Elbel
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100

At hearing

Jan. 16, 2020, 3 p.m.
DEQ Headquarters, Conference Room 610, 700 NE Multnomah St., Portland, OR 97232

Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

- Signing up through this link: Greenhouse Gas Reporting GovDelivery List;

- Signing up on the rulemaking web site: Greenhouse Gas Reporting and Third-Party Verification 2019 rulemaking web page.

What will happen next?

DEQ will include a written response to comments in a staff report DEQ will submit to the Environmental Quality Commission.

Proposed rules only become effective if the Environmental Quality Commission adopts them. DEQ's intended action is to present the proposed rule changes to the EQC as soon as possible after the earliest date on which the rule changes could take effect. DEQ intends to submit the proposed rule changes to the EQC on or after Feb. 7, 2020.

Statement of need

Updates to GHG Reporting

What need would the proposed rule address?

The state needs broad and accurate information about GHG emissions in Oregon in order to develop appropriate statewide climate policy. Current GHG RP requirements are insufficiently broad and inaccurate to serve that purpose. The proposed rules will enhance the breadth and accuracy of the data collected by the GHG RP, which will in turn ensure the program keeps pace with ongoing consideration of further statewide climate policy.

How would the proposed rule address the need?

The proposed rules will codify in administrative rule a variety of emissions accounting protocols currently being used by regulated entities for reporting and will also improve the specificity of how emissions data are calculated and reported. New requirements for entities to have data verified by independent third-parties will enhance the data quality and reliability for use in tracking emissions trends and in policy analysis.

How will DEQ know the rule addressed the need?

In addition to continued tracking of state-wide emission reduction goals and sector-specific trends, DEQ will have the ability to provide new analyses using improved GHG emissions data. DEQ will have enhanced datasets available for continued analyses of climate policy options as the needs arise.

Streamline GHG RP and CFP

What need would the proposed rule address?

Some regulated entities are required to report under both the GHG RP and the CFP, which creates a potential double-reporting burden. The proposed rules will streamline the reporting and help reduce the amount of reporting required of regulated entities subject to both the GHG RP and CFP.

How would the proposed rule address the need?

Through minor changes to existing requirements, the proposed rules will amend transaction reporting requirements to capture the data needed for the GHG RP.

How will DEQ know the rule addressed the need?

DEQ will modify the CFP Online System to accommodate the proposed rule change, where regulated entities will have one login used for both programs and a single system to submit multiple reports. Regulated entities will be able to allocate fewer personnel and resources to meeting DEQ reporting requirements.

Third-Party Verification

What need would the proposed rule address?

Independent third-party verification will improve data reliability and provide assurances that large emitters of GHG emissions are accurately calculating emissions and correctly meeting DEQ reporting requirements. The breadth and depth of data collected by the GHG RP and CFP are considerable. DEQ has had only one dedicated staff position since the outset of the reporting programs that conducts internal audits and data checks. One staff person is insufficient to enable DEQ to review individual reports in sufficient breadth and depth to ensure the accuracy and reliability of the data reported. These data are used to inform significant statewide climate policy decisions and assure the mandated decarbonization of Oregon's transportation fuels is truly achieved while accounting for the lifecycle emissions of those fuels. This requires considerable review and quality assurance for both programs. The third-party verification requirement will provide the necessary assurance that the reported data is accurate and reliable. More importantly, no number of additional staff would be able to provide as detailed or stringent an audit or verification of data, data management systems or procedures, or reporting oversight that is provided by third-party verification. Third-party verifiers are able to provide a detailed, thorough, and independent review. This improved data review resulting in more reliable data benefits the reporting entities by identifying areas of risk and opportunity, and decreasing the liability associated with incorrect data. The improved data reliability benefits the state as this data is used in tracking progress towards targets and for supporting policy discussions and options.

How would the proposed rule address the need?

Third-party verification is a proven method used in other jurisdictions with programs similar to the GHG RP and CFP to effectively provide independent and in-depth review of data collected by the programs. New requirements for entities to have data verified by independent third-parties will enhance the data quality and reliability for use in climate policy analysis and improved tracking of emissions in the GHG RP and of credits and deficits in the CFP.

How will DEQ know the rule addressed the need?

Reports submitted to DEQ will be revised and improved throughout the verification process. DEQ's receipt of reports verified by independent third parties will provide assurance that they are accurate and reliable.

Enforcement Provisions

What need would the proposed rule address?

DEQ rules cannot be appropriately enforced unless they are classified within OAR Chapter 340, Division 12. Consistent with other regulatory programs administered by DEQ, the proposed rules will classify certain violations and establish or clarify enforcement criteria for the GHG RP, the CFP and third-party verification regulations.

How would the proposed rule address the need?

The proposed rules will add or modify enforcement provisions relating to violations of the GHG RP, CFP, and third-party verification regulations.

How will DEQ know the rule addressed the need?

OAR Chapter 340, Division 12 will be updated to more clearly describe GHG reporting and third-party verification violations and enforcement criteria. Regulated entities subject to the GHG RP, the CFP, and/or third-party verification requirements will have a clearer understanding of DEQ enforcement.

Rules affected, authorities, supporting documents

Lead division

Air Quality Division

Program or activity

Greenhouse Gas Reporting Program
Clean Fuels Program

Chapter 340 action

Adopt				
340-272-0010	340-272-0020	340-272-0100	340-272-0110	340-272-0120
340-272-0210	340-272-0220	340-272-0300	340-272-0350	340-272-0355
340-272-0405	340-272-0410	340-272-0415	340-272-0420	340-272-0425
340-272-0430	340-272-0435	340-272-0440	340-272-0445	340-272-0450
340-272-0455	340-272-0460	340-272-0465	340-272-0470	340-272-0495
340-272-0500	340-215-0032	340-215-0034	340-215-0042	340-215-0044
340-215-0046	340-215-0105	340-215-0110	340-215-0115	340-215-0120
340-215-0125	340-253-0700			
Amend				
340-215-0010	340-215-0020	340-215-0030	340-215-0040	340-253-0040
340-253-0060	340-253-0100	340-253-0200	340-253-0310	340-253-0400
340-253-0450	340-253-0470	340-253-0500	340-253-0600	340-253-0620
340-253-0630	340-253-0640	340-253-0650	340-253-0670	340-253-1000
340-253-1005	340-253-1010	340-253-1020	340-253-8010	340-012-0054
340-012-0135	340-012-0140	340-012-0150		
Repeal				
340-253-8020	340-253-8030	340-253-8040	340-253-8050	340-253-8060
340-253-8070	340-253-8080	340-253-8090	340-253-8100	

Statutory Authority - ORS				
468.020	468.130	468A.050	468A.266	468A.271
468A.277	468A.280			

Statutes Implemented - ORS				
468.015	468.020	468.035	468.130	468.140
468A.010	468A.015	468A.050	468A.266	468A.268
468A.271	468A.272	468A.273	468A.274	468A.276
468A.277	468A.280			

Documents relied on for rulemaking

Document title	Document location
California Mandatory Reporting Regulation, title 17, California Code of Regulations, sections 95100-95163	https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IF29D06908B1711DF8121F57FB716B6E8&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)
California Low Carbon Fuel Standards, title 17, California Code of Regulations, sections 95480-95503	https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I06FA57F08B1811DF8121F57FB716B6E8&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)
Environmental Protection Agency, 40 Code of Federal Regulations, Part 98, Mandatory Greenhouse Gas Reporting	https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr98_main_02.tpl

Fee Analysis

This rulemaking does not involve any new or amended fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact

The GHG RP provides data and information needed to track and account for greenhouse gas emissions in Oregon. The proposed rules phase in new reporting requirements and establish third-party verification requirements for certain regulated entities that are required to report under the GHG RP and the CFP. DEQ assessed the fiscal and economic impact of the proposed rules and grouped the results into three categories including impacts from new reporting requirements, impacts from streamlining fuels reporting, and impacts of third-party verification. The fiscal and economic impacts for each category are discussed below.

New Reporting Requirements

DEQ is proposing several changes to the greenhouse gas reporting rules to require entities to report additional information, to improve documentation, and to retain records of reported data for seven years. DEQ also is proposing new requirements for owners and operators of petroleum and natural gas systems. The costs of complying with the proposed rule changes will vary from one entity to another, depending on the existing monitoring and recordkeeping activities. Fiscal impacts of each new reporting requirement is discussed below.

New Information and Record Retention Requirements

DEQ is proposing to require the reporting of additional data and information from natural gas suppliers and air contamination sources. These reporting requirements are based on information that most regulated entities already have and maintain such as invoices or data reported to EPA. Any costs incurred for reporters in either of these sectors would be in relation to allocating time and resources for reporting this information to DEQ, in addition to the current reporting requirements they already fulfill.

DEQ is proposing to change the records retention requirement from five years to seven years to ensure records are kept longer than the proposed third-party verifier rotation cycle of every six years. The extension of the recordkeeping requirement may result in additional costs for some regulated entities who do not currently retain records for longer than five years.

Regulated entities may experience minimal fiscal impact due to these changes in administrative and recordkeeping related to these requirements. DEQ estimated costs to comply with new reporting requirements and recordkeeping as ranging from $0 to $2,165 per year. The higher end of the range is associated with new entrants into the GHG RP. This estimate is based on EPA's Recordkeeping and Reporting estimate in the Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Final Rule (GHG Reporting) adjusted for inflation.

New Documentation Requirements

DEQ is proposing to require more substantial documentation of biomass-derived fuels and specified sources of electricity. Initially, some regulated entities may need to allocate staff

time and resources to ensuring the proper documentation and language exists in their current documentation and contracts in order to meet these new requirements. After the initial implementation this is expected to become standard practice in documentation and contracting.

Regulated entities reporting biomass-derived fuels into the CFP already maintain documentation sufficient to meet the requirements for reporting biomass-derived fuels. CFP regulated entities reporting biomass-derived fuels will not incur an additional fiscal impact from the new documentation requirements for GHG RP. DEQ anticipates that regulated entities not currently reporting to CFP may have a fiscal impact associated with obtaining and maintaining the documentation needed for reporting this information. DEQ also understands that documenting biomass-derived fuels and the environmental attributes associated with these fuels is becoming standard practice and DEQ anticipates that most regulated entities dealing in these fuel types have or will be implementing similar documentation requirements.

In the electricity sector, reporters will have initial administrative costs to ensure current contracts are updated and new contracts are written such that specified sources can be identified and reported as such. Moving forward, electricity suppliers will need to ensure that electricity sellers designate specified sources in power contracts prior to the delivery of electricity and that records identifying sources are retained.

Regulated entities may incur additional costs associated with the new documentation requirements depending on their current contracts and business practices. DEQ does not have any specific information to quantify these documentation costs but believes them to be minimal.

Petroleum and Natural Gas Systems

DEQ is proposing new reporting requirements for owners and operators of petroleum and natural gas systems in alignment with EPA 40 C.F.R. part 98 subpart W methodologies. Owners and operators of petroleum and natural gas systems in Oregon that emit over 2,500 metric tons of carbon dioxide equivalent (MT CO2e) must report to DEQ. DEQ anticipates this to impact three natural gas utilities and two interstate pipeline operators. These regulated entities already register and report natural gas supplier emissions to DEQ and EPA and several already report emissions from natural gas systems to EPA. For regulated entities already reporting to EPA only minimal additional costs would be incurred in order to report subpart W information to DEQ.

For regulated entities not subject to EPA reporting under subpart W, this change in rule may require additional staff time and resources. To comply with this reporting requirement these regulated entities may need to allocate staff time to surveying for pipeline leak detection, or require improved monitoring and documentation of fugitive or vented gas. Natural gas transmission and distribution systems in the state may already be conducting their business and operations in this way to comply with safety and other regulatory requirements and therefore would only see minor additional costs associated with time spent on compiling and submitting reports under Subpart W to DEQ. DEQ has also proposed delaying the

implementation of this requirement until 2021 to allow regulated entities to collect the data and develop the systems needed to comply.

DEQ is proposing a new reporting requirement for regulated entities with emissions from petroleum and natural gas systems, using an emissions threshold equal to or greater than 2,500 MT CO2e which is lower than EPA's reporting threshold of 25,000 MT CO2e. For entities already reporting to EPA, DEQ estimates the cost to comply with the proposed reporting requirements as minimal. For entities that do not currently report to EPA, DEQ relied on the Economic Impact Analysis[1] for EPA's Mandatory Reporting of Greenhouse Gas Emissions under Subpart W to estimate the cost to comply. Based on Table 4-8 of that analysis, the estimated costs for these regulated entities under EPA's threshold of 25,000 MT CO2e in the initial reporting year may range from $330 to $1,625 and annual costs in subsequent years may range from $11 to $169 per year. These costs may not be incurred as a result of this rulemaking for regulated entities required to report to DEQ but not EPA in cases where those entities have already been internally estimating emissions from natural gas transmission and distribution in alignment with EPA methodologies, but have not been required to report.

Streamlining Fuels Reporting

For fuel suppliers, there may be some administrative activities required to develop reports to provide information in the new format for submission to DEQ. For reporters subject to both GHG RP and CFP programs, this administrative task will be simplified. Changes to the CFP Online System will be necessary to facilitate the streamlining and initially there may be some minimal training necessary.

Streamlining the reporting requirements of the CFP with the GHG RP for fuel suppliers may initially result in either low or no cost to regulated entities as they transition from current practices. Once the streamlining is fully implemented, reporters should realize a cost savings.

Potential benefits of streamlining

Overall, DEQ anticipates that fuel suppliers would benefit from the proposed rules to streamline the reporting between the GHG RP and CFP as it reduces the amount of reporting required on those currently subject to separate reporting in both programs. Reporters would be able to utilize a single reporting system and therefore the same login credentials for both programs. Quarterly transactions reported to CFP would automatically aggregate to an annual report that may only need to be reviewed, with minor adjustments as needed, and submitted to GHG RP. The additional transaction types proposed in the rules to be added to the CFP may result in some initial paperwork for position holders to be able to report these quantities quarterly to CFP; however, they should already have this information, as it is currently required for annual reporting to GHG RP. For fuel suppliers dealing in non-CFP regulated fuels, they would report fuels as they do annually to GHG RP.

[1] https://www.epa.gov/sites/production/files/2015-05/documents/subpart-w_eia.pdf

Combining the CFP and GHG RP reporting for fuel suppliers should reduce the administrative burden and costs of reporting to regulated entities by eliminating the need to report separately into two different reporting systems. DEQ does not have any specific information to quantify these reduced costs.

Third-Party Verification Requirements

DEQ is proposing to require third-party verification for three categories of entities: 1) regulated entities reporting to the GHG RP that emit 25,000 metric tons of carbon dioxide equivalent or more of anthropogenic emissions; 2) registered parties in the CFP that generate 6,000 or more credits and deficits during the previous calendar year; and 3) holders of CFP fuel pathways. The proposed rules will also allow for, but not require, fuel pathway applications to be verified when they are submitted. Third-party verification is proposed to begin in 2022 for verification of 2021 emissions data. Regulated entities subject to third-party verification may experience minimal fiscal impacts from increased administrative and recordkeeping requirements and more substantial fiscal impacts from the cost of obtaining third-party verification. DEQ is also proposing to change the CFP recordkeeping requirements from a five year retention to seven years to ensure records are kept longer than the proposed required minimum third-party verifier rotation cycle of every six years.

Impacts of administrative and recordkeeping requirements relating to third-party verification

DEQ anticipates that regulated entities subject to third-party verification will experience a minimal fiscal impact from administrative costs associated with obtaining verification services and interacting with verifiers. This additional cost will depend on current business practices and whether or not entities are already engaged in third-party verification for other mandatory or voluntary reporting programs such as the California Low Carbon Fuel Standards or cap and trade programs. Regulated entities will need to dedicate resources to negotiate a contract with a verification body, whether that be a new contract or renegotiation of an existing contract, to perform verification services for reports submitted to DEQ. Staff will need to coordinate with the verifier as they perform their verification services by providing information and documentation, and answering questions.

DEQ anticipates that regulated entities subject to third-party verification will experience a minimal fiscal impact from recordkeeping requirements associated with obtaining verification services since they should already be keeping those documents consistent with the recordkeeping requirements in the GHG RP and CFP.

DEQ anticipates that the cost of switching from a 5 year to a 7 year records retention schedule will vary from one entity to another, depending on the existing monitoring and recordkeeping activities. Additional costs may be incurred for some regulated entities who do not currently retain records for longer than five years.

DEQ does not have any specific information to quantify the costs associated with increased administrative and recordkeeping requirements associated with third-party verification of reports but believes them to be minimal.

Impacts to regulated entities obtaining third-party verification
To estimate the potential fiscal and economic impact of obtaining third-party verification, DEQ requested assistance from a wide range of stakeholders including entities that are subject to third-party verification in other jurisdictions, those that have voluntarily verified data or received quotes for verification, and third-party verifiers to submit estimates of verification costs.

Verification of GHG RP annual reports: Estimates provided to DEQ assessed the cost of third-party verification of a single report submitted to the GHG RP would range from $4,000 to $10,000. Costs will be dependent on the depth and breadth of DEQ reporting requirements for a specific sector and the complexity of the reporter's business. The estimates also take into consideration the large pool of existing verifiers already qualified to provide verification services for this type of reporting in Oregon.

For reporters who submit more than one report to DEQ, the cost may be higher but will not be a one-to-one increase. For example, if a reporter submits a report as an electricity supplier and as an electricity generating facility that is a permitted air contamination source in Oregon, the cost of its verification services would not necessarily be double.

Verification of CFP reports and applications:
Estimates provided to DEQ assessed the cost of third-party verification of CFP quarterly reports and fuel pathway applications would range from $17,000 to $70,000. Costs will vary greatly depending on the complexity of the business, the number of transactions being reported, or the number of fuel pathways included. DEQ also recognizes that specialized qualifications are needed for CFP verification compared to the GHG RP and that the pool of qualified verifiers might be limited.

California's Low Carbon Fuel Standard (LCFS) requires third-party verification and CARB is currently in the process of training and accrediting verification bodies and verifiers. Once their process is complete, DEQ will have a better estimate of the pool of qualified verifiers who could also perform verification services for CFP. Stakeholders are concerned that the pool of qualified verifiers may be small and this limitation will increase the cost of their services. CFP is proposing to delay third-party verification requirements until 2021 which will allow time for additional verifiers to be accredited.

If an entity is reporting to GHG RP and California's Mandatory Reporting Regulation (MRR) and/or reporting/applying to CFP and California's LCFS: For those entities required to submit reports that are third-party verified under both Oregon and California programs, the cost to obtain Oregon verification services will likely be lower than the cost for other entities, since California already requires verification for similar reports. For certain types of regulated entities, the information or data tracking that must be verified in both states will be substantially equivalent, therefore they may have no change in costs, or minor increases due to the need to now verify Oregon-specific data in addition to meeting California verification requirements. DEQ does not have any specific information to quantify these potentially lower costs.

Potential benefits to regulated entities of CFP
Third-party verification of fuel pathways and reports will increase the certainty that credits and deficits generated within the CFP are accurate. This will reduce the potential for fraudulent credits being traded in the market-based program and the regulatory and financial liability associated with them.

Potential benefit to verification bodies
Entities that become approved to be a verification body or an individual verifier will benefit from the proposed rule changes by the increase in opportunities to participate in this work. While there might be some initial cost to receive training and get approved to perform third-party verifications, they will be able to recoup those costs through contracts with regulated parties.

Statement of Cost of Compliance

Oregon Department of Environmental Quality

DEQ will use existing positions to implement changes resulting from the proposed rules. An existing GHG RP position will be assigned to implement the new information requirements and another existing position will be assigned to implement the third-party verification requirements.

Changes and modifications to electronic reporting systems will be incorporated into current work plans for each reporting tool as follows:

- **GHG RP reporting system:** DEQ is currently conducting an agency-wide process to house all data in an Environmental Data Management System (EDMS), which is being developed in coordination with a third-party contractor. The reporting for the GHG RP was moving to EDMS regardless of this rulemaking, therefore any changes to reporting requirements can easily be incorporated into the new system at the same time as the existing reporting requirements are built into EDMS. Because DEQ has aligned much of the new reporting with EPA reporting requirements, DEQ can rely on existing EPA reporting forms as a template, further simplifying the ability to incorporate new reporting requirements into EDMS.

- **CFP Online System**: DEQ will shift funds currently used to maintain the existing GHG RP reporting tool for fuel suppliers, EZ-Fuels, to upgrade the CFP Online System, as needed. With the streamlined reporting proposed in this rulemaking, DEQ anticipates a potential positive fiscal impact after implementation since the agency will be maintaining a single reporting tool for all fuels reporting.

Other governments

The Lane Regional Air Protection Agency (LRAPA) implements the GHG RP for air permitted facilities in Lane County. Since those facilities already report to LRAPA, DEQ anticipates minimal fiscal impact to DEQ. DEQ implements all other reporting requirements for regulated entities in LRAPA without air permits and will implement the third-party

verification for regulated entities located in Lane County so there is no fiscal impact to LRAPA.

State agencies other than DEQ and local governments that are subject to Division 215 or Division 253 may experience the fiscal impacts as discussed in the Fiscal and Economic Impacts section above. If a local or regional government is subject to the proposed Division 272, they may experience the fiscal impacts discussed in the GHG RP third-party verification costs section above.

Public

The public may be impacted if the cost of complying with the proposed rule changes are passed on by the affected parties. As shown above, the cost of compliance is highly variable from sector to sector and entity to entity so it is difficult to quantify a specific impact. DEQ considers the fiscal impact on the public as a result of the proposed rules to be minimal.

Large businesses – businesses with more than 50 employees

Based on 2017 GHG RP and 2018 CFP data, DEQ estimates that approximately 360 large businesses may be affected by these rule changes - 287 for the new GHG RP requirements and 74 for the streamlining fuels reporting requirements, and that 98 of those businesses will be affected by the third-party verification requirements. The impacts described in the Fiscal and Economic Impact section above applies to:

- Large businesses that are subject to the proposed GHG RP requirements may incur the costs described specifically in the New Information and Record Retention Requirements and New Documentation Requirements section.
- Large business that own or operate petroleum and natural gas systems may incur the costs described specifically in the Petroleum and Natural Gas Systems section.
- Large business that report to both the GHG RP and CFP may experience costs and benefits described specifically in the Streamlining Fuels Reporting section.
- Large businesses that are subject to the proposed verification requirements would incur costs as described specifically in Third-Party Verification Requirements Costs section.

Small businesses – businesses with 50 or fewer employees

Based on 2017 GHG RP and 2018 CFP data, DEQ estimates that approximately 29 small businesses may be affected by these rule changes - 17 for the new GHG RP requirements and 12 for the streamlining requirements, and that seven of those businesses will be subject to the third-party verification requirements. The impacts described in the Fiscal and Economic Impact section above applies to:

- Small businesses that are subject to the proposed GHG RP requirements may incur the costs described specifically in the New Information and Record Retention Requirements and New Documentation Requirements section.
- There are no small business that own or operate petroleum and natural gas systems.
- Small business that report to both the GHG RP and CFP may experience costs and benefits described specifically in the Streamlining Fuels Reporting section.

- Small businesses that are subject to the proposed verification requirements would incur costs as described specifically in Third-Party Verification Requirements Costs section.

Consumer Owned Utilities (COUs)
Many if not all consumer owned utilities are small businesses. These entities are electricity suppliers subject to the proposed GHG RP changes and may incur additional costs associated with improving documentation of specified sources as discussed in the New Documentation Requirements in the Fiscal and Economic Impacts section above. To reduce the fiscal impact to COUs, DEQ is proposing to allow for a third-party to report on their behalf, thus lowering the cost of compliance of one or more COUs. DEQ is also proposing to delay the specified source contracting requirements until 2022 for the 2021 emissions year to allow the COUs more time to ensure contracts are written such that specified sources can be identified and reported.

Additional considerations for small business and third-party verification
Small business would incur costs as described in the Third-party Verification section in the Fiscal and Economic Impacts section. To mitigate this, DEQ is proposing thresholds in the third-party verification rules that attempt to exclude small businesses from having reports third-party verified. For any small businesses that become subject to third-party verification requirements, costs may be reduced compared to large businesses, depending on the nature of the business and depending on how many different reports they are required to submit to the GHG RP, CFP, or both.

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

Based on 2017 GHG RP and 2018 CFP data, DEQ estimates that approximately 29 small businesses may be affected by these rule changes - 17 for the new GHG RP requirements (five air contamination sources, one natural gas supplier, 11 electricity suppliers, and 12 fuel suppliers), 12 for the streamlining requirements (fuel suppliers), and seven for the verification requirements (one natural gas supplier and six fuel suppliers).

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

Costs to small business associated with reporting, recordkeeping and other administrative are discussed in the New Reporting Requirements section of the Fiscal and Economic Impact section above.

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

Costs to small business associated with reporting, recordkeeping and other administrative are discussed in the New Reporting Requirements section of the Fiscal and Economic Impact section above.

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

DEQ convened an advisory committee that included representatives from membership organizations that represent small businesses including but not limited to the Oregon Fuels Association, Oregon Rural Electric Coop Association, Oregon Municipal Electric Utilities Association and Oregon Business & Industry. DEQ also provided notice of this rulemaking to all entities currently reporting to the GHG RP and CFP which represents small businesses.

Documents relied on for fiscal and economic impact

Document title	Document location
Estimates of third-party verification cost ranges provided to DEQ	Oregon Department of Environmental Quality 700 NE Multnomah St. Suite 600 Portland OR 97232
Oregon Greenhouse Gas Reporting Program data	https://www.oregon.gov/deq/aq/programs/Pages/GHG-Emissions.aspx
Oregon Clean Fuels Program data	Oregon Department of Environmental Quality 700 NE Multnomah St. Suite 600 Portland OR 97232
Economic Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Under Subpart W Final Rule (GHG Reporting), EPA, November 2010	https://www.epa.gov/sites/production/files/2015-05/documents/subpart-w_eia.pdf
Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Final Rule (GHG Reporting), EPA, September 2009	https://www.epa.gov/sites/production/files/2015-07/documents/regulatoryimpactanalysisghg.pdf
US Inflation Calculator	https://www.usinflationcalculator.com/
Oregon Department of Employment data	Employment Department 875 Union Street NE Salem OR 97311

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.333 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and

- Whether the proposed rules would have a significant adverse impact on small businesses; and if so, then how DEQ can comply with ORS 183.540 to reduce that impact.

The committee reviewed the fiscal and economic impact statement provided above and determined the proposed rules would have a significant impact on regulated entities, including small businesses.

As ORS 183.333 and 183.540 require, the committee considered how DEQ could reduce the rules' fiscal impact on small business by:

- Establishing differing compliance or reporting requirements or time tables for small business;
- Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
- Utilizing objective criteria for standards;
- Exempting small businesses from any or all requirements of the rule; or
- Otherwise establishing less intrusive or less costly alternatives applicable to small business.

To be proactive to the potential fiscal and economic impacts to small businesses, DEQ already included in the proposed rule package ahead of the second Rulemaking Advisory Committee meeting several solutions to mitigate impacts. The committee's discussion is reflected in the meeting summary and in its submitted written comments. The following summarizes these comments, with DEQ's responses and, where appropriate, changes DEQ has made to the fiscal and economic impact statement to reflect these comments:

- Several commenters stated that they felt the cost to comply with the third-party verification requirements were underestimated, but did not offer any specific alternative estimate. DEQ has concluded that is it unable to adjust its impact estimates without more specific information about potential impacts.
- Several commenters stated that there would be additional costs related to training and increase in the amount of staff time committed to both the proposed reporting requirements and third-party verification requirements that should be considered, but did not provide specific estimates. DEQ has concluded that it is unable to adjust its impact estimates without more specific information about potential impacts.
- A commenter estimated the cost to comply with the proposed reporting requirements to incorporate EPA's Subpart W to be around $5,000 and the annual cost for third-party verification under the GHG RP to range – up to $15,000. DEQ acknowledges these suggestions and now includes these new data points as adjustments to the above fiscal and economic analysis.
- A commenter estimated that their cost for third-party verification in California was in excess of $5,000 which only covered EIM-related transactions. For Oregon, that would be expanded to include bilateral transactions, generation units, PURPA contract-related deals, etc. and would significantly increase those costs. DEQ notes that this is within the range of estimates that DEQ included in the fiscal and economic impact statement.

- A commenter requested clarity on whether DEQ intended to require wood-based biomass boilers to obtain and retain documentation from each upstream party. This was not DEQ's intent and the language has been clarified to not apply to solid fuels; therefore, eliminating any fiscal impact in this regard.
- A commenter requested that the verification timelines not be aligned with California's. DEQ has adjusted its timelines to stagger some of the dates from California's submittal deadlines, which might increase the availability of verifiers in Oregon and lower costs.
- A commenter suggested that the frequency of verification be lessened if the outcome of an initial verification is positive. DEQ has already proposed the option of having a full verification followed by two years of less intensive verifications under certain circumstances, which reduces annual costs.
- Several commenters stated concerns associated with the seven year record retention requirements. This record retention requirement ensures records are kept longer than the proposed third-party verifier rotation cycle of every six years. DEQ has adjusted the requirement for regulated entities not subject to third-party verification and has reduced the record retention requirement for those entities from seven to five years.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have no effect on the development costs because it only affects regulated entities of the Greenhouse Gas Reporting and Clean Fuels Programs.

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

Oregon Greenhouse Gas Reporting Program

The proposed rules are "in addition to federal requirements" since EPA collects data and information under a federal GHG Reporting Program.

Oregon Clean Fuels Program

The proposed rules are in addition to federal requirements since there are no federal regulations that require the reduction in the average lifecycle content of greenhouse gases in transportation fuels. The proposed rules protect the environment and residents of Oregon by reducing greenhouse gas emissions.

What alternatives did DEQ consider if any?

Oregon Greenhouse Gas Reporting Program

DEQ considered the following alternatives:

1. Alternative quantification methods and more stringent reporting requirements than EPA's GHG Reporting Program.
2. Adding additional staff to conduct deeper in-house auditing of reported data and information since EPA does not require third-party verification of reports submitted to the GHG Reporting Program.

DEQ did not adopt them because:

1. DEQ wanted to adopt rules that, when possible, reduced the reporting burden to regulated entities by allowing them to utilize data collection processes and quantification methods that are consistent with federal reporting.
2. No number of additional staff would be able to provide as detailed or stringent an audit or verification of data, data management systems or procedures, or reporting oversight that is provided by third-party verification.

Oregon Clean Fuels Program

In designing the Clean Fuels Program, DEQ considered many alternatives contained in the proposed rule. Input from advisory committees in 2010, 2012, 2014, 2015, 2016, 2017, 2018, 2019 and extensive outreach with affected stakeholders throughout the process informed the design of the Oregon Clean Fuels Program. Documentation is in the rulemaking record.

Land use

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with state wide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

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

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

EQC Prior Involvement

DEQ did not present additional information specific to this proposed program and rule adoption and revisions.

Advisory Committee

Background

DEQ convened the GHG 2019 Rulemaking Advisory Committee. The committee included representatives as described below and met 2 times. The committee's web page is located at:
https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rGHG2019.aspx

The committee members were:

Rulemaking Name Advisory Committee	
Name	**Representing**
Zach Baker	Climate Solutions
Pam Barrow	Food Northwest
Kevin Booth	Avista
Daniel Lee	Schnitzer Steel Industries
Ted Case	Oregon Rural Electric Coop Association
Bill Edmonds	NW Natural
Darren Engle	Blue Star Gas
Ed Finklea	Alliance of Western Energy consumers
Jana Gastellum	Oregon Environmental Council
Kent Hartwig	Renewable Energy Group
Jessica Hoffmann	Renewable Products Marketing Group, LLC
Jennifer Joly	Oregon Municipal Electric Utilities Association
Sam Wade	RNG Coalition
Alisa Kaseweter	Bonneville Power Administration
Dan Kirschner	Northwest Gas Association
Andy McDonald	Cascade Natural Gas Corp
Sharla Moffett	Oregon Business & Industry
Scott Peters	The Williams Companies, Inc.
Danelle Romain	The Romain Group
Elysia Treanor	Portland General Electric
Tom Umenhofer	Western States Petroleum Association
Kathryn VanNatta	Northwest Pulp and Paper Association
Mary Wiencke	PacifiCorp

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Rulemaking
  - Greenhouse Gas Reporting
  - Climate Change
  - Oregon Clean Fuels Program
- Added advisory committee announcements to DEQ's calendar of public meetings at DEQ Calendar.

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee provided input on how to:

- Modify the Greenhouse Gas Reporting Program (Division 215) to provide a better understanding of greenhouse gas emissions in the state and improve the ability to track progress toward meeting emission reduction goals.
- Streamline the reporting requirements of the Greenhouse Gas Reporting Program (Division 215) and the Clean Fuels Program (Division 253) to enable entities that are subject to both programs to report into a single system.
- Incorporate independent third-party verification of some data that is submitted to the Greenhouse Gas Reporting Program and the Clean Fuels Program.

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On Dec. 19, 2019 filing notice with the Oregon Secretary of State for publication in the January 2020 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: Greenhouse Gas Reporting and Third-Party Verification 2019;
- Emailing approximately 13,819 interested parties on the following DEQ lists through GovDelivery:
    - DEQ Public Notices
    - Rulemaking
    - Greenhouse Gas Reporting
    - Oregon Clean Fuels Program
    - Climate Change
- Emailing the following key legislators required under ORS 183.335:
    - Speaker Tina Kotek
    - Senate President Peter Courtney
    - Senator Michael Dembrow
    - Representative Karin Power
- Emailing advisory committee members
- Posting on the DEQ event calendar: DEQ Calendar

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed programs and rules. Anyone can submit comments and questions about this proposal. A person may submit comments by email, by regular mail or at the public hearing.

Comment deadline

DEQ will only consider comments on the proposed programs and rules that DEQ receives by 4 p.m., on Jan. 28, 2020.

Submit comment by email

Any person can submit comments by sending an email. Commenters should include "GHG 2019 Rulemaking Comment" in the email subject line. Submit emails to: ghg2019@deq.state.or.us

Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

By mail

Oregon DEQ
Attn: Elizabeth Elbel
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100

At hearing

Jan. 16, 2020

Public Hearing

DEQ plans to hold a public hearing. Anyone can attend a hearing in person, or by webinar or teleconference.

Date: Jan. 16, 2020
Start time: 3 p.m.
Street address: 700 NE Multnomah St.
Room: 610
City: Portland, OR 97232

Teleconference phone number: 888-278-0296
Participant code: 8040259
Webinar link: Webinar login

Instructions on how to join webinar or teleconference: Webinar/teleconference instructions

DEQ will consider all comments and testimony received before the closing date. DEQ will summarize all comments and respond to comments in the Environmental Quality Commission staff report.

Accessibility Information

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.

State of Oregon Department of Environmental Quality

Division 12
Draft Rules – Edits Highlighted

Greenhouse Gas Reporting and Third-Party Verification 2019

Key to Identifying Changed Text:
~~Deleted Text~~
New/inserted text

Division 12

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0054
Air Quality Classification of Violations

(1) Class I:

(a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;

(b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit that includes permit conditions required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;

(c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;

(d) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from DEQ;

(e) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;

(f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;

(g) Exceeding a Plant Site Emission Limit (PSEL);

(h) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;

(i) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

(j) Exceeding a hazardous air pollutant emission limitation;

(k) Failing to comply with an Emergency Action Plan;

(l) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established under New Source Review/Prevention of Significant Deterioration (NSR/PSD);

(m) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;

(n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;

(o) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;

(p) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit or with an emission limitation or a performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;

(q) Causing emissions that are a hazard to public safety;

(r) Violating a work practice requirement for asbestos abatement projects;

(s) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;

(t) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;

(u) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;

(v) Failing to hire a licensed contractor to conduct an asbestos abatement project;

(w) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);

(x) Failing to install certified vapor recovery equipment;

(y) Delivering for sale a noncompliant vehicle by an automobile manufacturer in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;

(aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements set forth in OAR 340 division 257;

(bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;

(cc) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(dd) Failing to comply with any of the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of ~~,~~ OAR 340-253-8010 ~~(Table 1) and OAR 340-253-8020 (Table 2)~~;

(ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);

(ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a regulated party's true compliance obligation denominated in deficits under such program;

(gg) Making misstatements about material ~~misstatements~~ information or knowingly or recklessly providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450; ~~or~~

(hh) Failing to timely submit a~~n~~ complete and accurate annual compliance report under OAR 340-253-0100(8);~~.~~

(ii) Failing to timely submit a complete and accurate emissions data report under OAR 340-215-0044 and OAR 340-215-0046;

(jj) Submitting a verification statement to DEQ prepared by a person not approved by DEQ under OAR 340-272-0220 to perform verification services;

(kk) Failing to timely submit a verification statement that meets the verification requirements under OAR 340-272-0100 and OAR 340-272-0495;

(ll) Failing to submit a revised application or report to DEQ according to OAR 340-272-0435; or

(mm) Failing to complete re-verification according to OAR 340-272-0350(2).

(2) Class II:

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP attachment, or registration without first obtaining such permit or registration, unless otherwise classified;

(b) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;

(c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

(e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;

(f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;

(g) Failing to timely submit a certification, report, or plan as required by rule, permit or permit attachment, unless otherwise classified;

(h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;

(i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;

(j) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;

(k) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).

(l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;

(m) Failing to provide timely, accurate or complete notification of an asbestos abatement project;

(n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;

(o) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620; ~~or~~

(p) Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;

(q) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is a producer or importer of blendstocks, as defined in OAR 340-253-0040;

(r) Failing to register as an aggregator or submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c);

(s) Failing to keep records under OAR 340-253-0600 when the records relate to obtaining a carbon intensity under OAR 340-253-0450; ~~or~~

(t) Failing to keep records related to obtaining a carbon intensity under OAR 340-253-0450; ~~or~~

(u) Failing to timely submit a complete and accurate quarterly ~~progress~~ report under OAR 340-253-0100(7); or~~.~~

~~(v) Failing to timely submit an annual compliance report under OAR 340-253-0100(8).~~

(v) Violating any requirement under OAR Chapter 340 division 272, unless otherwise classified.

(3) Class III:

(a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;

(b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;

(c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;

(e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project; ~~or~~

(f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(g) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is an importer of finished fuels, as defined in OAR 340-253-0040; or

(h) Failing to keep records under OAR 340-253-0600, except as provided in subsection (2)(s~~r~~).~~; or~~

~~(i) Failing to timely submit a quarterly progress report under OAR 340-253-0100(7).~~

Note: Tables and Publications referenced are available from the agency.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.045
Statutes/Other Implemented: ORS 468.020 & 468A.025
History:
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0050, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 22-1996, f. & cert. ef. 10-22-96

DEQ 21-1994, f. & cert. ef. 10-14-94
DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 2-1992, f. & cert. ef. 1-30-92
DEQ 31-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89
DEQ 22-1988, f. & cert. ef. 9-14-88
DEQ 22-1984, f. & ef. 11-8-84
DEQ 5-1980, f. & ef. 1-28-80
DEQ 78, f. 9-6-74, ef. 9-25-74

340-012-0135
Selected Magnitude Categories

(1) Magnitudes for selected Air Quality violations will be determined as follows:

(a) Opacity limit violations:

(A) Major — Opacity measurements or readings of 20 percent opacity or more over the applicable limit, or an opacity violation by a federal major source as defined in OAR 340-200-0020;

(B) Moderate — Opacity measurements or readings greater than 10 percent opacity and less than 20 percent opacity over the applicable limit; or

(C) Minor — Opacity measurements or readings of 10 percent opacity or less over the applicable limit.

(b) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit: Major — if a Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) analysis shows that additional controls or offsets are or were needed, otherwise apply OAR 340-012-0130.

(c) Exceeding an emission limit established under New Source Review/Prevention of Significant Deterioration (NSR/PSD): Major — if exceeded the emission limit by more than 50 percent of the limit, otherwise apply OAR 340-012-0130.

(d) Exceeding an emission limit established under federal National Emission Standards for Hazardous Air Pollutants (NESHAPs): Major — if exceeded the Maximum Achievable Control Technology (MACT) standard emission limit for a directly-measured hazardous air pollutant (HAP), otherwise apply OAR 340-012-0130.

(e) Exceeding a cancer or noncancer risk limit that is equivalent to a Risk Action Level or a Source Risk Limit if the limit is a Risk Action Level established under OAR 340-245-0005 through 340-245-8050: Major, otherwise apply OAR 340-012-0130.

(f) Air contaminant emission limit violations for selected air pollutants: Magnitude determinations under this subsection will be made based upon significant emission rate (SER) amounts listed in OAR 340-200-0020.

(A) Major:

(i) Exceeding the annual emission limit as established by permit, rule or order by more than the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by more than the applicable short-term SER.

(B) Moderate:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the annual SER; or

(ii) Exceeding the short-term (less than one-year) emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the applicable short-term SER.

(C) Minor:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount less than 50 percent of the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount less than 50 percent of the applicable short-term SER.

(g) Violations of Emergency Action Plans: Major — Major magnitude in all cases.

(h) Violations of on road motor vehicle refinishing rules contained in OAR 340-242-0620: Minor — Refinishing 10 or fewer on road motor vehicles per year.

(i) Asbestos violations — These selected magnitudes apply unless the violation does not cause the potential for human exposure to asbestos fibers:

(A) Major — More than 260 linear feet or more than 160 square feet of asbestos-containing material or asbestos-containing waste material;

(B) Moderate — From 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet of asbestos-containing material or asbestos-containing waste material; or

(C) Minor — Less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material.

(D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(j) Open burning violations:

(A) Major — Initiating or allowing the initiation of open burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;

(B) Moderate — Initiating or allowing the initiation of open burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if DEQ lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned; or

(C) Minor — Initiating or allowing the initiation of open burning of less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires.

(D) The selected magnitude may be increased one level if DEQ finds that one or more of the following are true, or decreased one level if DEQ finds that none of the following are true:

(i) The burning took place in an open burning control area;

(ii) The burning took place in an area where open burning is prohibited;

(iii) The burning took place in a non-attainment or maintenance area for PM10 or PM2.5; or

(iv) The burning took place on a day when all open burning was prohibited due to meteorological conditions.

(k) Oregon Low Emission Vehicle Non-Methane Gas (NMOG) or Green House Gas (GHG) fleet average emission limit violations:

(A) Major — Exceeding the limit by more than 10 percent; or

(B) Moderate — Exceeding the limit by 10 percent or less.

(l) Oregon Clean Fuels Program violations:

(A) Exceeding the clean fuel standards set forth in OAR 340-253-0100(6) ~~,~~ and Tables 1 and 2 of 340-253-8010 ~~(Table 1) and 340-253-8020 (Table 2)~~ by not retiring sufficient credits to satisfy a regulated party's compliance obligation:

(i) Major — more than 15 percent of their total deficit obligation remains unsatisfied;

(ii) Moderate — more than 10 percent but less than 15 percent of their total deficit obligation remains unsatisfied; or

(iii) Minor —less than 10 percent of their total deficit obligation remains unsatisfied.

(B) Failing to register under OAR 340-253-0100(1) and (4): Moderate — producers and importers of blendstocks;

(C) Failing to submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c): Minor;

(D) Failing to keep records as set forth in OAR 340-253-0600, when the records relate to obtaining a carbon intensity under OAR 340-253-04500600: Minor;

(E) Failing to submit a complete and accurate annual compliance report or quarterly ~~progress~~ report under OAR chapter 340~~-~~ division 253: Moderate;

(F) Failing to timely submit a~~n~~ complete and accurate annual compliance report or quarterly ~~progress~~ report under OAR chapter 340, division 253: Minor.

(m) Oregon Greenhouse Gas Reporting Program violations:

(A) Failing to submit a complete and accurate emissions data report under OAR chapter 340, division 215: Moderate;

(B) Failing to timely submit a complete and accurate emissions data report under OAR chapter 340, division 215: Minor.

(2) Magnitudes for selected Water Quality violations will be determined as follows:

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

(i) The dilution (D) of the spill or technology based effluent limitation exceedance was less than two, when calculated as follows: D = ((QR /4) + QI)/ QI, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the incident;

(ii) The receiving stream flow at the time of the water quality based effluent limitation (WQBEL) exceedance was at or below the flow used to calculate the WQBEL; or

(iii) The resulting water quality from the spill or discharge was as follows:

(I) For discharges of toxic pollutants: CS/D was more than CAcute, where CS is the concentration of the discharge, D is the dilution of the discharge as determined under (2)(a)(A)(i), and CAcute is the concentration for acute toxicity (as defined by the applicable water quality standard);

(II) For spills or discharges affecting temperature, when the discharge temperature is at or above 32 degrees centigrade after two seconds from the outfall; or

(III) For BOD5 discharges: (BOD5)/D is more than 10, where BOD5 is the concentration of the five-day Biochemical Oxygen Demand of the discharge and D is the dilution of the discharge as determined under (2)(a)(A)(i).

(B) Moderate:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was two or more but less than 10 when calculated as follows: D = ((QR /4)+ QI)/ QI, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the discharge; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was greater than, but less than twice, the flow used to calculate the WQBEL.

(C) Minor:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was 10 or more when calculated as follows: D = ((QR/4) + QI)/ QI, where QR is the receiving stream flow and QI is the quantity or discharge rate of the incident; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was twice the flow or more of the flow used to calculate the WQBEL.

(b) Violating numeric water quality standards:

(A) Major:

(i) Increased the concentration of any pollutant except for toxics, dissolved oxygen, pH, and turbidity, by 25 percent or more of the standard;

(ii) Decreased the dissolved oxygen concentration by two or more milligrams per liter below the standard;

(iii) Increased the toxic pollutant concentration by any amount over the acute standard or by 100 percent or more of the chronic standard;

(iv) Increased or decreased pH by one or more pH units from the standard; or

(v) Increased turbidity by 50 or more nephelometric turbidity units (NTU) over background.

(B) Moderate:

(i) Increased the concentration of any pollutant except for toxics, pH, and turbidity by more than 10 percent but less than 25 percent of the standard;

(ii) Decreased dissolved oxygen concentration by one or more, but less than two, milligrams per liter below the standard;

(iii) Increased the concentration of toxic pollutants by more than 10 percent but less than 100 percent of the chronic standard;

(iv) Increased or decreased pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard; or

(v) Increased turbidity by more than 20 but less than 50 NTU over background.

(C) Minor:

(i) Increased the concentration of any pollutant, except for toxics, pH, and turbidity, by 10 percent or less of the standard;

(ii) Decreased the dissolved oxygen concentration by less than one milligram per liter below the standard;

(iii) Increased the concentration of toxic pollutants by 10 percent or less of the chronic standard;

(iv) Increased or decreased pH by 0.5 pH unit or less from the standard; or

(v) Increased turbidity by 20 NTU or less over background.

(c) The selected magnitude under (2)(a) or (b) may be increased one or more levels if the violation:

(A) Occurred in a water body that is water quality limited (listed on the most current 303(d) list) and the discharge is the same pollutant for which the water body is listed;

(B) Depressed oxygen levels or increased turbidity and/or sedimentation in a stream in which salmonids may be rearing or spawning as indicated by the beneficial use maps available at OAR 340-041-0101 through 0340;

(C) Violated a bacteria standard either in shellfish growing waters or during the period from June 1 through September 30; or

(D) Resulted in a documented fish or wildlife kill.

(3) Magnitudes for selected Solid Waste violations will be determined as follows:

(a) Operating a solid waste disposal facility without a permit or disposing of solid waste at an unpermitted site:

(A) Major — The volume of material disposed of exceeds 400 cubic yards;

(B) Moderate — The volume of material disposed of is greater than or equal to 40 cubic yards and less than or equal to 400 cubic yards; or

(C) Minor — The volume of materials disposed of is less than 40 cubic yards.

(D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.

(b) Failing to accurately report the amount of solid waste disposed:

(A) Major — The amount of solid waste is underreported by 15 percent or more of the amount received;

(B) Moderate — The amount of solid waste is underreported by 5 percent or more, but less than 15 percent, of the amount received; or

(C) Minor — The amount of solid waste is underreported by less than 5 percent of the amount received.

(4) Magnitudes for selected Hazardous Waste violations will be determined as follows:

(a) Failure to make a hazardous waste determination;

(A) Major — Failure to make the determination on five or more waste streams;

(B) Moderate — Failure to make the determination on three or four waste streams; or

(C) Minor — Failure to make the determination on one or two waste streams.

(b) Hazardous Waste treatment, storage and disposal violations of OAR 340-012-0068(1)(b), (c), (h), (k), (l), (m), (p), (q) and (r):

(A) Major:

(i) Treatment, storage, or disposal of more than 55 gallons or 330 pounds of hazardous waste; or

(ii) Treatment, storage, or disposal of at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Treatment, storage, or disposal of 55 gallons or 330 pounds or less of hazardous waste; or

(ii) Treatment, storage, or disposal of less than one quart or 2.2 pounds of acutely hazardous waste.

(c) Hazardous waste management violations classified in OAR 340-012-0068(1)(d), (e) (f), (g), (i), (j), (n), (s) and (2)(a), (b), (d), (e), (h), (i), (k), (m), (n), (o), (p), (r) and (s):

(A) Major:

(i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Hazardous waste management violations involving more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving less than one quart or 2.2 pounds of acutely hazardous waste.

(C) Minor:

(i) Hazardous waste management violations involving 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste.

(5) Magnitudes for selected Used Oil violations (OAR 340-012-0072) will be determined as follows:

(a) Used Oil violations set forth in OAR 340-012-0072(1)(f), (h), (i), (j); and (2)(a) through (h):

(A) Major — Used oil management violations involving more than 1,000 gallons or 7,000 pounds of used oil or used oil mixtures;

(B) Moderate — Used oil management violations involving more than 250 gallons or 1,750 pounds, up to and including 1,000 gallons or 7,000 pounds of used oil or used oil mixture; or

(C) Minor — Used oil management violations involving 250 gallons or 1,750 pounds or less of used oil or used oil mixtures.

(b) Used Oil spill or disposal violations set forth in OAR 340-012-0072(1)(a) through (e), (g) and (k).

(A) Major — A spill or disposal involving more than 420 gallons or 2,940 pounds of used oil or used oil mixtures;

(B) Moderate — A spill or disposal involving more than 42 gallons or 294 pounds, up to and including 420 gallons or 2,940 pounds of used oil or used oil mixtures; or

(C) Minor — A spill or disposal of used oil involving 42 gallons or 294 pounds or less of used oil or used oil mixtures.

NOTE: Tables & Publications referenced are available from the agency.

Statutory/Other Authority: ORS 468.065 & 468A.045
Statutes/Other Implemented: ORS 468.090 - 468.140 & 468A.060
History:
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0090, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 1-2003, f. & cert. ef. 1-31-03
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 21-1992, f. & cert. ef. 8-11-92

340-012-0140
Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) $12,000 Penalty Matrix:

(a) The $12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act, unless otherwise classified.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) by an automobile manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

(ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.

(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.

(F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.

(I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.

(J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.

(K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(M) Any violation of a hazardous waste statute, rule, permit or related order by:

(i) A person that is a large quantity generator or hazardous waste transporter.

(ii) A person that has or should have a treatment, storage or disposal facility permit.

(N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a solid waste disposal permit.

(ii) A person with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as an importer of blendstocks,

(S) Any violation classified under~~of~~ OAR 340-012-0054 (1) (ee), (ff), or (gg).

(T) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions greater than or equal to 25,000 metric tons per year or by a person that has not reported greenhouse gas emissions to DEQ during the past five years, or by a person for which DEQ has insufficient information to accurately estimate emissions.

(U) Any violation of the Third Party Verification rules under OAR Chapter 340, division 272.

(b) The base penalty values for the $12,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $12,000;

(ii) Moderate — $6,000;

(iii) Minor — $3,000.

(B) Class II:

(i) Major — $6,000;

(ii) Moderate — $3,000;

(iii) Minor — $1,500.

(C) Class III: $1,000.

(3) $8,000 Penalty Matrix:

(a) The $8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix, unless otherwise classified.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.

(F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.

(H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.

(L) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as a credit generator, an aggregator, or a registered fuel producer unless the violation is otherwise classified in this rule.

(M) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 metric tons per year.

(b) The base penalty values for the $8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $8,000.

(ii) Moderate — $4,000.

(iii) Minor — $2,000.

(B) Class II:

(i) Major — $4,000.

(ii) Moderate — $2,000.

(iii) Minor — $1,000.

(C) Class III: $ 700.

(4) $3,000 Penalty Matrix:

(a) The $3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person not listed under another penalty matrix.

(C) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

(v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.

(vi) A person that has or should have a WPCF individual stormwater UIC system permit.

(vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.

(G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.

(I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.

(J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.

(K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator, unless listed under another penalty matrix.

(L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.

(M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.

(N) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.

(O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.

(P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.

(Q) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 by a person registered as an importer of finished fuels unless the violation is otherwise classified in this rule.

(R) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 5,000 metric tons per year.

(b) The base penalty values for the $3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $3,000;

(ii) Moderate — $1,500;

(iii) Minor — $750.

(B) Class II:

(i) Major — $1,500;

(ii) Moderate — $750;

(iii) Minor — $375.

(C) Class III: $250.

(5) $1,000 Penalty Matrix:

(a) The $1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.

(H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.

(I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.

(J) Any violation of a statute, rule or order relating to the opportunity to recycle.

(K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.

(L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.

(M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.

(b) The base penalty values for the $1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $1,000;

(ii) Moderate — $500;

(iii) Minor — $250.

(B) Class II:

(i) Major — $500;

(ii) Moderate — $250;

(iii) Minor — $125.

(C) Class III: $100.

Statutory/Other Authority: ORS 468.020 & 468.090 - 468.140
Statutes/Other Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035
History:
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0042, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 9-1996, f. & cert. ef. 7-10-96
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 33-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89

340-012-0150
Determination of Economic Benefit

(1) The Economic Benefit (EB) is the approximate dollar value of the benefit gained and the costs avoided or delayed (without duplication) as a result of the respondent's noncompliance. Except as provided in (3), the EB will be determined using the U.S. Environmental Protection Agency's BEN computer model. DEQ may make, for use in the model, a reasonable estimate of the benefits gained and the costs avoided or delayed by the respondent.

(2) Upon request of the respondent, DEQ will provide the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model. The model’s standard values for income tax rates, inflation rate and discount rate

are presumed to apply to all respondents unless a specific respondent can demonstrate that the standard value does not reflect the respondent's actual circumstance.

(3) For violations of the Clean Fuels Program in OAR Chapter 340, division 253, DEQ will determine economic benefit according to subsections (a), (b), or (c), ~~using the Credit Clearance Market maximum credit price as calculated under OAR 340-253-1040~~ with interest and other considerations as needed to properly capture the full economic benefit of the violation.

(a) the actual purchase or sale price of the credits, or the implied value of the credits in a fuel transaction, when a transaction has been completed, if DEQ has sufficient information to determine it; or

(b) the average price of credits purchased or sold in the Clean Fuels Program market as published by DEQ for the time period relevant to the violation; or

(c) the Credit Clearance Market maximum credit price as calculated under OAR 340-253-1040, where a transaction has not been completed or DEQ has insufficient information to determine the price of the credits.

(4) DEQ need not calculate EB if DEQ makes a reasonable determination that the EB is de minimis or if there is insufficient information on which to make an estimate under this rule.

(5) DEQ may assess EB whether or not it assesses any other portion of the civil penalty using the formula in OAR 340-012-0045.

(6) DEQ's calculation of EB may not result in a civil penalty for a violation that exceeds the maximum civil penalty allowed by rule or statute. However, when a violation has occurred or been repeated for more than one day, DEQ may treat the violation as extending over at least as many days as necessary to recover the economic benefit of the violation.

Statutory/Other Authority: ORS 468.020 & 468.090 - 468.140
Statutes/Other Implemented: ORS 459.376, 459.995, 465.900, 465.992, 466.210, 466.990, 466.994, 467.050, 467.990, 468.090 - 468.140 & 468.996
History:
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

State of Oregon Department of Environmental Quality

Division 215
Draft Rules – Edits Highlighted

Greenhouse Gas Reporting and Third-Party Verification 2019

Key to Identifying Changed Text:
~~Deleted Text~~
New/inserted text

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 215

OREGON GREENHOUSE GAS REPORTING ~~REQUIREMENTS~~PROGRAM

340-215-0010
Purpose and Scope

(1) This division establishes greenhouse gas registering, reporting, and other requirements ~~and procedures~~ for ~~annually registering~~operators of certain facilities that emit greenhouse gases, fuel suppliers, and ~~reporting greenhouse gas emissions to DEQ~~electricity suppliers.

(2) Subject to the requirements in this division and OAR 340-200-0010(3), the EQC designates LRAPA to implement the rules in this division within its area of jurisdiction.

(3) This division incorporates the provisions of title 40, Code of Federal Regulations (C.F.R.), part 98 that are specifically referenced in rules within the division. These provisions are a portion of the U.S. Environmental Protection Agency (EPA) Final Rule on Mandatory Reporting of Greenhouse Gases. Unless otherwise specified, references in this division to 40 C.F.R. part 98 are to those requirements promulgated by EPA and published in the Federal Register on December 9, 2016. Unless otherwise specifically provided, for the provisions of 40 C.F.R. part 98 (the "federal rules") that are incorporated by reference in this division:

(a) Wherever the term "Administrator" is used in the federal rules, the term "Director of DEQ" will be substituted;

(b) Wherever the term "EPA" is used in the federal rules, the term "Oregon Department of Environmental Quality" or "DEQ" will be substituted; and

(c) Where any incorporated provisions of 40 C.F.R. part 98 are in conflict with requirements in this division, the requirements in this division shall take precedence and are the provisions that reporting entities must follow.

Statutory/Other Authority: ORS 468.020, 468A.050 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 12-2015, f. & cert. ef. 12-10-15
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 13-2008, f. & cert. ef. 10-31-08

340-215-0020
Definitions

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

~~(1~~(1) "Air contamination source" has the meaning given the term in ORS 468A.005.

(2) "Asset-controlling supplier" or "ACS" means a person that owns or operates inter-connected electricity generating facilities or has exclusive rights to claim electricity from these facilities even though it does not own them, and that has been designated by DEQ as an asset-controlling supplier under OAR 340-215-0120(7) and received a DEQ-published emission factor. Asset controlling suppliers are specified sources.

(3) "Barrel" means a volume equal to 42 U.S. gallons.

(4) "Biogas" means gas that is produced from the breakdown of biomass in the absence of oxygen, including anaerobic digestion, anaerobic decomposition, and thermochemical decomposition.

(5) "Biogenic CO2 emissions" means carbon dioxide emissions generated as the result of biomass or biomass-derived fuel combustion from combustion units.

(6) "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues, and waste from agriculture, forestry, and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(~~2~~7) "Biomass fuels" or "biofuels" or "biomass-derived fuels" means fuels derived from biomass.

(8) "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.

(9) "Bulk transfer/terminal system" means a fuel distribution system consisting of one or more 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.

(10) "Busbar" means a power conduit of a facility with electricity generating units that serves as the starting point for the electricity transmission system.

(11) "Cease to operate" for the purposes of this division means the air contamination source did not operate any GHG –emitting processes for an entire year. Continued operation of space heaters and water heaters as necessary until operations are restarted in a subsequent year does not preclude a source from meeting this definition.

(12) "C.F.R." means Code of Federal Regulations~~ and, unless otherwise expressly identified, refers to the December 9, 2016 edition~~.

~~(3~~(13) "Cogeneration unit" means a unit that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy and waste heat recovery.

(14) "Consumer-owned utility" means a people's utility district organized under ORS Chapter 261, a municipal utility organized under ORS Chapter 225 or an electric cooperative organized under ORS Chapter 62.

~~(4~~(15) "Data year" means the calendar year in which emissions occurred.

(16) "Designated representative" means the person responsible for certifying, signing, and submitting a greenhouse gas emissions data report, and any registration or report required to be submitted under this division, on behalf of a regulated entity. For owners or operators of Oregon Title V Operating Permits the designated representative is the responsible official and certification must be consistent with OAR 340-218-0040(5).

(17) "Direct emissions" means emissions from an air contamination source, including but not limited to fuel combustion activities, process related emissions, and fugitive emissions.

(~~5~~18) "Distillate fuel oil" means one of the petroleum fractions produced in conventional distillation operations and from crackers and hydrotreating process units. The generic term distillate fuel oil includes kerosene, kerosene-type jet fuel, diesel fuels (Diesel Fuels No. 1, No. 2, and No. 4), and fuel oils (Fuel Oils No. 1, No. 2, and No. 4).

(19) "EIA" means the Energy Information Administration. The Energy Information Administration (EIA) is a statistical agency of the United States Department of Energy.

(20) "Electricity generating unit" means any combination of physically connected generator(s), reactor(s), boiler(s), combustion turbine(s), or other prime mover(s) operated together to produce electric power.

(21) "Electricity service supplier" has the meaning given that term in ORS 757.600.

~~(6~~(22) "Electricity supplier" means persons that import, sell, allocate, or distribute electricity to end users in the state, including but not limited to the following types of entities:

(a) Investor-owned utilities;

(b) Electricity service suppliers;

(c) Consumer-owned utilities;

(23) “Emissions data report” means the report prepared and submitted to DEQ that provides the information required to be reported under this division. The emissions data report is for the year prior to the year in which the report is due, also known as the data year.

(24) “Fuel supplier” means a supplier of petroleum products, liquid petroleum gas, biomass-derived fuels, or natural gas including operators of interstate pipelines, or liquefied natural gas.

(25) “Fluorinated heat transfer fluids” is a fluorinated GHG that has the meaning given to that term in 40 C.F.R. 98.98.

(26) "Global warming potential” or "GWP" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of carbon dioxide (the reference gas). The GWPs used for emissions calculation and reporting are specified in 40 C.F.R. part 98, subpart A, Table A–1-Global Warming Potentials.

(27) “Greenhouse gas” or “GHG” means carbon dioxide (CO2), methane (CH4), nitrous oxide (N20), sulfur hexafluoride (SF6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases or fluorinated GHG as defined in 40 C.F.R. part 98.

(~~7~~28) “Higher heat value” or “HHV” means the high or gross heat content of the fuel with the heat of vaporization included. The water vapor is assumed to be in a liquid state.

(29) “Hydrofluorocarbons” (HFCs) means gaseous chemical compounds containing only hydrogen, carbon, and fluorine atoms.

(~~8~~30) To “Import” means owning electricity or fuel from locations outside of Oregon at the time electricity is brought into this state through transmission equipment or at the time fuel is brought into this state by any means of transport, other than fuel brought into this state in the fuel tank of a vehicle used to propel the vehicle.

~~(9~~(31) “Importer” means any person, company, or organization of record that for any reason brings a product into Oregon from outside of the state.

(32) “In-state producer” means:

(a) With respect to any liquid fuel, the person who makes the fuel in Oregon; or

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

(33) “Interstate pipeline” means a natural gas pipeline delivering natural gas across state

boundaries for use in Oregon and that is subject to rate regulation by the Federal Energy Regulatory Commission (FERC).

(34) "Investor-owned utility" means a utility that sells electricity and that a corporation with shareholders operates.

(~~10~~35) "Large natural gas end users" means any end user receiving greater than or equal to 460,000 Mscf during the previous year.

(36) "Local distribution company" or "LDC" means a legal entity that owns or operates distribution pipelines and that physically delivers natural gas to end users in the state. This includes public utility gas corporations and intrastate pipelines engaged in the retail sale, delivery, or both of natural gas. This excludes intrastate pipelines.

(37) "Multi-jurisdictional utility" means a utility that is an electricity retail provider to customers in a service territory that is at least partially located in Oregon and at least one other state.

(38) "Metric ton~~,~~," "tonne~~, or~~," "metric tonne~~" means one metric tonne (1000 kilograms) or~~," or "MT" means a common international measurement for mass, equivalent to 2204.~~62~~6 pounds or 1.1 short tons.

~~(11~~(39) "MMBtu" means million British thermal units.

(40) "Mscf" means one thousand standard cubic feet.

(41) "Natural gas marketer" means a person that arranges for the purchasing or selling of natural gas but that does not own physical assets in Oregon used in the supply of natural gas such as pipelines.

(42) "Natural gas supplier" means any person that imports, sells, or distributes natural gas to end users in Oregon.

(43) "Perfluorocarbons" (PFCs) means gaseous chemical compounds containing only carbon and fluorine atoms.

~~(12~~(44) "Position holder" means any person that holds the inventory position in gasoline, distillate fuel, ethanol, biodiesel, renewable diesel, propane, or aircraft fuel as reflected in the records of the terminal operator or a terminal operator that owns fuel in its terminal. "Position holder" does not include inventory held outside of a terminal, fuel jobbers (unless directly holding inventory at the terminal), retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

(45) "Power contract" as used for the purposes of documenting specified versus unspecified sources of electricity means a written document, including associated verbal or electronic records if included as part of the written power contract, arranging for the procurement of electricity. A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier's system that is

designated at the time the transaction is executed. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, electricity transactions, and tariff provisions, without regard to duration, or written agreements to import or export on behalf of another person.

(46) "Pre-charged equipment" has the meaning in 40 C.F.R. 98.438.

(47) "Preference sales" means power distributed by Bonneville Power Administration to Oregon consumer-owned utilities, other than "surplus" power as that term is defined in 16 U.S.C. 839c(f) (2017).

(48) "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.

(49) "Regulated entity" means any person subject to requirements to register and report under this division, as identified in OAR 340-215-0030.

(50) "Related entity" means any direct parent company, direct subsidiary, or company under common ownership or control.

(51) "Retail sales" means electricity sold to retail end users.

(52) "Shut down" means that the regulated entity has evidence that all industrial operations of a regulated entity are permanently shut down, including but not limited to, decommissioning and cancelling air permits. Permanent shutdown may include continued operations of space heaters and water heaters as necessary to support decommissioning activities.

(53) "Specified source of electricity" or "specified source" means a facility or unit which is allowed to be claimed as the source of electricity delivered. The regulated entity must have either full or partial ownership in the facility or unit, or a written power contract to procure electricity generated by that facility or unit. Specified facilities or units include cogeneration systems. Specified source also means electricity procured from an asset-controlling supplier recognized by DEQ.

(54) "Terminal" means a fuel storage and distribution facility that is supplied by pipeline or vessel, or is collocated where the fuel is produced and stored, and from which fuel may be removed at a rack.

(55) "Thermal energy" means the thermal output produced by a combustion source used directly as part of a manufacturing process, industrial or commercial process, or heating or cooling application, but not used to produce electricity.

(56) "Transmission loss correction factor" or "TL" means the correction to account for transmission losses between the busbar and receipt, which is either known if measured at the busbar, or is the default factor equal to 1.02.

(57) "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. For the purposes of this division, electricity imported, sold, allocated, or distributed to end users in this state through an energy imbalance market or other centralized market administered by a market operator is considered to be an unspecified source.

(58) "Verification" means a systematic and documented process for evaluation of an emissions data report as conducted by DEQ or in accordance with OAR chapter 340, division 272.

(59) "Year" means calendar year.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 5-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 124-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 12-2015, f. & cert. ef. 12-10-15
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 13-2008, f. & cert. ef. 10-31-08

340-215-0030
Applicability

(1) ~~The~~ This division applies to the reporting of emissions of greenhouse gases ~~defined in OAR 340-215-0020 are~~by regulated entities subject to OAR 340-215-0030 through 340-215-~~0060~~0125.

(2) Air contamination sources. Any ~~owner~~person that owns or ~~operator of~~operates a source listed in subsections (a) through (c) must register and report ~~greenhouse gases directly emitted during the previous year~~in compliance with this division, if the source's direct GHG emissions ~~of carbon dioxide equivalent of greenhouse gases~~ meet or exceed 2,500 ~~metric tons~~MT CO2e during the previous year. Once a source's direct GHG emissions ~~of carbon dioxide equivalent of greenhouse gases~~ meet or exceed 2,500 ~~metric tons~~MT CO2e during a year, the ~~owner~~person that owns or ~~operator~~operates the source must annually register and report in each subsequent year, regardless of the amount of the source's direct GHG emissions ~~of greenhouse gases~~ in future years, except as provided in ~~sections (7)~~OAR 340-215-0032 and ~~(8).~~OAR 340-215-0034.

(a) Any source required to obtain a Title V Operating Permit~~, including those issued under OAR chapter 340, division 218~~.

(b) Any source required to obtain an Air Contaminant Discharge Permit~~, including those issued under OAR chapter 340, division 216~~.

(c) The following sources not otherwise listed in subsection (a) or (b):

(A) Solid waste disposal facilities required to obtain a permit issued under OAR chapter 340,

divisions 93 through 96, excluding facilities that did not accept waste during the previous year and that ~~40 C.F.R. part 98 does~~are not ~~require the facility~~required to report greenhouse gas emissions to ~~the~~ EPA~~.~~ under 40 C.F.R. part 98;

(B) Wastewater treatment facilities required to obtain an individual National Pollutant Discharge Elimination System permit issued under OAR chapter 340, division 45~~.~~; and

(C) Electric power system facilities as defined in 40 C.F.R. part 98 subpart DD located in Oregon and owned or operated by investor-owned utilities.

(3) Fuel suppliers and in-state producers including but not limited to gasoline, ~~diesel~~distillate fuel oil, propane, and aircraft fuel dealers. ~~Any person~~

(a) Except as provided in subsections (b) and (c), persons listed in this section that ~~imports, sells~~import, sell, or ~~distributes~~distribute fuel for use in the state, must register and report ~~as OAR 340-215-0040(2) requires~~in compliance with this division:

(~~a~~A) Any dealer, as that term is defined in ORS 319.010~~,~~ that is subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax under OAR chapter 735, division 170;

(~~b~~B) Any seller, as that term is defined in ORS 319.520, that is subject to the Oregon Use Fuel Tax under OAR chapter 735, division 176; and

(~~c~~C) Any person that produces, imports, sells, or distributes at least 5,500 gallons of gasoline, ~~diesel~~distillate fuel oil, biofuels, or aircraft fuel during a year for use in the state and that is not subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax or the Oregon Use Fuel Tax under OAR chapter 735, divisions 170 and 176.

(~~d~~b) Persons listed in ~~sections OAR 340-215-0030~~paragraphs (3)(~~b~~a)(B) and (~~c~~C) are not required to register and report ~~gasoline, diesel or aircraft~~ fuel reported under this division by dealers described in ~~OAR 340-215-0030~~paragraph (3)(a)(A).

(c) Persons that import propane for use in the state are not subject to reporting if annual imports brought into the state are less than 10,500 gallons of propane.

(4) Natural gas suppliers. Any person ~~that imports, sells~~, including but not limited to local distribution companies, interstate pipelines, and owners or operators of facilities, that either produces natural gas, compressed natural gas, or liquefied natural gas in Oregon, or that imports, sells, or distributes natural gas, compressed natural gas, or liquefied natural gas to end users in the state ~~must register and report in accordance with OAR 340-215-0040(3).~~

~~(5) Propane suppliers.~~

~~(a) Any person that imports, sells or distributes propane for use in the state~~, must register and report in ~~accordance~~compliance with ~~OAR 340-215-0040(4).~~this division.

~~(b) Persons that import propane for use in the state are not subject to subsection (5)(a) if:~~

~~(A) All imports are brought into the state by delivery trucks with a maximum capacity of 3,500 gallons of propane or less; or~~

~~(B) All imports consist of propane in canisters of 5 gallons or less.~~

~~(6)~~ (5) Electricity suppliers. All investor-owned utilities, multi-jurisdictional utilities, electricity service suppliers, consumer-owned utilities, and other persons that import, sell, allocate, or distribute electricity to end users in the state must register and report ~~as OAR 340-215-0040(5~~in compliance with this division.

(6) Petroleum and natural gas systems. Any person that owns or operates a facility physically located in Oregon that contains petroleum and natural gas systems industry segments listed in 40 C.F.R. 98.230(a)(1) through (~~6) require.~~10) must register and report in compliance with this division, as applicable under subsections (a) though (e):

~~(7) General deferrals and exemptions. DEQ may defer or exempt specific processes or categories of sources, or specific types of greenhouse gas emissions, from this division's requirements if DEQ determines that adequate protocols are not available or that other extenuating circumstances make reporting unfeasible.~~

~~(8) Exemptions for air contamination sources.~~

~~(a) An owner or operator is no longer subject to section (2) if the owner or operator retains records under subsection (8)(b), and:~~

~~(A) The source's direct emissions are less than 2,500 metric tons of carbon dioxide equivalent of greenhouse gases per year for three consecutive years; or~~

~~(B) The source ceases all operations that lead to direct emissions of greenhouse gases throughout the entire year, such as if the source closes permanently before the beginning of the year. This paragraph does not apply to seasonal or other temporary cessation of operations, and does not apply to solid waste disposal facilities that 40 C.F.R. part 98 requires to report greenhouse gas emissions to the EPA.~~

~~(b) An owner or operator that, under paragraph (8)(a)(A) is no longer subject to section (2), must retain, for five years following the last year that they were subject to section (2), all production information, fuel use records, emission calculations and other records used to document direct greenhouse gas emissions for each of the three consecutive years that the source does not meet or exceed the emission threshold.~~

~~(c) Notwithstanding subsections (8)(a) and (8)(b), section (2) becomes applicable to the owner or operator again if annual direct emissions equal or exceed 2,500 metric tons of carbon dioxide equivalent of greenhouse gases in any future year.~~

(a) For a facility, as defined in 40 C.F.R. 98.6 that contains the industry segments listed in 40 C.F.R. 98.230(1), (3), (4), (5), (6) or (7), if the facility's greenhouse gas emissions meet or exceed 2,500 MT CO2e per year;

(b) For a facility with respect to onshore petroleum and natural gas production as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(c) meet or exceed 2,500 MT CO2e per year;

(c) For a facility with respect to natural gas distribution as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(i) meet or exceed 2,500 MT CO2e per year;

(d) For a facility with respect to onshore petroleum and natural gas gathering and boosting as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(j) meet or exceed 2,500 MT CO2e per year;

(e) For a facility with respect to the onshore natural gas transmission pipeline segment as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(m) meet or exceed 2,500 MT CO2e per year.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 5-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 12-2015, f. & cert. ef. 12-10-15
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 13-2008, f. & cert. ef. 10-31-08

340-215-0032
Deferrals and Exemptions

DEQ may defer or exempt specific processes, categories of sources, or specific types of greenhouse gas emissions, from this division's requirements if DEQ determines that adequate reporting protocols are not available or that other extenuating circumstances make reporting unfeasible.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0034
Changes in Ownership and Cessation of Reporting Requirements

(1) Cessation of reporting for reduced emissions.

(a) A regulated entity is no longer required to report if the regulated entity retains records as required in subsection (b), makes the report required in subsection (c), and if any of the following are applicable:

(A) Direct total reported emissions for air contamination sources required to register and report under OAR 340-215-0030(2) are less than 2,500 MT CO2e per year for a consecutive three year period. If total reported emissions for an air contamination source meets or

exceeds 2,500 MT CO_2e in any year after the reporting cessation requirements have been met, persons that own or operate the air contamination source must resume reporting as required under this division;

(B) Fuel suppliers, including natural gas suppliers, and in-state producers that cease to supply fuel in Oregon after submitting an emissions data report for the year in which they ceased to supply fuel in Oregon;

(i) Fuel suppliers and in-state producers that cease to have a reporting obligation due to a change in ownership or sale or relinquishment of an inventory position at a terminal must continue to report emissions from the reportable fuel transactions that occurred within the calendar year prior to the change;

(ii) If a fuel supplier or in-state producer supplies fuel in Oregon in any year after the reporting cessation requirements have been met, the fuel supplier must resume reporting as required under this division;

(C) Electricity suppliers that cease to supply electricity in Oregon, after submitting an emissions data report for the year in which they ceased to supply electricity in Oregon. If an electricity supplier provides electricity in Oregon in any year after the reporting cessation requirements have been met, the electricity supplier must resume reporting as required under this division.

(b) Persons no long subject to reporting under this division must retain the records required under OAR 340-215-0042 for a period of five years following the last year that they were subject to reporting, including all production information, fuel use records, emission calculations and other records used to document greenhouse gas emissions. Persons meeting cessation requirements specified in OAR-215-0034(1)(a)(A) must retain records for each of the three consecutive years that the person does not meet or exceed the emission threshold for a period of five years following the last year they met the cessation requirements; and

(c) Persons that meet the applicable cessation of reporting requirements of this section must notify DEQ in writing of their reason(s) for ceasing to report no later than the applicable reporting deadline for the year.

(2) Cessation of reporting for shut down air contamination sources.

(a) If the operations of an air contamination source are changed such that all applicable greenhouse gas emitting processes and operations cease to operate or are shut down, the person that owns or operates the air contamination source must submit an emissions data report for the year in which the source's greenhouse gas emitting processes and operations ceased to operate.

(b) The person that owns or operates the air contamination source must submit a written notification to DEQ that announces the cessation of reporting and certifies to the cessation of all greenhouse gas emitting processes and operations no later than the reporting deadline of the year following the cessation of operations or permanent shutdown.

(c) This section does not apply to seasonal operational cessations, other temporary cessation of operations, or solid waste disposal facilities that are required to report under 40 C.F.R. part 98.

(3) Changes in ownership or operational control. If a regulated entity undergoes a change of ownership or operational control, the following requirements apply regarding reporting and providing notice to DEQ:

(a) The new person that owns or operates the regulated entity must notify DEQ in writing of the ownership or operational control change, including providing the following information: the name of the previous owner or operator; the name of the new owner or operator; date of ownership or operator change, and name of a new designated representative.

(b) Reporting responsibilities. Except as specified in paragraph (B) below and OAR 340-215-0034(1)(a)(B)(i), the person that owns or operates the regulated entity at the time of a reporting deadline specified in this division has the responsibility for complying with the requirements of this division.

(A) If an ownership change takes place during the year, reported data must not be split or subdivided for the year, based on ownership. A single annual emissions data report must be submitted by the current owner or operator.

(B) Fuel suppliers that cease to have emissions subject to reporting under this division as a result of an ownership change that affects supplier operations retain the responsibility for complying with the requirements of this division.

(4) Any person specified in OAR 340-215-0030 that has ceased reporting under this rule must resume reporting for any future year during which any of the greenhouse gas emitting processes or operations resume operation and are subject to reporting as required by this division.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0040
Greenhouse Gas Registration and Reporting Requirements

~~(1) Air contamination sources. Any owner or operator required to register and report under OAR 340-215-0030(2) must:~~

~~(a) Report direct emissions of greenhouse gases from stationary fuel combustion during the previous year as follows, excluding emissions from categorically insignificant activities as defined in OAR 340-200-0020:~~

~~(A) Report fuel type and quantity used for stationary fuel combustion during the previous year; or~~

~~(B) Report greenhouse gas emissions from stationary fuel combustion utilizing emission quantification methodology prescribed in 40 C.F.R. part 98 subpart C; or~~

~~(C) Facilities required to monitor and report to EPA CO2 mass emissions year-round according to 40 C.F.R. part 75 may report greenhouse gas emissions utilizing emission quantification methodology prescribed in 40 C.F.R. part 98 subpart D.~~

~~(b) Report direct emissions of greenhouse gases from industrial processes during the previous year utilizing EPA emission quantification methodologies as prescribed in 40 C.F.R. part 98 subparts E through UU, excluding emissions from categorically insignificant activities as defined in OAR 340-200-0020;~~

~~(c) Report emissions of CO2 that originate from biomass separately from other greenhouse gas emissions; and~~

~~(d) Submit an annual greenhouse gas emissions registration and report to DEQ under section (7) by the due date for the annual report for non-greenhouse gas emissions specified in the source's Title V Operating Permit or Air Contaminant Discharge Permit, or by March 31 of each year, whichever is later.~~

~~(2) Fuel suppliers including but not limited to gasoline, diesel and aircraft dealers. Any person required to register and report under OAR 340-215-0030(3) must:~~

~~(a) Report the fuel type and quantity imported, sold, or distributed for use in this state during the previous year as follows:~~

~~(A) Report individual fuel type as defined in 40 C.F.R. part 98 subpart MM for suppliers of petroleum products, including the type of fuel in each renewable fuel mixture and the ethanol or biodiesel content as a percent of that mixture; and~~

~~(B) Report net fuel quantities by fuel type.~~

~~(b) Submit annual reports to DEQ by March 31 of each year, as follows:~~

~~(A) An annual greenhouse gas emissions registration and report as required by section (7); or~~

~~(B) Copies of the person's fuel tax reports filed with the Oregon Department of Transportation under OAR chapter 735, divisions 170 and 176 for fuel imported, sold or distributed during the previous year.~~(1) Each registration or emissions data report submitted by a regulated entity according to this division must contain certification by a designated representative of the truth, accuracy, and completeness of the submission. This certification and any other certification required under this division must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. The certification must contain the following statement: "Based on information and belief formed after reasonable inquiry, the statements and information submitted are true, accurate and complete."

(2) DEQ may require ~~the person~~a regulated entity to submit or make available additional information if the ~~reports~~materials submitted ~~to~~with the ~~Oregon Department of Transportation~~emissions data report are not sufficient to determine ~~greenhouse gas emissions and related information that this division requires.~~

~~(3) Natural gas suppliers. Any person subject to OAR 340-215-0030(4) must submit an annual greenhouse gas emissions registration and report including the type and quantity of the natural gas imported, sold or distributed for use in the state during the previous year to DEQ under section (7) by March 31 of each year.~~

~~(4) Propane suppliers. Any person subject to OAR 340-215-0030(5) must submit an annual greenhouse gas emissions registration and report including type and quantity of propane imported, sold or distributed for use in the state during the previous year to DEQ under section (7) by March 31 of each year.~~

~~(5) All investor-owned utilities, electricity service suppliers and other electricity suppliers (except consumer-owned utilities) required to register and report under OAR 340-215-0030(6) must:~~

~~(a) Report greenhouse gas emissions from the generation of the electricity that was imported, sold, allocated or distributed to end users in this state during the previous year, regardless of whether the electricity was generated in this state or imported, as follows:~~

~~(A) For electricity generated by a facility owned or operated by the investor-owned utility, electricity service supplier or other electricity supplier, report the number of megawatt-hours of electricity distributed to end users in the state during the previous year, the generating facility's fuel type or types and a facility specific emission factor expressed as metric tons carbon dioxide equivalent per megawatt-hour of generation. For electricity not measured at the busbar of the generating facility a 2% transmission loss correction factor must be used when determining emission factors;~~

~~(B) Report the total sulfur hexafluoride (SF6) emissions from all transmission and distribution equipment owned or operated by the person reporting utilizing the quantification methods in 40 C.F.R. part 98 subpart DD multiplied by the ratio of the amount of electricity the utility supplied to end users in the state compared to the total electricity the utility supplied within its jurisdiction;~~

~~(C) For purchased electricity, report the number of megawatt-hours of electricity purchased and distributed to end users in the state during the previous year, including, if known, identifying information on the seller of the electricity, the generating facility fuel type or types and a facility specific emission factor expressed as metric tons of carbon dioxide equivalent per megawatt-hour of generation. For electricity not measured at the busbar of the generating facility a 2% transmission loss correction factor must be used when determining emission factors;~~

~~(D) Report the number of megawatt-hours of electricity purchased for which a renewable energy certificate under ORS 469A.130 has been issued but subsequently transferred or sold to a person other than the person reporting; and~~

~~(E) A multijurisdictional entity reporting under this section may rely upon a cost allocation methodology approved by the Public Utility Commission for reporting emissions allocated in this state.~~

~~(b) Submit an annual greenhouse gas emissions registration and report to DEQ under section (7) by June 1 of each year.~~

~~(6) Consumer-owned utilities. All consumer-owned utilities required to register and report under OAR 340-215-0030(6) must:~~

~~(a) Report greenhouse gas emissions from the generation of the electricity that was imported, sold, allocated or distributed to end users in this state during the previous year, regardless of whether the electricity was generated in this state or imported, as follows:~~

~~(A) For electricity purchased from the Bonneville Power Administration, report the number of megawatt-hours of electricity purchased and distributed to end users in the state by the utility from the Bonneville Power Administration, segregated by the types of contracts the utility entered into with the Bonneville Power Administration, and, if known, the percentage of each fuel or energy type used to produce electricity purchased under each type of contract;~~

~~(B) For electricity generated by a facility owned or operated by the consumer-owned utility, report the number of megawatt-hours of electricity distributed to end users in the state during the previous year, the generating facility fuel type or types and a facility specific emission factor expressed as metric tons of carbon dioxide equivalent per megawatt-hour of generation. For electricity not measured at the busbar of the generating facility a 2% transmission loss correction factor must be used when determining emission factors; and~~

~~(C) For electricity the consumer-owned utility purchased from an entity other than the Bonneville Power Administration, report the number of megawatt-hours of electricity purchased and distributed to end users in the state during the previous year including information, if known, on the seller of the electricity to the consumer-owned utility, the original generating facility fuel type or types and a facility specific emission factor expressed as metric tons of carbon dioxide equivalent per megawatt-hour of generation.~~

~~(b) Submit an annual greenhouse gas emissions registration and report to DEQ under section (7) by June 1 of each year. A third party may submit the registration and report on behalf of a consumer-owned utility, and the report may include information for more than one consumer-owned utility, provided that the report contains all information required for each individual consumer-owned utility.~~

~~(7) Except as provided in section (8), the reporter must submit registration and reports on paper or electronic forms (or both) issued by DEQ, and include the following information:~~

~~(a) Source information such as source name, address, contact person, phone number, and permit number, if applicable;~~

~~(b) Information as required by OAR 340-215-0040(1) through (6), including but not limited to fuel volume and type, estimated annual emissions, activity data, emission factors, conversion factors, and the calculation methods used to determine emissions; and~~

~~(c) A signed statement certifying that the report is accurate to the best of the certifying individual's knowledge.~~

~~(8) Any person required to report greenhouse gases emitted during a year to the EPA under 40 C.F.R. part 98 may submit a copy of that report to DEQ instead of the registration and report required in section (7) for greenhouse gases emitted during the same year. DEQ may require the submission of additional information if the copy of the report submitted to the EPA is not sufficient to determine~~ or verify greenhouse gas emissions and related information. ~~The purpose of this section is to eliminate duplicative reporting where possible, but to retain DEQ's authority to require reporting information this division requires that was not submitted in the EPA report.~~

~~(9) Any person required to report under this division must retain records of supporting documentation including production information, fuel use records, and emission calculations used to prepare the greenhouse gas annual report. These records and greenhouse gas annual reports must be retained for a minimum of 5 years.~~

~~10) All persons required to report under this division must provide in a reasonably timely manner~~Regulated entities must provide within 14 days of notification, unless a different schedule is approved by DEQ, any and all information that DEQ requires for the purposes of assessing applicability, verifying or investigating either or both actual ~~or~~and suspected sources of greenhouse gas emissions~~ or~~, and to ascertain compliance ~~or~~and noncompliance with rules in this division.

(3) Calculating total greenhouse gas emissions. Total carbon dioxide equivalent emissions (CO2e) must be calculated as the sum of the CO2, CO2 from biomass-derived fuels, CH4, N2O, and each fluorinated GHG required to be reported in an emissions data report in compliance with this division using equation A-1 in C.F.R. 98.2.

(4) Alternative calculation methods. Regulated entities may petition DEQ to use calculation methods other than those specified in this division. Regulated entities must receive written DEQ approval to use alternative calculation methods prior to reporting.

(5) Third-party verification of emissions data reports. Regulated entities must comply with the requirements of OAR chapter 340, division 272 for third-party verification of emissions data reports, as applicable.

(6) Regulated entities must report legal names and addresses of all related entities and, if known, indicate which related entity may also be a regulated entity reporting under this division.

Statutory/Other Authority: ORS 468A.050
Statutes/Other Implemented: ORS 468 & 468A
History:

DEQ 5-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 125-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 12-2015, f. & cert. ef. 12-10-15
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 13-2008, f. & cert. ef. 10-31-08

340-215-0042
Recordkeeping Requirements

(1) Each regulated entity subject to the requirements under OAR chapter 340, division 272 must retain all records as required by this rule, and any records or other materials maintained under any applicable requirements of 40 C.F.R. part 98, in paper or electronic format, or both, for a period of at least seven years.

(2) Each regulated entity not subject to the requirements under OAR chapter 340, division 272 must retain all records as required by this rule, and any records or other materials maintained under any applicable requirements of 40 C.F.R. part 98, in paper or electronic format, or both, for a period of at least five years.

(3) Each regulated entity must retain records sufficient to document and allow for verification of each emissions data report submitted to DEQ and make such information available for verification upon request. This includes, but is not limited to the following:

(a) A list of all units, operations, processes, and activities for which GHG emission were calculated, as applicable;

(b) The data and information used to calculate emissions for each unit, operation, process, and activity, categorized by fuel or material type. These data include, but are not limited to the following:

(A) The GHG emissions calculations and methods used;

(B) Analytical results for the development of site-specific emissions factors;

(C) The results of any analyses for high heat value, carbon content, and other fuel or feedstock parameters conducted or as required under 40 C.F.R. part 98, if applicable; and

(D) Any facility operating data or process information used for the GHG emission calculations;

(c) Records of supporting documentation required by or used to prepare the emissions data report, including but not limited to underlying monitoring and metering data, invoices of receipts or deliveries, fuel use records, production information, sales transaction data, electricity or fuel transaction data, calibration records, and any other relevant information;

(d) Any annual emissions data report(s) submitted to DEQ, including any revised emissions data report(s);

(e) Documentation to support any revision(s) made to any emissions data report(s);

(f) Records of supporting documentation and calculations for any missing data computations according to 40 C.F.R. part 98, or otherwise. Retain a record of the cause of the event and the corrective actions taken to restore malfunctioning monitoring equipment;

(g) The results of all required certification and quality assurance tests of continuous monitoring systems, fuel flow meters, and other instrumentation used to provide data to calculate emissions reported under this division; and

(h) Maintenance records for all continuous monitoring systems, flow meters, and other instrumentation used to provide data to calculate emissions reported under this division.

(4) Regulated entities reporting biomass-derived fuels, as required under OAR-215-0044(5), must retain supporting documentation that authenticates the purchase of gaseous or liquid biomass-derived fuel between parties.

(a) This documentation may include, but is not limited to, documentation from each upstream party, invoices, bills of lading, shipping reports, balancing reports, storage reports, in-kind nomination reports, allocation, contracts confirming the source of fuel supplied in the state, attestations, information on the environmental attributes associated with the sale or use of the fuel, or any combination therein.

(b) Supporting documentation must be made available for verification upon request.

(5) Each regulated entity that is an in-state producer or fuel supplier, including a natural gas supplier, must retain records for exported products to demonstrate final destination outside Oregon. Documentation must be made available for verification upon request.

(6) Each regulated entity that is an electricity supplier must retain documentation supporting claims of specified sources of electricity. Supporting documentation must be made available for verification upon request.

(7) Electricity suppliers that sell wholesale electricity must maintain records for each sale of specified or unspecified source sales. Documentation must be made available for verification upon request.

(8) Each person designated by DEQ as an asset-controlling supplier must retain documentation to confirm that the power sold by the supplier originated from the supplier's fleet of facilities and either that the fleet is under the supplier's operational control or that the supplier has exclusive rights to market electricity for the fleet or facility. Documentation must be made available for verification upon request.

(9) Regulated entities subject to 40 C.F.R. part 98 federal requirements must retain the written GHG monitoring plan as required by 98.3(g)(5). The GHG monitoring plan must be made available for verification upon request.

Statutory/Other Authority: ORS 468A.050 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

340-215-0044
Emissions Data Reports

(1) Regulated entities must monitor emissions and submit emissions data reports to DEQ following the requirements specified in this division. Individual emissions data reports are identified as follows:

(a) An individual emissions data report must be submitted by each air contamination source required to register and report under OAR 340-215-0030(2) for each individual permitted source or facility identified under that section;

(b) An individual emissions data report including emissions from all electric power system facilities located in Oregon must be submitted by an investor-owned utility required to register and report under OAR 340-215-0030(2)(c)(C);

(c) An individual emissions data report must be submitted by each fuel supplier or in-state producer required to register and report under OAR 340-215-0030(3);

(d) An individual emissions data report must be submitted by each natural gas supplier or in-state producer required to register and report under OAR 340-215-0030(4);

(e) An individual emissions data report must be submitted by each electricity supplier required to register and report under OAR 340-215-0030(5) or a third-party reporting on behalf of a consumer-owner utility. A third-party reporting on behalf of a consumer-owned utility must also include all information described under OAR 340-215-0120(4) and (5), as applicable;

(f) An individual emissions data report submitted by each asset-controlling supplier seeking designation by DEQ must include all information described under OAR 340-215-0120(7);

(g) An individual emissions data report must be submitted by the owner or operator of a facility containing petroleum and natural gas systems required to register and report under OAR 340-215-0030(6) and must include all emissions and related information described in OAR 340-215-0125;

(2) Regulated entities must:

(a) Utilize registration and reporting tools approved and issued by DEQ for all certifications and submissions;

(b) Submit and certify completed registration and emissions data reports. A separate emissions data report must be submitted for each sector and for each individual air contamination source, and must include all data and information as required by OAR 340-215-0105 through OAR 340-215-0125, as applicable; and

(c) Submit and certify any revisions to emissions data reports. If a regulated entity identifies

an error in a submission, or is notified of such an error, the regulated entity must submit a revision to correct the error within 45 days of discovery. Regulated entities subject to the requirements under OAR chapter 340 division 272 must submit revisions in compliance with that division 272.

(3) Emissions data reports submitted to DEQ must include the following information:

(a) Facility name or supplier name (as appropriate), facility or supplier ID number, and physical street address of the facility or supplier, including the city, state, and zip code;

(b) Year and months covered by the report;

(c) Date of submittal;

(d) All information required by this division to calculate and report greenhouse gas emissions;

(e) Annual emissions of each greenhouse gas, as required under this division; and

(f) A certification from the designated representative as required under OAR 340-215-0040(1).

(4) Increases or decreases in emissions. In addition to the requirements of section (3), if a regulated entity subject to OAR 340-215-0105 submits an emissions data report that indicates emissions equaled or exceeded 25,000 MT CO2e during the previous year, then the regulated entity must include the following information in the emissions data report:

(a) Whether a change in operations or status resulted in an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous data year; and

(b) If there is an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous year, the regulated entity must provide a brief narrative description of what caused the increase or decrease in emissions. Include in this description any changes in air contamination source permit status.

(5) Reporting biomass-derived fuels.

(a) In addition to the requirements of section (3), a regulated entity reporting biomass-derived fuels must separately identify, calculate, and report all direct emissions of CO2 resulting from the combustion of biomass-derived fuels, as provided in this section.

(b) When reporting fuel combustion and emissions from gaseous or liquid biomass-derived fuels, report the following information for each contracted delivery:

(A) Name and address of the vendor from which the fuel is purchased;

(B) Name, address, and facility type of the facility from which the fuel is produced; and

(C) Annual amount delivered by each vendor in MMBtu for biomethane, standard cubic feet

for other gaseous fuels, and gallons for liquid fuels.

(6) Regulated entities subject to the requirements of 40 CFR 98.3(i) must meet those requirements for data used in developing emissions data reports.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0046
Reporting Deadlines

(1) Reporting deadlines.

(a) Air contamination sources required to register and report under OAR 340-215-0030(2) must register and submit annual emissions data reports to DEQ under OAR 340-215-0044 by the due date for the annual report for non-greenhouse gas emissions specified in the source's Title V Operating Permit or Air Contaminant Discharge Permit, or by March 31 of each year, whichever is later.

(b) The following regulated entities must register and submit annual emissions data reports to DEQ by March 31 of each year:

(A) Natural gas suppliers required to register and report under OAR 340-215-0030(4);

(B) Petroleum and natural gas systems required to register and report under OAR 340-215-0030(6).

(c) Fuel suppliers and in-state producers required to register and report under OAR 340-215-0030(3) must submit annual registration and emissions data reports to DEQ by April 30 of each year.

(d) Electricity suppliers required to register and report under OAR 340-215-0030(5) must submit an annual registration and emissions data report to DEQ by June 1 of each year.

(2) Reports submitted in the years 2020 and 2021. All registrations and reports submitted under this division after the effective date of these rules must comply with these rules, notwithstanding that regulated entities may be reporting information for years prior to the effective date of these rules, except that:

(a) Fuel suppliers and in-state producers required to register and report under OAR 340-215-0030(3) must submit an annual registration and emissions data report to DEQ under OAR 340-215-0044 by March 31, 2020 for data year 2019 and in accordance with subsection (1)(c) in each year thereafter;

(b) Electricity suppliers required to register and report under OAR 340-215-0030(5) must retain documentation supporting claims of each specified source of electricity as required by OAR 340-215-0042(6) beginning in 2021 for data year 2020, and in each year thereafter (i.e., those persons do not have to report that information in reports submitted in 2020); and

(c) Any person that owns or operates a petroleum or natural gas system required to register and report under OAR 340-215-0030(6) must comply with the requirements of this division beginning in 2021 by submitting a registration and emissions data report to DEQ by March 31, 2021 for data year 2020, and in each year thereafter (i.e., those persons are not required to report in 2020 for data year 2019).

(3) DEQ may extend reporting deadlines or effective dates as DEQ deems necessary and will issue notice of any extensions.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0105
Requirements for Air Contamination Sources

Regulated entities required to register and report to DEQ under OAR 340-215-0030(2) must:

(1) Calculate and report greenhouse gas emissions using quantification methodologies and report data and information described in 40 C.F.R. part 98 subparts C through UU, as applicable, unless otherwise specified in this rule. Emissions data reports submitted to DEQ must include all emissions with calculation methodology in 40 C.F.R. part 98 subparts C through UU or listed in this division, but may exclude emissions from categorically insignificant activities as defined in OAR 340-200-0020. If categorically insignificant activities cannot be separated from other activities, entities may report aggregate emissions that include categorically insignificant activities;

(2) As applicable, separately report fuel types, quantities, and emissions from fuel combustion reported utilizing 40 C.F.R. part 98, subpart H - Cement Production, subpart W - Petroleum and Natural Gas Systems, and subpart AA - Pulp and Paper Manufacturing quantification methodology;

(3) Provide supplemental documentation, including data inputs for equations to describe how emissions are calculated. Data inputs include but are not limited to fuel throughput, emission factors, and production volumes or product usage used to calculate emissions;

(4) For air contamination sources that include electricity generating units, cogeneration units, or both that meet the applicability requirements of section OAR 340-215-0030(2), follow the requirements of subparts C and D of 40 C.F.R. part 98, as applicable, in reporting emissions and other data from electricity generating and cogeneration. In addition, such regulated entities must report the following information:

(a) Information for each facility as defined in 40 C.F.R. 98.6, including separately for each facility under the same air contamination source permit: name, address, and contact person and phone number;

(b) If applicable, report facility identification numbers assigned by the U.S. Energy Information Administration, California Air Resources Board and Federal Energy Regulatory Commission's PURPA Qualifying Facility program;

(c) Report net and gross electricity generated in megawatt-hours; and

(d) Regulated entities that own or operate a cogeneration unit must report the thermal energy in MMBtu generated by a combustion source that is used directly as part of a manufacturing, industrial or commercial process, or as part of as heating or cooling application, separately for the following categories: generated thermal energy provided to end users outside the air contamination source facility boundary and generated thermal energy for on-site industrial applications not related to electricity generation;

(5) An investor-owned utility that owns or operates electric power system facilities as defined in 40 C.F.R. part 98 subpart DD in Oregon must report emissions utilizing calculation methodologies in 40 C.F.R. part 98 subpart DD and must submit an emissions data report including all emissions from electric transmission and distribution equipment and servicing inventory physically located in Oregon for the previous year;

(6) For in-state producers of goods containing fluorinated greenhouse gases in pre-charged equipment or closed-cell foams, report the mass of each fluorinated greenhouse gas in all goods produced in a year and comply with 40 C.F.R. part 98 subpart QQ in reporting emissions to DEQ as modified below:

(a) Report total mass in metric tons of each fluorinated greenhouse gas contained within pre-charged equipment or closed cell foams;

(b) For each type of pre-charged equipment with a unique combination of charge size and charge type, report the identity of the fluorinated greenhouse gas used as a refrigerant or electrical insulator, charge size, holding charge, where applicable and number produced;

(c) For closed–cell foams the identity of the fluorinated greenhouse gas in the foam, the density of the fluorinated GHG in the foam (kilograms of fluorinated greenhouse gas per cubic feet), and the volume of foam produced (cubic feet) for each type of closed–cell foam with a unique combination of F-GHG density and identity; and

(d) Calculate greenhouse gas emissions from foam blowing operations using the following equation. When the blowing agent is a blend of gases, emissions must be calculated separately for each constituent of the blowing agent used during the foam manufacture process.

$$CO2e = \sum\{[(Qi \times FYLEi) + \left(Qi \times ALi \times (Y-1)\right) + (Qi \times Li)] \times GWPi\}/2204.62$$

For the purposes of the calculation in subsection (d), the following definitions apply:

(A) "Q_i" means quantity of blowing agent, *i*, (in pounds) used to manufacture the foam;

(B) "$FYLE_i$" means first-year loss emission factor associated with the foam application;

(C) "AL_i" means annual loss emission factor associated with the foam application;

(D) "Y" means number of years remaining in the project;

(E) "L_i" means quantity of blowing agent, *i*, released during product output including all processes (such as foam shaping, grinding, trimming, and shaving) leading to product formation;

(F) "2204.62" is applied to convert pounds to metric tons conversion; and

(G) "GWP_i" means GWP for each GHG from table A-1 of 40 C.F.R. part 98;

(7) Calculate and report emissions of CO2 that originate from biomass-derived fuels separately from other greenhouse gas emissions. Use the following procedures when calculating emissions from biomass-derived fuels that are intermixed with fossil fuels:

(a) When calculating emissions from the combustion of municipal solid waste (MSW) or any other fuel for which the biomass fraction is not known, follow the procedures specified in 40 C.F.R. 98.33(e)(3) to specify a biomass fraction;

(b) When calculating emissions from a biomethane and natural gas mixture as described in 40 C.F.R. 98.33(a)(2) calculate emissions based on contractual deliveries of biomethane;

(c) When calculating emissions from a biomethane and natural gas mixture as described in 40 C.F.R. 98.33(a)(4) using a continuous emission monitoring system (CEMS), or when calculating those emissions according to Subpart D of 40 C.F.R. part 98, calculate the biomethane emissions as described above, with the remainder of emission being from natural gas;

(d) When calculating emissions from a biogas and natural gas mixture using 40 C.F.R. 98.33(a)(4) or the carbon content method described in 40 C.F.R. 98.33(a)(3) or when calculating those emissions according to subpart D of 40 C.F.R. part 98, calculate biogas emissions using a carbon content method as described in 40 C.F.R. 98.33(a)(3), with the remainder of emissions being from natural gas.

(8) When reporting emissions from the combustion of natural gas, report the name(s) of the supplier(s) of natural gas to the facility, including information identifying the seller of natural gas, natural gas customer account, and the annual MMBtu delivered to each account according to billing statements (10 therms = 1 MMBtu); and

(9) Report the air permit numbers and NAICS codes according to 40 C.F.R. 98.3(c)(10).

Statutory/Other Authority: ORS 468A.050
Statutes/Other Implemented: ORS 468 & 468A

340-215-0110
Requirements for Fuel Suppliers and In-State Producers

Fuel suppliers and in-state producers including but not limited to gasoline, distillate fuel oil, propane, and aircraft fuel dealers required to register and report under OAR 340-215-0030(3), but not including natural gas suppliers, must:

(1) Report all quantities of fuel disbursed for use in the state by fuel type, regardless of whether the fuel is intended for transportation or non-transportation use and regardless of whether the fuel is subject to state or federal fuel taxes. Such reports must include the fuel type and quantity imported, sold, or distributed for use in this state during the previous year and quantities must be reported in standard cubic feet for gaseous fuels and gallons for liquid fuels. In addition:

(a) Fuel suppliers and in-state producers who report renewable biomass-derived fuels must provide supporting documentation as required under OAR 340-215-0044(5); and

(b) Meeting the requirements of this division does not replace the requirements that must be met in order to satisfy the requirements of OAR chapter 340 division 253 for any given fuel supplier subject to the Oregon Clean Fuels Program (CFP);

(2) For reporting of regulated fuels as defined under OAR chapter 340 division 253, comply with OAR chapter 340 division 253 and submit quarterly and annual reports. In annual reports, persons dealing in regulated fuels as defined by OAR 340-253-0200(2) may further report fuel volumes by individual fuel type as defined in 40 C.F.R. part 98 subpart MM. If volumes are not reported by individual fuel type, default emission factors defined in 40 C.F.R. part 98 subpart MM must be used for emissions calculation purposes;

(3) For reporting all other fuels not reported as regulated fuels under section (3) including, but not limited to, importers and producers of opt-in fuels and small importers of finished fuels as defined by OAR 340-253-0040(86), report fuel imported or produced in the state during the previous year by fuel type as defined in 40 C.F.R. part 98 subpart MM. Report as follows:

(a) Report the type and quantity in gallons of fuel owned at the time the fuel is brought into Oregon from out of state or produced in Oregon that is delivered directly to intermediate storage, retail, or end users,

(b) Report the type and quantity in gallons of fuel owned and dispersed from terminals in Oregon as a position holder. This applies to the fuel supplier owning the fuel at the loading rack as it is being dispensed;

(c) If formulations are unknown for a given quantity of gasoline, report that quantity of gasoline using the fuel type "Gasoline formulation unknown." If distillate or residual fuel oil numbers are unknown for a given quantity of distillate fuel oil, report that quantity using the fuel type "Diesel type unknown;" and

(d) Exclude fuel for which a final destination outside of Oregon can be demonstrated; and

(4) For all fuel suppliers and in-state producers, calculate and report the CO2, CO2 from biomass-derived fuels, CH4, N2O, and CO2e emissions in metric tons that would result from the complete combustion or oxidation of the annual quantity of fuel imported, sold, or distributed for use in this state. In such reports, GHG emissions must be calculated as follows:

(a) Utilize emission quantification methodology prescribed in 40 C.F.R. part 98 subpart MM and equation MM-1 as specified in 40 C.F.R. 98.393(a)(1) to calculate the CO2 emissions and CO2 from biomass-derived fuels that would result from the complete combustion of the fuel reported under this division;

(b) Calculate CH4 and N2O emissions using equation C–8 and Table C-2 as required in 40 C.F.R. 98.33(c)(1); and

(c) Utilize a DEQ assigned emission factor for fuel and emission types not listed in 40 C.F.R. part 98.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0115
Requirements for Natural Gas Suppliers and In-State Producers.

Natural gas suppliers and in-state producers required to register and report under OAR 340-215-0030(4) must:

(1) Report the information required including the volume (Mscf), energy (MMBtu), type of natural gas and associated emissions for all gas imported, sold, or distributed for use in the state for the previous year, and:

(a) If the regulated entity has developed reporter-specific emission factors or high heating values, then report the following:

(A) Information used to develop the reporter-specific emission factor(s) and/or higher heating value(s);

(B) The developed emission factor(s); and

(C) The developed higher heating value(s);

(b) For the purposes of this section large natural gas end users are end users receiving greater than or equal to 460,000 Mscf of natural gas during the year; and

(c) Report biomethane as specified under OAR 340-215-0044(5).

(2) For local distribution companies, calculate and report greenhouse gas emissions using quantification methodologies and report data and information described in 40 C.F.R part 98 subpart NN for suppliers of natural gas and natural gas liquids, as applicable, unless otherwise specified in this rule including the following:

(a) In addition to submitting all information needed to meet the requirements of 40 C.F.R. 98.406(b)(1) through (b)(7), report the annual MMBtu of natural gas associated with the volumes reported;

(b) Report the amount of natural gas delivered to each large natural gas end user separately in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number if available; and

(c) Report identifying information for each natural gas marketer contracting use of the distribution system during the year including company name, and address;

(3) For interstate pipeline owners and operators, report the total amount of natural gas delivered to end users in the state for use in the state, excluding gas delivered to an Oregon local distribution company, and:

(a) Report the annual amount of natural gas delivered to each large natural gas end user separately in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number(s) if available. In instances where multiple end users are downstream of a delivery point that registers at least 460,000 Mscf annually report the total gas delivered and identifying information for each user downstream of the delivery point; and

(b) Report identifying information for each natural gas marketer contracting use of the distribution system during the year including company name, and address;

(4) For importers of natural gas, compressed natural gas, or liquefied natural gas into the state by any means other than a pipeline distribution system or interstate pipeline, including but not limited to imports by rail or truck, report the total amount of natural gas, compressed natural gas, and liquefied natural gas imported into the state for use in the state. Such regulated entities must report the total amount of natural gas, compressed natural gas, or liquefied natural delivered to each large natural gas end user in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number if available;

(5) For regulated entities that own or operate facilities that make liquefied natural gas or compressed natural gas products report the total annual amount of natural gas delivered or sold for use in the state, excluding volumes delivered to an Oregon local distribution company, report the annual amount of natural gas delivered to each large natural gas end user in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number if available; and

(6) For all natural gas suppliers, calculate and report the CO2, CO2 from any reported biomass-derived fuel, CH4, N2O, and CO2e emissions in metric tons that would result from the complete combustion or oxidation of the annual quantity of natural gas imported, sold, or distributed for use in this state. Calculate and report greenhouse gas emissions for the previous year utilizing emission quantification methodology prescribed in 40 C.F.R. part 98 and as follows:

(a) Calculate greenhouse gas emissions separately for natural gas, compressed natural gas and liquefied natural gas;

(b) Calculate and report CO2 emissions as follows:

(A) Local distribution companies must utilize quantification methodologies and report all data elements as required by 40 C.F.R. 98 subpart NN - Suppliers of Natural Gas and Natural Gas liquids for the total volume of gas supplied in the state; and

(B) All other natural gas suppliers including interstate pipeline owners or operators, importers of natural gas, and owners or operators of facilities that make natural gas products must calculate and report using calculation methodology 1 as specified in 40 C.F.R. 98.403(a)(1);

(c) Calculate and report CH4 and N2O emissions from natural gas imported, sold, or distributed for use in this state using equation C-8 and table C-2 as required in 40 C.F.R. 98.33(c)(1) for all fuels subject to reporting;

(d) CO2 emissions from biomass-derived fuel are based on the fuel the natural gas supplier contractually purchased on behalf of and delivered to end users. Emissions from biomethane are calculated using the methods for natural gas required by this section, including the use of the emission factor for natural gas in 40 C.F.R. 98.408, table NN-1. Natural gas suppliers who report emissions from biomethane must provide supporting documentation as required under OAR 340-215-0044(5); and

(e) Not report data or emissions for products for which a final destination outside Oregon can be demonstrated.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0120
Requirements for Electricity Suppliers

Electricity suppliers required to register and report under OAR 340-215-0030(5) must report information and emissions related to the generation of electricity delivered or distributed to end users in this state during the previous year, regardless of whether the electricity was generated in this state or imported. Such reports must;

(1) Report the megawatt-hours (MWh) and greenhouse gas emissions from the generation of electricity from unspecified sources and from each specified source delivered or distributed to end users in Oregon during the previous year, as follows:

(a) For unspecified sources, report the MWh of electricity and calculate and report the associated GHG emissions according to section (5)(a);

(b) For specified sources of electricity, report as follows:

(A) Report specified sources when one of the following applies:

(i) The electricity supplier is a facility or unit operator, full or partial owner, party to a power contract for generation from the facility or generating unit, party to a tolling agreement and rents a facility or unit from the owner or is an exclusive power deliverer that is not a retail

provider and that has prevailing rights to claim electricity from the specified source; or

(ii) The electricity supplier has a power contract for electricity from a DEQ-approved asset-controlling supplier (ACS) or generated by a facility or unit, subject to meeting all other specified source requirements and can provide documentation that the contract specified the source prior to the delivery of the specified electricity.

(B) Electricity suppliers reporting specified sources must:

(i) Report the MWh of electricity disaggregated by facility or unit, and by fuel type or ACS, as measured at the busbar. If not measured at the busbar, report the amount of electricity delivered in Oregon, including estimated transmission losses using the default transmission loss correction factor of 1.02;

(ii) Report the GHG emissions associated with the electricity calculated according to subsection (5)(b); and

(iii) Report details about each specified facility, unit, or ACS, including fuel type or types and information about the seller, including company name and contact information;

(c) For electricity suppliers that are multi-jurisdictional utilities that deliver or distribute electricity in Oregon, report total MWh and greenhouse gas emissions from the generation of electricity from specified and unspecified sources in the utility's service territory or power system as required by subsections (a) and (b), and also report the following:

(A) Wholesale electricity purchased and taken from specified sources (MWh);

(B) Wholesale electricity purchased from unspecified sources (MWh);

(C) Wholesale electricity sold from specified sources (MWh); and

(D) Retail sales (MWh) to customers in Oregon's portion of the utility's service territory or power system; and

(2) Use DEQ approved and published emission factors for calculating and reporting GHG emissions, including;

(a) The emission factor for calculating emissions from unspecified power is 0.428 MT CO2e/MWh;

(b) Electricity suppliers reporting specified source power provided by a multi-jurisdictional utility or DEQ-approved ACS must calculate emissions using a system emission factor published by DEQ, which will be calculated by DEQ according to subsection (6)(b);

(c) Electricity suppliers reporting specified source power from a specific facility or unit must calculate emissions using emission factors published by DEQ, which will be calculated according to subsection (6)(a); and

(d) For reporting emissions from specified sources for which DEQ has not published an approved emission factor, electricity suppliers may propose facility-specific or unit-specific anthropogenic and biogenic emission factors expressed as metric tons of carbon dioxide equivalent (MT CO2e) per megawatt-hour of generation. Such a proposal to DEQ must include documentation describing how the proposed facility-specific or unit-specific emission factors are derived, including the necessary information for verification of these calculations. DEQ may adopt the proposed emission factors or may develop and assign facility-specific or unit-specific emission factors for the specified source. The regulated entity may use such an emission factor only if approved by DEQ;

(3) For utilities that do not receive electricity from other sources and who serve load exclusively in Oregon, a third-party report from the Bonneville Power Administration (BPA), reporting the preference sales provided to Oregon consumer-owned utilities may satisfy such regulated party's obligations under this division. If BPA does not report this information to DEQ, those consumer-owned utilities must report the information as required by this division;

(4) For a consumer-owned utility, a third-party may submit the registration and report, and the report may include information for more than one consumer-owned utility, provided that the report contains all information required under this division for each individual consumer-owned utility; and

(a) The consumer-owned utility must notify DEQ at least 30 days prior to the reporting deadline that a third-party will be reporting on its behalf. This notification must include the name and contact information for the third-party; and

(b) This notification may include notice that the third-party will report on behalf of the consumer-owned utility for future years; and

(c) For any future year in which there is a change in the third-party reporting on behalf of the consumer-owned utility, the consumer-owned utility must provide notification to DEQ at least 30 days prior to the reporting deadline;

(d) Third-parties reporting on behalf of a consumer-owned utility must notify DEQ and request authorization from DEQ prior to submitting any reports. This notification must include identifying information of the consumer-owned utility; and

(d) Each consumer-owned utility must ensure that reports submitted on its behalf meet all requirements of this division.

(5) Calculate and report greenhouse gas emissions as follows:

(a) Emissions reported for electricity associated with unspecified sources must be calculated using the following equation:

$$CO_2e = MWh \times TL \times EF_{unsp}$$

For the purposes of this calculation, "EF_{unsp}" means default emission factor for unspecified

electricity equal to 0.428 MT CO2e/MWh.

(b) Emissions reported for electricity associated with specified sources must be calculated using the following equation:

$CO_2e = MWh \times TL \times EF_{sp}$

For the purposes of this calculation, "EF_{sp}" means facility-specific, unit-specific, or ACS system emission factor published by DEQ.

(c) Emissions reported by a multi-jurisdictional utility may be calculated according to a cost allocation methodology approved by the Oregon Public Utility Commission (OPUC) using the following equation:

$CO_2e = MWh_{MJOR} \times TL \times EF_{MJ}$

For the purposes of this calculation, the following definitions apply:

(A) "MWh_{MJOR}" means total megawatt-hours of electricity delivered to retail customers in Oregon; and

(B) "EF_{MJ}" means multi-jurisdictional utility system emission factor calculated according to equation (6)(b) (MT CO2e/MWh).

(6) For electricity suppliers, use emission factors calculated and published by DEQ for calculating and reporting emissions, as follows:

(a) DEQ will calculate facility-specific or unit-specific emission factors using the following equation:

EFsp = Esp /EG

For the purposes of this calculation, the following definitions apply:

(A) "EFsp" means the facility-specific or unit specific emission factor;

(B) "Esp" means CO2e emissions for a specified facility or unit for the report year (MT CO2e); and

(C) "EG" means net generation from a specified facility or unit for the report year;

(b) DEQ will calculate multi-jurisdictional utility and asset-controlling supplier system emission factors using the following equations:

$EF_{SYS} = \text{Sum of System Emissions MT } CO_2e \div \text{Sum of System MWh}$

$\text{Sum of System Emissions MT } CO_2e = \sum E_{sp} + \sum(PE_{sp} \times EF_{sp}) + \sum(PE_{unsp} \times EF_{unsp}) - \sum(SE_{sp} \times EF_{sp})$

Sum of System MWh $= \sum EG_{sp} + \sum PE_{sp} + \sum PE_{unsp} - \sum SE_{sp}$

For the purposes of the calculations, the following definitions apply:

(A) "ΣE_{sp}" means Emissions from Owned Facilities. Sum of CO2e emissions from each specified facility/unit in the supplier's fleet, consistent with section (5)(b) (MT CO2e);

(B) "ΣEG_{sp}" means Net Generation from Owned Facilities. Sum of net generation for each specified facility/unit in the supplier's fleet for the data year as reported to DEQ under this division (MWh);

(C) "PE_{sp}" means Electricity Purchased from Specified Sources. Amount of electricity purchased wholesale and taken from specified sources by the supplier for the data year as reported to DEQ under this division (MWh);

(D) "PE_{unsp}" means Electricity Purchased from Unspecified Sources. Amount of electricity purchased wholesale from unspecified sources by the supplier for the data year as reported to DEQ under this division (MWh);

(E) "SE_{sp}" means Electricity Sold from Specified Sources. Amount of wholesale electricity sold from specified sources by the supplier for the data year as reported to DEQ under this division (MWh);

(F) "EF_{sp}" means CO2e emission factor as defined for each specified facility or unit calculated consistent with section (5)(b) (MT CO2e/MWh); and

(G) "EF_{unsp}" means default emission factor for unspecified sources calculated consistent with section (5)(a) (MT CO2e/MWh).

(7) For a person that owns or operates inter-connected electricity generating facilities or has exclusive rights to claim electricity from these facilities even though it does not own them may request that DEQ designate them as an asset-controlling supplier, and:

(a) Persons seeking designation by DEQ as an asset-controlling supplier must annually adhere to the requirements of this division, or be removed from asset-controlling supplier designation.

(b) In addition to submitting the applicable information as required by this rule, persons seeking designation by DEQ as an asset-controlling supplier must also submit the following by June 1 of each year:

(A) General business information, including business name and contact information;

(B) A list of officer names and titles;

(C) Wholesale electricity purchased and taken from specified sources (MWh);

(D) Wholesale electricity purchased from unspecified sources (MWh);

(E) Wholesale electricity sold from specified sources (MWh); and

(F) An attestation, in writing and signed by designated representative of the applicant that the information submitted is true, accurate, and complete.

(c) DEQ will calculate and publish a supplier-specific system emission factor according to subsection (6)(b) for designated asset-controlling suppliers.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0125
Requirements for Petroleum and Natural Gas Systems

(1) Any person required to register and report under OAR 340-215-0030(6) must submit an emissions data report utilizing EPA quantification methodologies and data reporting requirements in 40 C.F.R part 98 subpart W;

(2) The emissions data report submitted according to section (1) must:

(a) Include greenhouse gas emissions from each facility (or part of a facility for the onshore natural gas transmission pipeline industry segment) listed in OAR 340-215-0030(6)(a) through (e) that is physically located in Oregon and that meets the applicability threshold in OAR 340-215-0030(6); and

(b) If applicable, separately indicate subpart W emissions associated with an air permitted facility and report identifying information for that facility including the air permit identification number.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

State of Oregon Department of Environmental Quality

Division 253
Draft Rules – Edits Highlighted

Greenhouse Gas Reporting and Third-Party Verification 2019

Key to Identifying Changed Text:
~~Deleted Text~~
New/inserted text

Division 253

OREGON CLEAN FUELS PROGRAM

340-253-0040
Definitions

The definitions in OAR 340-200-0020, OAR 340-272-0020, and this rule apply to this division. If the same term is defined here and in either of the other two divisions, the definition in this rule applies to this division.

(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) "Aggregation indicator" means an identifier for reported transactions that are a result of an aggregation or summing of more than one transaction. 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.

(3) "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.

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

(5) "Alternative Fuel Portal" or "AFP" means the portion of the CFP Online System where fuel producers can register their production facilities and submit fuel pathway code applications and physical pathway demonstrations.

(6) "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-~~8030~~8010. This includes alternative jet fuel derived from co-processed feedstocks at a conventional petroleum refinery.

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

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

(9) “Backstop aggregator” means a qualified entity approved by DEQ under OAR 340-253-0330(6) to aggregate credits for electricity used as a transportation fuel, when those credits would not otherwise be generated.

(10) “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.

(11) “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.

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

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

(14) "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.

(15) "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.

(16) “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.

(17) “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.

(18) “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.

(19) “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.

(~~19~~20) “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.

(~~20~~21) “Buy/Sell Board” means a section of the CFP Online System where registered parties can post that they are interested in buying or selling credits.

(~~21~~22) “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).

(~~22~~23) “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.

(~~23~~24) “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.

(~~24~~25) “CFP Online System reporting deadlines” means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

(~~25~~26) “Clean fuel” means a transportation fuel whose carbon intensity is lower than the applicable clean fuel standard which is either:

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

(b) For diesel and diesel substitutes and alternatives, listed in Table 2 under OAR 340-253-~~8020~~8010; or,

(c) For alternative jet fuel, listed in Table 3 under OAR 340-253-~~8030~~8010.

(~~26~~27) “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-~~8020~~ 8010 for diesel fuel and diesel substitutes.

(~~27~~28) “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.

(~~28~~29) “Clear gasoline” means gasoline derived from crude oil that has not been blended with a renewable fuel.

(~~29~~30) “Compliance period” means each calendar year(s) during which regulated parties must demonstrate compliance under OAR 340-253-0100.

(~~30~~31) “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.

(~~31~~32) “Co-processing” means the processing and refining of renewable or alternative low-carbon feedstocks intermingled with crude oil and its derivatives at petroleum refineries.

(~~32~~33) “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.

(~~33~~34) “Credit facilitator” means a person in the CFP Online System that a regulated party designates to initiate and complete credit transfers on behalf of the regulated party.

(~~34~~35) “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.

(~~35~~36) “Crude oil” means any naturally occurring flammable mixture of hydrocarbons found in geologic formations.

(~~36~~37) “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.

(~~37~~38) “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 that is emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

(~~38~~39) "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.

(~~39~~40) "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.

(~~40~~41) "Diesel substitute" means a liquid fuel, other than diesel fuel, suitable for use as a compression-ignition piston engine fuel.

(~~41~~42) "E10" means gasoline containing 10 volume percent fuel ethanol.

(~~42~~43) "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.

(~~43~~44) "Electric Transport Refrigeration Units (eTRUs)" means refrigeration systems powered by electricity designed to refrigerate or heat perishable products that are transported in various containers, including semi-trailers, truck vans, shipping containers, and rail cars.

(~~44~~45) "Emergency period" is the period of time in which an Emergency Action under OAR 340-253-2000 is in effect.

(~~45~~46) "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.

(47) "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(7).

(~~46~~48) "Finished fuel" means a transportation fuel that can legally be used directly in a motor vehicle without requiring additional chemical or physical processing.

(~~47~~49) "Fixed guideway" means a public transportation facility using and occupying a separate right-of-way for the exclusive use of public transportation using rail, using a fixed catenary system, using an aerial tramway, or for a bus rapid transit system.

(~~48~~50) "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.

(~~49~~51) "Fuel pathway" means a detailed description of all stages of fuel production and use for any particular transportation fuel, including feedstock generation or extraction, production, distribution, and combustion of the fuel by the consumer. The fuel pathway is used to calculate the carbon intensity of each transportation fuel.

(~~50~~52) “Fuel pathway code” or “FPC” means the identifier used in the CFP Online System that applies to a specific fuel pathway as approved or issued under OAR 340-253-0400 through 0470.

(~~51~~53) “Fuel pathway holder” means the entity that has applied for and received a certified fuel pathway code from DEQ, or who has a certified fuel pathway code from the California Air Resources Board that has been approved for use in Oregon by DEQ.

(54) “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.

(~~52~~55) “Fuel ~~Supply~~ supply ~~Equipment~~equipment” refers to equipment registered in the CFP Online System that dispenses alternative fuel into vehicles, including but not limited to electric vehicle chargers, hydrogen fueling stations, and natural gas fueling equipment.

(~~53~~56) “Gasoline” means a fuel suitable for spark ignition engines and conforming to the specifications of ASTM D4814.

(~~54~~57) “Gasoline substitute” means a liquid fuel, other than gasoline, suitable for use as a spark-ignition engine fuel.

(~~55~~58) “Heavy duty motor vehicle” or “HDV” means any motor vehicle rated at more than 10,000 pounds gross vehicle weight.

(~~56~~59) “Illegitimate credits” means credits that were not generated in compliance with this division.

(~~57~~60) “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.

(~~58~~61) “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 delivered for use in Oregon.

(~~59~~62) “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 T~~t~~able 10 under OAR 340-253-8~~1~~010.

(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.

(~~60~~63) "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.

(~~61~~64) "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.

(~~62~~65) "Light-duty motor vehicle" or "LDV" means any motor vehicle rated at 8,500 pounds gross vehicle weight or less.

(~~63~~66) "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.

(~~64~~67) "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.

(~~65~~68) "Liquefied natural gas" or "LNG" means natural gas that has been liquefied.

(~~66~~69) "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.

(~~67~~70) "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.

(~~68~~71) “Medium duty vehicle” or “MDV” means any motor vehicle rated between 8,501 pounds and 10,000 pounds gross vehicle weight.

(~~69~~72) “Motor vehicle” means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is self-propelled.

(~~70~~73) "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.

(~~71~~74) “Natural gas” means a mixture of gaseous hydrocarbons and other compounds with at least 80 percent methane by volume.

(~~72~~75) “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 3.0. DEQ will make available a copy of OR-GREET 3.0 on its website (https://www.oregon.gov/deq/Pages/index.aspx). As used in this rule, OR-GREET refers to both the full model and the fuel-specific simplified calculators that the program has adopted.

(~~73~~76) “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.

(~~74~~77) “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.

(78) “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.

(~~75~~79) “Producer” means:

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

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

(~~76~~80) “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.

(~~77~~81) “Public transportation” means regular, continuing shared passenger-transport services along set routes which are available for use by the general public.

(~~78~~82) “Public transit agency” means an entity that operates a public transportation system.

(~~79~~83) “Registered party” means a regulated party, credit generator, or aggregator that has a DEQ-approved registration under OAR 340-253-0500 to participate in the Clean Fuels Program.

(~~80~~84) “Regulated fuel” means a transportation fuel identified under OAR 340-253-0200(2).

(~~81~~85) “Regulated party” means a person responsible for compliance with requirements listed under OAR 340-253-0100(1).

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

(~~82~~87) “Renewable hydrocarbon diesel” or “renewable diesel”, means a diesel fuel that is produced from non-petroleum 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.

(~~83~~88) "Renewable hydrocarbon diesel blend" or “renewable diesel blend” means a fuel comprised of a blend of renewable hydrocarbon diesel with petroleum-based diesel fuel, designated RXX. In the abbreviation RXX, the XX represents the volume percentage of renewable hydrocarbon diesel fuel in the blend.

(~~84~~89) “Renewable gasoline” means a spark ignition engine fuel that substitutes for fossil gasoline and that is produced from renewable resources.

(~~85~~90) “Renewable propane” means liquefied petroleum gas (LPG~~P~~ or propane) that is produced from non-petroleum renewable resources.

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

(~~86~~92) “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. Any fuel imported by persons that are related, or share common ownership or control, shall be aggregated together to determine whether a person meets this definition.

(93) “Specified source feedstocks” are feedstocks for fuel pathways that require chain of custody evidence to be elegibile for a reduced CI associated with the use of a waste, residue,

by-product, or similar material under the pathway certification process under OAR 340-253-0400(7).

(~~87~~94) "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.

(~~88~~95) "Tier 1 calculator", "Simplified calculator" or "OR-GREET 3.0 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 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 and Renewable Diesel;

(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; and

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

(~~89~~96) "Tier 2 calculator" or "OR-GREET 3.0 model" means the tool used to calculate lifecycle emissions for next-generation fuels, including the instruction manual on how to use the calculator. Next-generation fuels include, but are not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first-generation 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).

(~~90~~97) "Transaction date" means the title transfer date as shown on the PTD.

(~~91~~98) "Transaction quantity" means the amount of fuel reported in a transaction.

(~~92~~99) "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;

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

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

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

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

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

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

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

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

(~~i~~n) “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~~o) “EV charging” means providing electricity to recharge EVs including BEVs and PHEVs;

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

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

(~~n~~r) "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 - Locomotives", "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)" ~~"Used in exempt fuel uses"~~ means that the fuel was delivered or sold into the category of vehicles or fuel users that are exempt under OAR 340-253-0250; or

(s) "Production for Import into Oregon" means the out-of-state production of a fuel that will be imported into Oregon.~~.~~

(~~93~~100) "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.

(~~94~~101) "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.

(~~95~~102) "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.~~; or~~

~~(C) OAR chapter 340 division 340.~~

[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 through 468A.277
History:
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

340-253-0060
Acronyms

The following acronyms apply to this division:

(1) "AFP" means Alternative Fuel Portal.

(2) "ASTM" means ASTM International (formerly American Society for Testing and Materials).

(3) "BEV" means battery electric vehicle.

(4) "CARB" means the California Air Resources Board.

(5) "CA-GREET" means the California Air Resources Board adopted version of GREET.

(6) "CFP" means the Clean Fuels Program established under OAR chapter 340, division 253.

(7) "CI" means carbon intensity.

(8~~7~~) "CNG" means compressed natural gas.

(9~~8~~) "CO2e" means carbon dioxide equivalents.

(10~~9~~) "DEQ" means Oregon Department of Environmental Quality.

(~~10~~11) "EER" means energy economy ratio.

(~~11~~12) "EN" means a European Standard adopted by one of the three European Standardization Organizations.

(~~12~~13) "EQC" means Oregon Environmental Quality Commission.

(~~13~~14) "EV" means electric vehicle.

(~~14~~15) "FEIN" means federal employer identification number.

(~~15~~16) "FFV" means flex fuel vehicle.

(~~16~~17) "FPC" means fuel pathway code.

(~~17~~18) "gCO2e/MJ" means grams of carbon dioxide equivalent per megajoule of energy.

(~~18~~19) "HDV" means heavy-duty vehicle.

(20~~19~~) "HDV-CIE" means a heavy-duty vehicle compression ignition engine.

(~~20~~21) "HDV-SIE" means a heavy-duty vehicle spark ignition engine.

(~~21~~22) “L-CNG” means liquefied-compressed natural gas.

(~~22~~23) “LDV” means light-duty vehicle.

(~~23~~24) “LNG” means liquefied natural gas.

(~~24~~25) “LPG” means liquefied petroleum gas.

(~~25~~26) “LPGV” means liquefied petroleum gas vehicle.

(~~26~~27) “MDV” means medium-duty vehicle.

(~~27~~28) “mmBtu” means million British Thermal Units.

(~~28~~29) “NGV” means natural gas vehicle.

(30~~29~~) “PHEV” means partial hybrid electric vehicle.

(~~30~~31) “PTD” means product transfer document.

(~~31~~32) “REC” means Renewable Energy Certificate.

(~~32~~33) “RFS” means the Renewable Fuel Standard implemented by the US Environmental Protection Agency.

(~~33~~34) “scf” means standard cubic foot.

(~~34~~35) “ULSD” means ultra low sulfur diesel.

(36) “WREGIS” means the Western Renewable Energy Generation Information System run by the Western Electricity Coordinating Council.

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 161-2018, 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

340-253-0100
Oregon Clean Fuels Program Applicability and Requirements

(1) Regulated parties.

(a) All persons that produce in Oregon, or import into Oregon, any regulated fuel must comply with the rules in this division.

(b) The regulated parties for regulated fuels are designated under OAR 340-253-0310 and must comply with sections (4) through (8) below;.

(c) An out-of-state producer of ethanol, biodiesel, renewable diesel, alternative jet fuel, renewable natural gas, or renewable propane is not required to participate in the program. Any out-of-state producer who chooses voluntarily to participate in the program in order to generate credits from the volumes of their fuel that is imported into Oregon must comply with sections (4), (5), (7), (8), and (9) below;

(d) S~~except~~ mall importers of finished fuels are exempt from sections (6) and (7) below;

(e) Regulated parties must comply with OAR chapter 340, division 215.

(2) Credit generators.

(a) The following rules designate persons eligible to generate credits for each of the following fuel types:

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

(B) OAR 340-253-0330 for electricity;

(C) OAR 340-253-0340 for hydrogen fuel or a hydrogen blend; and

(D) OAR 340-253-0350 for alternative jet fuel.

(b) Any person eligible to be a credit generator, and that is not a regulated party, is not required to participate in the program. Any person who chooses voluntarily to participate in the program in order to generate credits must comply with sections (4), (5), (7), ~~and~~ (8), and (9) below.

(3) Aggregator.

(a) Aggregators must comply with this section and sections (4), (5), (7), and (8) below.

(b) Aggregators facilitate credit generation and trade credits only if a regulated party or a credit generator has authorized an aggregator to act on its behalf by submitting an Aggregator Designation Form. An eligible credit generator may designate an aggregator for its credit generation. The only exception to that designation by a credit generator is the backstop aggregator designated under OAR 340-253-0330(7). A regulated party or credit generator already registered with the program may also serve as an aggregator for others.

(4) Registration.

(a) A regulated party must submit a complete registration application to DEQ under OAR 340-253-0500 for each fuel type on or before the date upon which that party begins producing the fuel in Oregon or importing the fuel into Oregon. The registration application must be submitted using DEQ approved forms. ~~A registered regulated party that begins importing a new fuel type not listed on its original application may request a modification of its registration in writing to DEQ.~~

(b) A credit generator must submit a complete registration application to DEQ under OAR 340-253-0500 for each fuel type before it may generate credits for fuel produced, imported, or dispensed for use in Oregon. DEQ will not recognize credits allegedly generated by any person that does not have an approved, accurate and current registration. ~~A credit generator that produces, imports, or dispenses a new fuel type not listed on its original application may request a modification of its registration in writing to DEQ.~~

(c) An aggregator must submit a complete registration application to DEQ under OAR 340-253-0500 and an Aggregator Designation Form each time it enters into a new contract with a regulated party, a credit generator, or another aggregator to facilitate credit generation or trade credits. Any violations by the aggregator may result in enforcement against both the aggregator and the party it was designated to act on behalf of.

(5) Records. Regulated parties, credit generators, and aggregators must develop and retain all records OAR 340-253-0600 requires.

(6) Clean fuel standards. Each regulated party must comply with the following standards for all transportation fuel it produces in Oregon or imports into Oregon in each compliance period. Each regulated party may demonstrate compliance in each compliance period either by producing or importing fuel that in the aggregate meets the standard or by obtaining sufficient credits to offset the deficits it has incurred for such fuel produced or imported into Oregon. The initial compliance period is for two years, 2016 and 2017, and after that compliance periods will be for each single calendar year.

(a) Table 1 under OAR 340-253-8010 establishes the Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes; and

(b) Table 2 under OAR 340-253-~~8020~~ 8010 establishes the Oregon Clean Fuel Standard for Diesel and Diesel Substitutes.

(7) Quarterly report. Each regulated party, credit generator, and aggregator must submit quarterly reports under OAR 340-253-0630, unless they are exempt under subsection (1)(b) or they are a credit generator solely registered for residential charging of electric vehicles.

(8) Annual report. Each regulated party, credit generator, and aggregator must submit an annual report under OAR 340-253-0650. Each regulated party must submit an annual report for 2016 notwithstanding that the initial compliance period is for 2016 and 2017.

(9) Voluntary participation. The voluntary participation in the program by any person shall conclusively establish that person's consent to be subject to the jurisdiction of the State of Oregon, its courts, and the administrative authority of DEQ to implement this program. If a

person does not consent to such jurisdiction, then the person may not participate in the program.

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 8-2014, 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

340-253-0200
Regulated and Clean Fuels

(1) Applicability. In-state ~~P~~producers, out-of-state producers that have voluntarily registered under 340-253-0100(c)(1), and importers of transportation fuels listed in this rule, unless the fuel is exempt under OAR 340-253-0250, are subject to division 253.

(2) Regulated fuels include:

(a) Gasoline;

(b) Diesel;

(c) Ethanol;

(d) Biodiesel;

(e) Renewable hydrocarbon diesel;

(f) Any blends or constituents of the above fuels; and

(g) Any other liquid or non-liquid transportation fuel not listed in section (3).

(3) Clean fuels include~~:~~:

(a) Bio-based CNG;

(b) Bio-based L-CNG;

(c) Bio-based LNG;

(d) Electricity;

(e) Fossil CNG;

(f) Fossil L-CNG;

(g) Fossil LNG;

(h) Hydrogen or a hydrogen blend;

(i) Fossil LPG;

(j) Renewable LPG, and

(k) Alternative jet fuel.

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

340-253-0310
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 a position holder, an importer of blendstocks or a large importer of finished fuels above the rack. If a regulated party transfers the fuel to a position holder, 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~~a) The transferor remains the regulated party who:

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

(~~B~~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~~c) The recipient:

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

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

(~~D~~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.

(6) Fuel produced by a voluntarily registered out-of-state producer registered under OAR 340-253-0100(1)(c) is ineligible to generate credits or deficits unless and until it is imported into 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 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

340-253-0400
Carbon Intensities

(1) OR-GREET. Carbon intensities for fuels must be calculated using OR-GREET 3.0 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. Every three years, or sooner if DEQ determines that new information becomes available that warrants an earlier review, DEQ will 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, 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) Regulated parties, credit generators and aggregators must use the statewide average carbon intensities listed in Tables 3 and 4 under OAR 340-253-~~8030~~ 8010 and -~~8040~~ 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;

(D) Fossil LNG; and

(E) Fossil LPG.

(b) For electricity suppliers,

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

(B) Credit generators or aggregators may use a carbon intensity different from the statewide average under subsection (b)(A) if:

(i) The utility has applied for an individual carbon intensity under OAR 340-253-0470; or

(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(3).

(c) A hydrogen supplier may use the applicable value in ~~the lookup t~~Table 4 ~~in~~ under OAR 340-253-~~8040~~8010, or apply for a specific carbon intensity under OAR 340-253-0450.

(4) Carbon intensities for established fuel pathways. Except as provided in sections (3) or (5), regulated parties, credit generators, and aggregators can use a carbon intensity that:

(a) CARB has certified for use in the California Low Carbon Fuel Standard program, as adjusted for fuel transportation distances and indirect land use change, and that has been reviewed and approved by DEQ as being consistent with OR-GREET 3.0; or

(b) Matches the description of a fuel pathway listed in ~~the lookup table in~~ Table 4 under OAR 340-253-~~-~~80~~4~~10. For Hydrogen produced using biomethane or renewable power, the producer of the hydrogen will have to demonstrate to DEQ that the ~~lookup table~~ value in

Table 4 is appropriate for its production facility and must submit attestations on an annual basis that the renewable power and biomethane attributes, as applicable, were not claimed in any other program except for the federal RFS. Any such claims under the federal RFS must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP, or the claim under the CFP is invalid.

(5) Transition to OR-GREET 3.0.

(a) Pathways certified under OR-GREET or CA-GREET 2.0 will be deactivated by DEQ in the CFP Online System for reporting after the fourth quarter of 2020. Fuel pathway holders with pathways certified under OR-GREET or CA-GREET 2.0 that wish to keep generating credits from those fuels from January 1, 2021 onward must follow the pathway application and certification process in this rule to obtain a new pathway under OR-GREET 3.0, or request DEQ approval of a CARB-certified CA-GREET 3.0 pathway.

(b) Table 4 ~~Lookup table~~ pathways. Entities reporting fuels ~~under the~~using ~~lookup table~~ Table 4 pathways that do not require an application under subsection (a) will have those pathways automatically updated to the OR-GREET 3.0 values on January 1, 2019 for first quarter 2019 reporting.

(c) New pathway applications. DEQ will not consider new applications using OR-GREET 2.0.

(6) 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;

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

(C) Renewable diesel produced from conventional feedstocks (plant oils, tallow and related animal wastes and used cooking oil);

(D) Natural Gas; and

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

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

(A) Cellulosic alcohols;

(B) Biomethane from other sources;

(C) Hydrogen;

(D) Renewable hydrocarbons other than renewable diesel produced from conventional feedstocks;

(E) Biogenic feedstocks co-processed at a petroleum refinery

(F) Alternative Jet Fuel;

(G) Renewable propane; and

(H) 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.

(7) Specified source feedstocks. Fuels that are produced from a specified source feedstock may be eligible for a reduced carbon intensity score 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, 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) The specified source feedstocks are used in 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(9)(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 pathway approval condition .

(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.

(e) In order to maintain the pathway, the fuel production 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.

(8) The carbon intensity value certified under OAR 340-253-0450, including any margin of safety requested by the fuel producer, is the maximum carbon intensity value that a fuel can be reported in the CFP under. 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 shall not report fuel sales under any CFP carbon intensity unless the actual operational carbon intensity is equal to or less than the certified CI.

(9) Fuel producers labeling fuel sold in Oregon with a carbon intensity under the CFP and registered entities using those labeled carbon intensities to report in the CFP Online 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.

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 8-2014, 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 must provide:

(a) The application package submitted to CARB;

(b) The CARB-approved Tier 1 or Tier 2 CA-GREET 3.0 calculator, and the OR-GREET 3.0 equivalent with the fuel transportation and distribution cells modified for that fuel's pathway to Oregon;

(c) The CARB review report for the approved fuel pathway;

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

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

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

(B) A notification of any changes to the status of its CARB-approved provisional 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) 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).

(i) If applicable, c~~C~~onsultant's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website URL.

(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:

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

(b) A positive verification statement from an approved verification body stating that it has reviewed and validated all of the data used to form the inputs for the Tier 1 calculator submitted under (a), or- t~~T~~he invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, along with a summary of those invoices and receipts; and

(c) The most recent RFS third party engineering report, if one has been conducted for the facility.

(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 3.0 model must submit the following:

(a) A positive verification statement from an approved verificiation body stating that it has reviewed and validated all of the data used to form the inputs for the Tier 2 calculator submitted under (c), or ~~T~~the invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, and a summary of those invoices and receipts;

(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 days but less than 24 months, it can 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 CFP Online 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~~gasoline portion~~ 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 quarterly 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 regulated party or credit generator 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-~~8090~~8010, or a temporary fuel pathway code otherwise approved and posted by DEQ under OAR 340-253-0450(11).

(a) The request must:

(A) Be submitted within 45 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.

(9) Approval process to use carbon intensities for fuels other than electricity.

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

(A) Confirm that the proposed fuel pathway is consistent with OR-GREET 3.0; and

(B) Review the materials submitted under subsection (2).

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

(A) Replicate the calculator outputs; and

(B) Verify the energy consumption and other inputs.

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

(d) DEQ may impose conditions in its approval of the carbon intensity. 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 of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked.

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

(i) In order to maintain an active provisional pathway eligible to generate credits, the applicant must file the annual fuel pathway report and seek verification if required under OAR 340-272.

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

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

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

~~(i) Shall submit copies of receipts for all energy purchases each calendar quarter until two full calendar years of commercial production receipts are submitted.; and~~

~~(ii) May generate provisional credits by submitting quarterly reports.~~

~~(B) For applicants employing co-processing at a petroleum refinery:~~

~~(i) DEQ will specify the conditions regarding the quantities of biogenic feedstocks and the amount of energy and hydrogen used to establish the pathway; and~~

~~(ii) The applicant shall submit to DEQ the quantities of biogenic feedstocks and the amount of energy and hydrogen used in each calendar quarter.~~

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

(i) ~~t~~The fuel pathway holder must inform DEQ within ~~7~~seven 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 pathway's use in Oregon at any time.

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

(v) Based on the underlying facts that led to CARB's modification of the pathway's status, within 30 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) ~~The~~ In order to receive and maintain an active fuel pathway code, the producer of any fuel ~~that has received a carbon intensity under section (9)~~ must:

(A) Maintain an active registration ~~Register~~ with the AFP; ~~and~~

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

(C)~~.~~ Beginning in calendar year 2021, 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:

(i) 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;

(ii) The annual fuel pathway report for renewable electricity and hydrogen lookup table pathways, in lieu of the CI calculator, must include invoices or metering records substantiating the quantity of renewable or low-CI inputs procured from a qualifying source.;

(iii) If the fuel or fuel production process involves biomethane or renewable electricity, the fuel producer must provide the attestation regarding environmental attributes or proof of non-generation or retirement of any RECs as required by OAR 340-253-0640(1)(d) or OAR 340-253-0470(3)(d);

(iv) Any fuel pathway holder, including a joint applicant, who is not subject to site visits by a third party verifier, whose pathway involves the use of renewable or low-CI process energy, must submit invoices for that energy to the AFP. Additionally, for any electricity that is used to reduce the carbon intensity of electricity used as a transportation fuel or hydrogen production via electrolysis, the pathway holder must upload records demonstrating that any renewable energyenrgy certificates generated were retired in WREGIS for the purpose of lowering the certified CI, or for credit generation;

(v) 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. The information required to be submitted under this section must cover the same time period as the updated OR-GREET model required under subparagraph (i);

(vi) 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 pathway holder may elect to add a margin of safety to the new certified CI, and 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.; and

(vii) If the operational CI is found to be greater than the certified CI, the fuel pathway holder is out of compliance with this division and may be subject to investigation and enforcement by DEQ;.

(D) Comply with the requirements of this division and OAR chapter 340, division 272. Failure to timely submit an annual fuel pathway report or a required verification statement for a facility's pathways will result in the deactivation of those pathways; and.

(E) If a 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) If DEQ determines the proposal for the 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.

(g) DEQ may modify an approved fuel pathway's CI or approval conditions upon receipt of a verification statement that shows that the verified operational CI is higher than the certified CI.

(h) Any applicant 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.

(10) Completeness determination process.

(a) For applications calculated using the Tier 1 or Tier 2 calculator, DEQ will determine whether the proposal is complete within 1 month after receiving a registration application.

(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 has 30 calendar days to determine if the supplemental submittal is complete, or to notify the party and identify the continued deficiencies. 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 registration application.

(11) 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 pathway codes) under OAR 340-253-8010. If any are approved, DEQ will post these additional pathway codes in the CFP Online System and on its public website for the Clean Fuels Program.

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

(b) If DEQ agrees with the request, it will post the proposed new substitute or temporary 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 and make any modifications if necessary.

(d) DEQ will publish its final decision on its website.

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

(12) Measurement accuracy.

(a) All measurement devices that log or record data for use in fuel pathway application smust comply with the manufacturer-recommeneded calibration frequency and precision requirements. If manufacturer-recommendations are not provided, the measurement devices must be calibrated 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. In such cases, the owner or operator may submit a written request to the DEQ to postpone calibration or inspection until the next scheduled maintenance outage. Such postponements are subject to the procedures of (A) and (B) below and must be documented in the monitoring plan required in OAR 340-253-0600.

(A) A written request for postponement must be submitted to DEQ not less than 30 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 ten (10) business days of a request for documentation.

(B) The request 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.

(13) 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.

(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 the DEQ.

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

(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 the DEQ.

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

340-253-0470
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 over the most recent five years and determining the average of the five values. For 2018 and beyond, the carbon intensities for electricity will be calculated using the rolling five-year average of data submitted to DEQ under OAR chapter 340, division 215. No later than December 31 of each year, DEQ will:

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

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

(~~C~~c) Add the new fuel pathway codes to the CFP Online System effective for Q1 reporting for the next year.

(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 recent five years and determining the average of the five values.

(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 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 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.

(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~~s~~ 3 under OAR 340-253-~~8030~~ 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 in the CFP online system from that facility must be retired in the REC tracking system.

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

340-253-0500
Registration

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

(a) To register as a regulated party, credit generator, ~~or~~ aggregator, or 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, and EPA RFS identification numbers;

(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 transportation 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~~D~~) For registrants dispensing natural gas, propane, or hydrogen, the number of dispensing facilities located in Oregon and their locations and the estimated annual fuel throughput per location;

(F~~E~~) For registrants charging electric vehicles, the number of chargers located in Oregon and their locations and the estimated annual discharge of electricity per location;

(G~~F~~) 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) Designate an aggregator to act on their behalf under OAR 340-253-0330(2) or (3); and

(iii) Obtain a utility-specific carbon intensity under OAR 340-253-0400;

(H~~G~~) 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 CFP Online System.

(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 CFP Online System 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 decides voluntarily to opt-out of the CFP. The credit generator or aggregator must provide a 90-day notice of intent to opt out of the CFP and a proposed effective date for the completion of the opt-out process.

(B) A regulated party, credit generator or aggregator that is cancelling its registration under this section must submit any outstanding quarterly reports and annual reports. Any regulated party must be in full compliance with the program's standards for the annual reports it submits, and any credit generator or aggregator must not have any outstanding deficits.

(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 CFP Online System 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) Starting in December 2020 and each December thereafter, registered parties must submit to DEQ an updated version of the list required in (1)(a)(D).

(2) Registering as a fuel producer.

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

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

(ii) 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 CFP Online System and comply with the requirements of this division and any conditions placed upon the fuel pathway codes that it holds.

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 8-2014, 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. Regulated parties, credit generators, and aggregators must retain the following records for at least ~~5~~ seven 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~~.~~;

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

(g) 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~~ 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.

(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.

(7) 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.

(8) Attestations regarding environmental attributes.

(a) An entity reporting any biomethane as a transportation fuel in the ~~Clean Fuels Program~~CFP, 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) ~~(a)~~ ~~t~~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)~~(b)~~ ~~t~~The environmental attributes have not been used or claimed in any other program or jurisdictions with the exception of the federal RFS.

(b) Any such claims under the federal RFS must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP, or the claim under the CFP is invalid.

(c) The attestations must be made available to DEQ within seven days upon request by DEQ. Failure to provide such attestations is~~. The inability to promptly produce the attestations constitutes~~ grounds for credit invalidation ~~pursuant to~~under OAR 340-253-0670.

(9) Monitoring plan for entities and fuel producers who are required to obtain verification services. Each entity responsible for obtaining verification or validation of their data under division 272 must complete and retain a written Monitoring Plan for review by a verifier or DEQ. If a fuel production facility is been required to complete and maintain a monitoring plan by the California LCFS, the same monitoring plan may be used to meet the requirements of this rule unless the are substantive differences between the two programs' treatment of the fuel production process.

(a) 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 subarticle, 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 subarticle, 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 CFP Online 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(12);

(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) The monitoring plan must also include the following elements specific to fuel pathway carbon intensity calculations and produced quantities of fuels per fuel pathway code, as applicable:

(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 perscribed 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 transportation use in carbon intensity determination, and confirm feedstock and finished fuel transportation distance;

(I) All documentation required pursuant to OAR 340-253-0600(10) for specified source feedstocks, defined in OAR 340-253-0400(7)

(c) The monitoring plan must also include documentation that can be used to justify transaction types reported for fuel in the CFP Online System, including the production amount, sale/purchase agreements and final fuel dispensing records. 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.

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

(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.

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 8-2014, 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.

~~(a) Except as provided in subsection (b),~~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
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

340-253-0630
Quarterly Reports

(1) Quarterly reports. Except for persons exempt from this requirement under OAR 340-253-0100, regulated parties, credit generators, and aggregators must submit a quarterly progress report using the CFP Online System by:

(a) June 30 — for January through March of each year;

(b) September 30 — for April through June of each year;

(c) December 31 — for July through September of each year; and

(d) March 31 — for October through December of each previous year.

(2) General reporting requirements for quarterly reports.

(a) Quarterly reports must contain the information specified in Table 5 under OAR 340-253-~~8050~~ 8010 for each transportation fuel subject to the CFP.

(b) Reporters must upload the data for the quarterly reports in the CFP Online System within the first 45 days after the end of the quarter.

(c) During the second 45 days, reporters must work with each other to resolve any fuel transaction discrepancies between different reporters' reported transactions.

(d) In order to allow for carry-back credits to have been generated only in the applicable years, the Q1 report may not be submitted prior to May 1st.

(3) Conditions of submitting a quarterly report. In order to submit a quarterly report, a registered party must confirm the following statement by acceptance and certification in the CFP Online System:

"I, [Name of real person], as person with Signatory Authority, am submitting this report on behalf of [Company Name], with the understanding that the information contained in this report is considered an official submission to Oregon Department of Environmental Quality for purposes of compliance with the Clean Fuels Program (CFP) regulation. Furthermore, by submitting this report, I understand that I am bound by, and authenticate this record, and attest to the statements contained within. I also understand that submitting or attesting to false statements is prohibited under Oregon law, and may subject me to civil enforcement, criminal enforcement, or both. I certify that information supplied herein is correct and that I have the authority to submit this report on behalf of the company named above. As a condition of participating in the program, I acknowledge that credits are regulatory instruments that do not constitute personal property, instruments, securities or any other form of property, as provided in OAR 340-253-1005(1)(a). Credits and deficit calculations are subject to the provisions of OAR 340-253-0670, under which DEQ may, without limitation, correct errors should a regulated party or credit generator not do so themselves, place holds on credits and/or accounts as part of an inquiry, and invalidate credits or fuel pathway codes that were illegitimately generated or otherwise created in error. I acknowledge that DEQ may, at its discretion, place a hold on credits and accounts while DEQ undertakes any inquiry regarding such credits or accounts. Suspension, revocation, and/or modification actions by DEQ may be contested as provided under Oregon law."

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 8-2014, 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

(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 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~~8010;

(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.

(7) Reporting Position Holder Transactions.

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

(b) Fuel sold to entities not registered in the CFP may be aggregated and reported in a single transaction using the "'Undefined' Business partner" transaction category.

(c) Fuel sold below the rack for export must identify the recipient if they are registered in the CFP.

(8) Reporting Below the Rack Exports. Purchasers of fuel from a position holder that is directly exported without modification must report such fuel using the "Purchase below the rack for export" transaction-category.

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

340-253-0650
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~~ report~~s~~ 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
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

340-253-0670
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);

(g) Failure to submit a verification statement when it is required under OAR 340-272; or

(h) An adverse verification statement submitted under OAR 340-272.

(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

The following applications and reports are subject to third party verification requirements in accordance with OAR 340-272-0110:

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

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

(3) Quarterly reports submitted under OAR 340-253-0630; and

(4) 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:

340-253-1000
Credit and Deficit Basics

(1) Carbon intensities.

(a) Except as provided in subsections (b),(c), or (d), when calculating carbon intensities, regulated parties, credit generators, and aggregators must use a carbon intensity approved by DEQ under OAR 340-253-0450.

(b) If a regulated party, credit generator, or aggregator has an approved provisional carbon intensity approved under OAR 340-253-0450, the regulated party, credit generator, or aggregator must use the DEQ-approved provisional carbon intensity.

(c) If a regulated party, credit generator, or aggregator has an approved temporary carbon intensity under OAR 340-253-0450, the regulated party, credit generator, or aggregator 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) ~~u~~Use the applicable substitute fuel pathway code in Table 8 ~~of~~ under OAR 340-253-~~8080~~ 8010 or otherwise approved and posted by DEQ under OAR 340-253-0450-(11) if the fuel is exported, not used for transportation, or used in an exempt fuel use; and~~.~~

(B)~~If the finished fuel blend is not listed, the registered party must r~~Report the volume using the applicable ~~lookup t~~Table 8 fuel pathway code, or a fuel pathway code otherwise approved and posted by DEQ under OAR 340-253-0450(11), -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. Regulated parties, credit generators, and aggregators must express fuel quantities in the unit of fuel for each fuel.

(3) Compliance period. The annual compliance period is January 1 through December 31 of each year, except:

(a) The initial compliance period is January 1, 2016, through December 31, 2017; and

(b) The initial compliance period for large importers of finished fuels is January 1, 2016 through December 31, 2018.

(4) Metric tons of CO2 equivalent. Regulated parties, credit generators, and aggregators must express credits and deficits to the nearest whole metric ton of carbon dioxide equivalent.

(5) Deficit and credit generation.

(a) Credit generation. A clean fuel credit is generated when fuel is produced, imported, or dispensed for use in Oregon, as applicable, and the carbon intensity of the fuel approved for use under OAR 340-253-0400 through -0470 is less than the clean fuel standard for gasoline and gasoline substitutes in Table 1 under OAR 340-253-8010, for diesel fuel and diesel substitutes in Table 2 under 340-253-~~8020~~8010, or for alternative jet fuel in Table 3 under 340-253-~~8030~~8010. Credits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

(b) Deficit generation. A clean fuel deficit is generated when fuel is produced, imported, or dispensed for use in Oregon, as applicable, and the carbon intensity of the fuel 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-~~8020~~8010. Deficits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

(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.

(6) Mandatory retirement of credits. When filing the annual report at the end of a compliance period, a registered party that possesses credits must retire a sufficient number of credits such that:

(a) Enough credits are retired to completely meet the registered party's compliance obligation 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.

(7) Credit Retirement Hierarchy. The CFP Online System will use the following default hierarchy to retire credits for the purposes of meeting a compliance obligation, first retiring credits under subsection (a), next retiring credits under subsection (b), and last retiring credits under subsection (c):

(a) Credits acquired or generated in a previous compliance period prior to credits generated or acquired in the current compliance period;

(b) Credits with an earlier completed transfer "recorded date" before credits with a later completed transfer "recorded date;" and

(c) Credits generated in an earlier quarter before 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 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

340-253-1005
Transacting Credits

(1) General.

(a) Credits are a regulatory instrument and do not constitute personal property, instruments, securities or any other form of property.

(b) Regulated parties, credit generators, and aggregators may:

(A) Retain credits without expiration within the CFP in compliance with this division; and

(B) Acquire or transfer credits from or to other regulated parties, credit generators, and aggregators that are registered under OAR 340-253-0500.

(c) Regulated parties, credit generators, and aggregators may not:

(A) Use credits that have not been generated in compliance with this division; or

(B) Borrow or use anticipated credits from future projected or planned carbon intensity reductions.

(2) Credit transfers between registered parties.

(a) "Credit seller," as used in this rule, means a registered party that wishes to sell or transfer credits.

(b) "Credit buyer," as used in this rule, means a registered party that wishes to acquire credits.

(c) A credit seller and a credit buyer may enter into an agreement to transfer credits.

(d) A credit seller may only transfer credits up to the number of credits in the credit seller's CFP Online System account on the date of the transfer.

(3) Credit seller requirements. When parties wish to transfer credits, the credit seller must initiate an online "Credit Transfer Form" provided in the CFP Online System and must include the following:

(a) The date on which the credit buyer and credit seller reached their agreement;

(b) The names and FEINs of the credit seller and credit buyer;

(c) The first and last names and contact information of the persons who performed the transaction on behalf of the credit seller and credit buyer;

(d) The number of credits proposed to be transferred; and

(e) The price or equivalent value of the consideration (in US dollars) to be paid per credit proposed for transfer, excluding any fees. If no clear dollar value can be easily arrived at for the transfer, a price of zero must be entered and a qualitative decription of the transaction's valuation must be entered in the seller's notes field.

(4) Credit buyer requirements. Within 10 days of receiving the "Credit Transfer Form" from the credit seller in the CFP Online System, the credit buyer must confirm the accuracy of the information therein and may accept the credit transfer by signing and dating the form using the CFP Online System.

(5) If the credit buyer and credit seller have not fulfilled the requirements of sections (3) and (4) within 20 days of the seller initiating the credit transfer, the transaction will be voided. If

a transaction has been voided, the credit buyer and credit seller may initiate a new credit transfer.

(6) Aggregator. An aggregator may only act as a credit seller or credit buyer if that aggregator:

(a) Has an approved and active registration under OAR 340-253-0500;

(b) Has an account in the CFP Online System; and

(c) Has an approved Aggregator Designation Form from a regulated party or credit generator for whom the aggregator is acting in any given transaction.

(7) Illegitimate credits.

(a) A registered party must report accurately when it submits information into the CFP Online System. If inaccurate information is submitted that results in the generation of one or more credits when such an assertion is inconsistent with the requirements of OAR 340-253-1000 through 340-253-1020, or a party's submission otherwise causes credits to be generated in violation of the rules of this division, those credits are illegitimate and invalid. If DEQ determines that one or more credits that a party has generated are illegitimate credits, then:

(A) If the registered party that generated the illegitimate credits still holds them in its account, DEQ will cancel those credits;

(B) If the registered party that generated the illegitimate credits has retired those credits to meet its own compliance requirement or if it has transferred them to another party, the party that generated the illegitimate credits must retire an approved credit to replace each illegitimate credit; and

(C) The party that generated the illegitimate credits is also subject to enforcement for the violation, as deemed appropriate in DEQ's discretion.

(b) A registered party that has acquired one or more illegitimate credits, but was not the party that generated the illegitimate credits:

(A) When the initial generator of the illegitimate credits has not retired approved credits in place of the illegitimate credits and DEQ determines that that initial generator is unlikely to be able to do so, then the party that has acquired such credits may have those credits canceled by DEQ if the party still holds the credits in its account, or if the party has used such illegitimate credits to meet its own compliance requirement, then DEQ may require the party to retire an approved credit to replace each such illegitimate credit that it retired to meet its compliance obligation;

(B) May be subject to enforcement at DEQ's discretion, unless DEQ determines that the party from whom the credits were acquired engaged in false, fraudulent, or deceptive trading practices.

(8) Prohibited credit transfers.

~~(a)~~ A credit transfer involving, related to, in service of, or associated with any of the following is prohibited:

(~~A~~a) Fraud, or an attempt to defraud or deceive using any device, scheme or artifice;

(~~B~~b) Either party employed any unconscionable tactic in connection with the transfer;

(~~C~~c) Any false report, record, or untrue statement of material fact or omission of a material fact related to the transfer or conditions that would relate to the price of the credits being transferred. A fact is material if it is reasonably likely to influence a decision by another party or by the agency;

(~~D~~d) Where the intended effect of the activity is to lessen competition or tend to create a monopoly, or to injure, destroy or prevent competition;

(~~E~~e) A conspiracy in restraint of trade or commerce; or

(~~F~~f) An attempt to monopolize, or combine or conspire with any other person or persons to monopolize.

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 17-2017, renumbered from 340-253-1050, filed 11/06/2017, effective 11/06/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

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) When ~~F~~fuels ~~that~~ are exported from Oregon:~~.~~

(a) Any bulk quantity of fuel that is exported must be reported by the person who holds title to the fuel when it is exported;~~.~~

(b) If ~~Exported fuels will not incur compliance obligations or generate credits, unless~~ the exporter ~~has~~ purchased the fuel ~~without~~ with the compliance obligation, the e-xported fuels will not generate deficits or credits;~~.~~

(c) If ~~or the~~ credits or deficits ~~have already been~~were 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~~.~~; and

(d) If the fuel was imported in one quarter and exported in another quarter, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits, respectively, associated with the fuel exported in the later quarter.

(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 airplanes 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
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-~~8060~~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 or 8 under OAR 340-253-~~8070~~ 8010~~or -8080~~, 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 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-~~8020~~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) For electricity used to power fixed guideway vehicles on track placed in service prior to 2012 and forklifts, credit and deficit 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-~~8060~~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-~~8020~~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) 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 annually 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 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 year's 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 once per year into the CFP Online System account of the utility, its designated aggregator, or the backstop aggregator within three months of the close of that year.

(f) Registered parties eligible to generate credits for the 2018 year also will generate credits for 2016 and 2017 residential electric vehicle charging.

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

340-253-8010

~~**Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes**~~

(1) Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~**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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~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 8-2016, f. & cert. ef. 8-18-16~~
~~DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16~~
~~DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~
~~DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15~~

~~**340-253-8020**~~
~~**Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes**~~

(2) Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~**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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~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 8-2016, f. & cert. ef. 8-18-16~~
~~DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16~~
~~DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~
~~DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15~~

~~**340-253-8030**~~
~~**Table 3 — Oregon Clean Fuel Standard for Alternative Jet Fuel**~~

(3) Table 3 — Oregon Clean Fuel Standard for Alternative Jet Fuel

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~**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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~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 8-2016, f. & cert. ef. 8-18-16~~
~~DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16~~
~~DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16~~
~~Renumbered from 340-253-3010 by 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~~

~~340-253-8040~~
~~Table 4 — Oregon Carbon Intensity Lookup Table~~

(4) Table 4 — Oregon Carbon Intensity Lookup Table

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~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 8-2016, f. & cert. ef. 8-18-16~~
~~DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 15-2013(Temp), f. 12-20-13, cert. ef. 1-1-14 thru 6-30-14; DEQ 8-2014, f. & cert. ef. 6-26-14; Renumbered from 340-253-3020 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-155; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16; DEQ 5-2016(Temp), f. & cert. ef. 4-22-16 thru 9-1-16~~

~~340-253-8050~~
~~Table 5 - Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements~~

(5) Table 5 - Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~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. 2-1-155~~

~~340-253-8060~~
~~Table 6 - Oregon Energy Densities of Fuels~~

(6) Table 6 - Oregon Energy Densities of Fuels

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~**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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~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 8-2012, f. & cert. ef. 12-11-12; Renumbered from 340-253-3030 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-155~~

~~**340-253-8070**~~
~~**Table 7 - Oregon Energy Economy Ratio Values**~~

(7) Table 7 - Oregon Energy Economy Ratio Values

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~**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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~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 8-2012, f. & cert. ef. 12-11-12; Renumbered from 340-253-3040 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-155~~

~~**340-253-8080**~~
~~**Table 8 – Oregon Substitute Fuel Pathway Codes**~~

(8) Table 8 – Oregon Substitute Fuel Pathway Codes

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~**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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~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 8-2012, f. & cert. ef. 12-11-12; Renumbered from 340-253-3050 by DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-155~~

~~**340-253-8090**~~
~~**Table 9 – Oregon Temporary Fuel Pathway Codes**~~

(9) Table 9 – Oregon Temporary Fuel Pathway Codes

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~**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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019~~
~~DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017~~

~~**340-253-8100**~~
~~**Table 10 – Indirect Land-Use Change Values**~~

(10) Table 10 – Indirect Land-Use Change Values

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

~~**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 13-2019, amend filed 05/16/2019, effective 05/16/2019~~
~~DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019~~
~~DEQ 27-2017, adopt filed 11/17/2017, effective 11/17/2017~~

OAR 340-253-8010
Table 1
Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO2e per MJ)	Percent Reduction
2015	None (Gasoline Baseline is 98.62 for 2016-2017, 98.64 for 2018, and 98.06 for 2019 and beyond)	
2016*	98.37	0.25 percent
2017	98.13	0.50 percent
2018	97.66	1.00 percent
2019	96.59	1.50 percent
2020	95.61	2.50 percent
2021	94.63	3.50 percent
2022	93.15	5.00 percent
2023	91.68	6.50 percent
2024	90.21	8.00 percent
2025 and beyond	88.25	10.0 percent

*Initial compliance period is a two-year period for 2016 and 2017.

OAR 340-253-80~~2~~10
Table 2
Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO2e per MJ)	Percent Reduction
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond)	
2016*	99.39	0.25 percent
2017	99.14	0.50 percent
2018	98.61	1.00 percent
2019	97.26	1.50 percent
2020	96.27	2.50 percent
2021	95.29	3.50 percent
2022	93.81	5.00 percent
2023	92.32	6.50 percent
2024	90.84	8.00 percent
2025 and beyond	88.87	10.00 percent
*Initial compliance period is a two-year period for 2016 and 2017.		

OAR 340-253-80~~3~~10
Table 3
Oregon Clean Fuel Standard for Alternative Jet Fuel

Calendar Year	Oregon Clean Fuel Standard (gCO2e per MJ)
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond. The fossil jet baseline is 90.97.)
2019	90.80
2020	90.80
2021	90.80
2022	90.80
2023	90.80
2024	90.80
2025 and beyond	88.87

OAR 340-253-80410
Table 4
Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO2e/MJ) Total Lifecycle Emissions
Gasoline	ORGAS001	Clear gasoline - based on a weighted average of gasoline supplied to Oregon	100.14
	ORGAS002	Imported blended gasoline (E10) – 90% clear gasoline & 10% corn ethanol based on Midwest average. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.06
Diesel	ORULSD001	Clear diesel, based on a weighted average of diesel fuel supplied to Oregon	100.74
	ORULSD002	Imported blended diesel (B5) – 95% clear diesel & 5% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.74
	ORULSD003	Imported blended diesel (B20) – 80% clear diesel & 20% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	92.68
Compressed Natural Gas	ORCNG001	North American NG delivered via pipeline; compressed in OR	79.98
Liquefied Natural Gas	ORLNG001	North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency	86.88
Liquefied Petroleum Gas	ORLPG001	Liquefied petroleum gas	80.88
Electricity	ORELEC100	Solar power, produced at or directly connected to the site of the	0

OAR 340-253-80410
Table 4
Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO2e/MJ) Total Lifecycle Emissions
		charging station in Oregon, subject to OAR 340-253-0470 (3).	
	ORELEC101	Wind power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).	0
Hydrogen	ORHYF	Compressed H2 produced in Oregon from central steam methane reformation of North American fossil-based NG	120.68
	ORHYFL	Liquefied H2 produced in Oregon from central steam methane reformation of North American fossil-based NG	157.29
	ORHYB	Compressed H2 produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	116.76
	ORHYBL	Liquefied H2 produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	149.70
	ORHYEG	Compressed H2 produced in Oregon from electrolysis using Oregon average grid electricity	205.38
	ORHYEB	Compressed H2 produced in Oregon from electrolysis using BPA average grid electricity	31.65
	ORHYER	Compressed H2 produced in Oregon from electrolysis using solar- or wind-generated electricity	13.11

OAR 340-253-80~~5~~10
Table 5
Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

Parameters to Report	Gasoline & Diesel Fuel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
Company or organization name	x	x	x	x	x
Reporting period	x	x	x	x	x
Fuel pathway code	x	x	x	x	x
Transaction type	x	x	x	x	x
Transaction date	x	x	x	x	x
Business Partner	x	x	x	x	x
Production Company ID and Facility ID	n/a	x	n/a	n/a	x
Physical transport mode code	x	x	x	x	x
Aggregation	x	x	x	x	x
Application / EER	x	x	x	x	x
Amount of each fuel used as gasoline replacement	x	x	x	x	x
Amount of each fuel used as diesel fuel replacement	x	x	x	x	x
*Credits/deficits generated per quarter (MT)	x	x	x	x	x
For Annual Compliance Reporting (in addition to the items above)					
*Credits and Deficits generated per year (MT)	x	x	x	x	x

OAR 340-253-80~~5~~10
Table 5
Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

Parameters to Report	Gasoline & Diesel Fuel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
*Credits/deficits carried over from the previous year (MT), if any	x	x	x	x	x
*Credits acquired from another party (MT), if any	x	x	x	x	x
*Credits sold to another party (MT), if any	x	x	x	x	x
*Credits retired within LCFS (MT) to meet compliance obligation, if any	x	x	x	x	x

OAR 340-253-80~~6~~10
Table 6
Oregon Energy Densities of Fuels

Fuel (unit)	MJ/unit
Gasoline (gallon)	122.48 (MJ/gallon)
Diesel fuel (gallon)	134.48 (MJ/gallon)
Compressed natural gas (therm)	105.5 (MJ/therms)
Electricity (kilowatt hour)	3.60 (MJ/kilowatt hour)
Denatured ethanol (gallon)	81.51 (MJ/gallon)
Clear biodiesel (gallon)	126.13 (MJ/gallon)
Liquefied natural gas (gallon)	78.83 (MJ/gallon)
Hydrogen (kilogram)	120.00 (MJ/kilogram)
Liquefied petroleum gas (gallon)	89.63 (MJ/gallon)
Renewable hydrocarbon diesel (gallon)	129.65 (MJ/gallon)
Undenatured anhydrous ethanol (gallon)	80.53 (MJ/gallon)
Alternative Jet Fuel (gallon)	126.37 (MJ/gallon)
Renewable naphthalene (gallon)	117.66 (MJ/gallon)

OAR 340-253-80~~7~~10
Table 7
Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	**EER Value Relative to Gasoline**	**Fuel/Vehicle Combination**	**EER Value Relative to Diesel**	**Fuel/Vehicle Combination**	**EER Value relative to conventional jet**
Gasoline (including E10) or any other gasoline-ethanol blend	1	Diesel fuel (including B5) or any other blend of diesel and biodiesel or renewable hydrocarbon diesel	1	Alternative Jet Fuel	1
CNG Internal Combustion Engine Vehicle (ICEV)	1	CNG, LNG, or LPG (Spark-Ignition Engines)	0.9	- - -	
Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	3.4	CNG,LNG, or LPG(Compression-Ignition Engines)	1		
Electricity/On-Road Electric Motorcycle	4.4	Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	5		
Propane/Propane Forklift	0.9	Electricity/Battery Electric or Plug-in Hybrid Transit Bus	5		
Hydrogen/Fuel Cell Vehicle	2.5	Electricity/Fixed Guideway Light Rail	3.3		
- -	- -	Electricity/Fixed Guideway Streetcar	2.1		
- - - -		Electricity/Fixed Guideway Aerial Tram	2.6		

OAR 340-253-80~~7~~10
Table 7
Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	**EER Value Relative to Gasoline**	**Fuel/Vehicle Combination**	**EER Value Relative to Diesel**	**Fuel/Vehicle Combination**	**EER Value relative to conventional jet**
- - -		Electricity/Electric Forklift	3.8	- - -	
		Electricity/Electric TRU (eTRU)	3.4		
		Hydrogen/Fuel Cell Vehicle	1.9		
		Hydrogen/Fuel Cell Forklift	2.1		

OAR 340-253-80~~8~~10
Table 8
Oregon Substitute Fuel Pathway Codes

Fuel	Fuel Pathway code	CI (gCO2e/MJ)
Substitute CI for Ethanol. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ETH0116	40
Substitute CI for Biodiesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	BIOD0116	15
Substitute CI for Renewable Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	RNWD0116	15
Substitute CI for E10 Gasoline. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORGAS0116	For 2019: 96.59 For 2020 and beyond: 96.00
Substitute CI for B5 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation,	ORULSD01165	For 2019: 97.26 For 2020 and beyond: 96.71

OAR 340-253-80~~8~~10
Table 8
Oregon Substitute Fuel Pathway Codes

Fuel	Fuel Pathway code	CI (gCO2e/MJ)
exports, loss of inventory, not for transportation use, and exempt fuel use.		
Substitute CI for B20 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORULSD011620	84.45

OAR 340-253-80~~9~~10
Table 9
Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO_2e/MJ)
Ethanol	Corn	Grid electricity, natural gas, and/or renewables	ORETH100T	~~77.35~~77.8
	Sorghum	Grid electricity, natural gas, and/or renewables	ORETH101T	~~93.35~~95
	Sugarcane and Molasses	Bagasse and straw only, no grid electricity	ORETH102T	55~~7.09~~
	Any starch or sugar feedstock	Any	ORETH103T	100.14
	Corn Stover, Wheat Straw, or Sugarcane Straw	As specified in OR-Greet 2.0	ORETH104T	~~41.05~~50
Biodiesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORBIOD200T	~~47.30~~45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORBIOD201T	~~65.03~~65
	Any feedstock	Any	ORBIOD202T	100.74
Renewable Diesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORRNWD300T	~~39.26~~45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORRNWD301T	~~56.55~~65

OAR 340-253-80~~9~~10
Table 9
Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO_2e/MJ)
	Any feedstock	Any	ORRNWD302T	100.74
Biomethane CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORCNG500T	~~63.96~~70
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORCNG501T	45~~50~~
Biomethane LNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLNG501T	~~80.44~~85
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLNG502T	60~~5~~
Biomethane L-CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLCNG502T	~~84.65~~90
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLCNG503T	65~~70~~
Biomethane CNG, LNG, L-CNG	Dairy and Swine Manure	Grid electricity, natural gas, and/or parasitic load	ORLCNG504T	-150
Renewable LPG	Fats, Oils, and Grease residues	Grid electricity, natural gas, and/or renewables	ORRNWP400T	45

OAR 340-253-80~~9~~10
Table 9
Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO_2e/MJ)
	Any feedstock derived from plant oils (excluding palm and palm derivatives)	Grid electricity, natural gas, and/or renewables	ORRNWP401T	65
Electricity	Coal, Natural Gas, Hydroelectric Dams, Wind Mills, etc.	Oregon average electricity mix	ORELEC600T	135.00
Any Gasoline Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSG800T	100.14
Any Diesel Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSD801T	100.74

OAR 340-253-8~~1~~01~~0~~0

Table 10

Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels

Feedstock	ILUC Value (gCO_2e/MJ)
Corn Ethanol	7.60
Sorghum Ethanol	19.40
Sugarcane Ethanol	11.80
Soybean Biodiesel or Renewable Diesel	29.10
Canola Biodiesel or Renewable Diesel	14.50
Palm Biodiesel or Renewable Diesel	71.40

Division 12

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0054
Air Quality Classification of Violations

(1) Class I:

(a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;

(b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit that includes permit conditions required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;

(c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;

(d) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from DEQ;

(e) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;

(f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;

(g) Exceeding a Plant Site Emission Limit (PSEL);

(h) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;

(i) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

(j) Exceeding a hazardous air pollutant emission limitation;

(k) Failing to comply with an Emergency Action Plan;

(l) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established under New Source Review/Prevention of Significant Deterioration (NSR/PSD);

(m) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;

(n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;

(o) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;

(p) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit or with an emission limitation or a performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;

(q) Causing emissions that are a hazard to public safety;

(r) Violating a work practice requirement for asbestos abatement projects;

(s) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;

(t) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;

(u) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;

(v) Failing to hire a licensed contractor to conduct an asbestos abatement project;

(w) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);

(x) Failing to install certified vapor recovery equipment;

(y) Delivering for sale a noncompliant vehicle by an automobile manufacturer in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;

(aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements set forth in OAR 340 division 257;

(bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;

(cc) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(dd) Failing to comply with any of the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010;

(ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);

(ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a regulated party's true compliance obligation denominated in deficits under such program;

(gg) Making misstatements about material information or knowingly or recklessly providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450;

(hh) Failing to timely submit a complete and accurate annual compliance report under OAR 340-253-0100(8);

(ii) Failing to timely submit a complete and accurate emissions data report under OAR 340-215-0044 and OAR 340-215-0046; (jj) Submitting a verification statement to DEQ prepared

by a person not approved by DEQ under OAR 340-272-0220 to perform verification services;

(kk) Failing to timely submit a verification statement that meets the verification requirements under OAR 340-272-0100 and OAR 340-272-0495;

(ll) Failing to submit a revised application or report to DEQ according to OAR 340-272-0435; or

(mm) Failing to complete re-verification according to OAR 340-272-0350(2).

(2) Class II:

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP attachment, or registration without first obtaining such permit or registration, unless otherwise classified;

(b) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;

(c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

(e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;

(f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;

(g) Failing to timely submit a certification, report, or plan as required by rule, permit or permit attachment, unless otherwise classified;

(h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;

(i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;

(j) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;

(k) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).

(l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;

(m) Failing to provide timely, accurate or complete notification of an asbestos abatement project;

(n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;

(o) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620;

(p) Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;

(q) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is a producer or importer of blendstocks, as defined in OAR 340-253-0040;

(r) Failing to register as an aggregator or submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c);

(s) Failing to keep records under OAR 340-253-0600 when the records relate to obtaining a carbon intensity under OAR 340-253-0450;

(t) Failing to keep records related to obtaining a carbon intensity under OAR 340-253-0450;

(u) Failing to timely submit a complete and accurate quarterly report under OAR 340-253-0100(7); or

(v) Violating any requirement under OAR Chapter 340 division 272, unless otherwise classified.

(3) Class III:

(a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;

(b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;

(c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;

(e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project;

(f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(g) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is an importer of finished fuels, as defined in OAR 340-253-0040; or

(h) Failing to keep records under OAR 340-253-0600, except as provided in subsection (2)(s).

Note: Tables and Publications referenced are available from the agency.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.045
Statutes/Other Implemented: ORS 468.020 & 468A.025
History:
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0050, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 21-1994, f. & cert. ef. 10-14-94
DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 2-1992, f. & cert. ef. 1-30-92
DEQ 31-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89
DEQ 22-1988, f. & cert. ef. 9-14-88

DEQ 22-1984, f. & ef. 11-8-84
DEQ 5-1980, f. & ef. 1-28-80
DEQ 78, f. 9-6-74, ef. 9-25-74

340-012-0135
Selected Magnitude Categories

(1) Magnitudes for selected Air Quality violations will be determined as follows:

(a) Opacity limit violations:

(A) Major — Opacity measurements or readings of 20 percent opacity or more over the applicable limit, or an opacity violation by a federal major source as defined in OAR 340-200-0020;

(B) Moderate — Opacity measurements or readings greater than 10 percent opacity and less than 20 percent opacity over the applicable limit; or

(C) Minor — Opacity measurements or readings of 10 percent opacity or less over the applicable limit.

(b) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit: Major — if a Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) analysis shows that additional controls or offsets are or were needed, otherwise apply OAR 340-012-0130.

(c) Exceeding an emission limit established under New Source Review/Prevention of Significant Deterioration (NSR/PSD): Major — if exceeded the emission limit by more than 50 percent of the limit, otherwise apply OAR 340-012-0130.

(d) Exceeding an emission limit established under federal National Emission Standards for Hazardous Air Pollutants (NESHAPs): Major — if exceeded the Maximum Achievable Control Technology (MACT) standard emission limit for a directly-measured hazardous air pollutant (HAP), otherwise apply OAR 340-012-0130.

(e) Exceeding a cancer or noncancer risk limit that is equivalent to a Risk Action Level or a Source Risk Limit if the limit is a Risk Action Level established under OAR 340-245-0005 through 340-245-8050: Major, otherwise apply OAR 340-012-0130.

(f) Air contaminant emission limit violations for selected air pollutants: Magnitude determinations under this subsection will be made based upon significant emission rate (SER) amounts listed in OAR 340-200-0020.

(A) Major:

(i) Exceeding the annual emission limit as established by permit, rule or order by more than the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by more than the applicable short-term SER.

(B) Moderate:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the annual SER; or

(ii) Exceeding the short-term (less than one-year) emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the applicable short-term SER.

(C) Minor:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount less than 50 percent of the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount less than 50 percent of the applicable short-term SER.

(g) Violations of Emergency Action Plans: Major — Major magnitude in all cases.

(h) Violations of on road motor vehicle refinishing rules contained in OAR 340-242-0620: Minor — Refinishing 10 or fewer on road motor vehicles per year.

(i) Asbestos violations — These selected magnitudes apply unless the violation does not cause the potential for human exposure to asbestos fibers:

(A) Major — More than 260 linear feet or more than 160 square feet of asbestos-containing material or asbestos-containing waste material;

(B) Moderate — From 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet of asbestos-containing material or asbestos-containing waste material; or

(C) Minor — Less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material.

(D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(j) Open burning violations:

(A) Major — Initiating or allowing the initiation of open burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;

(B) Moderate — Initiating or allowing the initiation of open burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if DEQ lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned; or

(C) Minor — Initiating or allowing the initiation of open burning of less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires.

(D) The selected magnitude may be increased one level if DEQ finds that one or more of the following are true, or decreased one level if DEQ finds that none of the following are true:

(i) The burning took place in an open burning control area;

(ii) The burning took place in an area where open burning is prohibited;

(iii) The burning took place in a non-attainment or maintenance area for PM10 or PM2.5; or

(iv) The burning took place on a day when all open burning was prohibited due to meteorological conditions.

(k) Oregon Low Emission Vehicle Non-Methane Gas (NMOG) or Green House Gas (GHG) fleet average emission limit violations:

(A) Major — Exceeding the limit by more than 10 percent; or

(B) Moderate — Exceeding the limit by 10 percent or less.

(l) Oregon Clean Fuels Program violations:

(A) Exceeding the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of 340-253-8010 by not retiring sufficient credits to satisfy a regulated party's compliance obligation:

(i) Major — more than 15 percent of their total deficit obligation remains unsatisfied;

(ii) Moderate — more than 10 percent but less than 15 percent of their total deficit obligation remains unsatisfied; or

(iii) Minor —less than 10 percent of their total deficit obligation remains unsatisfied.

(B) Failing to register under OAR 340-253-0100(1) and (4): Moderate — producers and importers of blendstocks;

(C) Failing to submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c): Minor;

(D) Failing to keep records as set forth in OAR 340-253-0600, when the records relate to obtaining a carbon intensity under OAR 340-253-04500600: Minor;

(E) Failing to submit a complete and accurate annual compliance report or quarterly report under OAR chapter 340 division 253: Moderate;

(F) Failing to timely submit a complete and accurate annual compliance report or quarterly report under OAR chapter 340, division 253: Minor.

(m) Oregon Greenhouse Gas Reporting Program violations:

(A) Failing to submit a complete and accurate emissions data report under OAR chapter 340, division 215: Moderate;

(B) Failing to timely submit a complete and accurate emissions data report under OAR chapter 340, division 215: Minor.

(2) Magnitudes for selected Water Quality violations will be determined as follows:

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

(i) The dilution (D) of the spill or technology based effluent limitation exceedance was less than two, when calculated as follows: D = ((QR /4) + QI)/ QI, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the incident;

(ii) The receiving stream flow at the time of the water quality based effluent limitation (WQBEL) exceedance was at or below the flow used to calculate the WQBEL; or

(iii) The resulting water quality from the spill or discharge was as follows:

(I) For discharges of toxic pollutants: CS/D was more than CAcute, where CS is the concentration of the discharge, D is the dilution of the discharge as determined under (2)(a)(A)(i), and CAcute is the concentration for acute toxicity (as defined by the applicable water quality standard);

(II) For spills or discharges affecting temperature, when the discharge temperature is at or above 32 degrees centigrade after two seconds from the outfall; or

(III) For BOD5 discharges: (BOD5)/D is more than 10, where BOD5 is the concentration of the five-day Biochemical Oxygen Demand of the discharge and D is the dilution of the discharge as determined under (2)(a)(A)(i).

(B) Moderate:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was two or more but less than 10 when calculated as follows: D = ((QR /4)+ QI)/ QI, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the discharge; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was greater than, but less than twice, the flow used to calculate the WQBEL.

(C) Minor:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was 10 or more when calculated as follows: D = ((QR/4) + QI)/ QI, where QR is the receiving stream flow and QI is the quantity or discharge rate of the incident; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was twice the flow or more of the flow used to calculate the WQBEL.

(b) Violating numeric water quality standards:

(A) Major:

(i) Increased the concentration of any pollutant except for toxics, dissolved oxygen, pH, and turbidity, by 25 percent or more of the standard;

(ii) Decreased the dissolved oxygen concentration by two or more milligrams per liter below the standard;

(iii) Increased the toxic pollutant concentration by any amount over the acute standard or by 100 percent or more of the chronic standard;

(iv) Increased or decreased pH by one or more pH units from the standard; or

(v) Increased turbidity by 50 or more nephelometric turbidity units (NTU) over background.

(B) Moderate:

(i) Increased the concentration of any pollutant except for toxics, pH, and turbidity by more than 10 percent but less than 25 percent of the standard;

(ii) Decreased dissolved oxygen concentration by one or more, but less than two, milligrams per liter below the standard;

(iii) Increased the concentration of toxic pollutants by more than 10 percent but less than 100 percent of the chronic standard;

(iv) Increased or decreased pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard; or

(v) Increased turbidity by more than 20 but less than 50 NTU over background.

(C) Minor:

(i) Increased the concentration of any pollutant, except for toxics, pH, and turbidity, by 10 percent or less of the standard;

(ii) Decreased the dissolved oxygen concentration by less than one milligram per liter below the standard;

(iii) Increased the concentration of toxic pollutants by 10 percent or less of the chronic standard;

(iv) Increased or decreased pH by 0.5 pH unit or less from the standard; or

(v) Increased turbidity by 20 NTU or less over background.

(c) The selected magnitude under (2)(a) or (b) may be increased one or more levels if the violation:

(A) Occurred in a water body that is water quality limited (listed on the most current 303(d) list) and the discharge is the same pollutant for which the water body is listed;

(B) Depressed oxygen levels or increased turbidity and/or sedimentation in a stream in which salmonids may be rearing or spawning as indicated by the beneficial use maps available at OAR 340-041-0101 through 0340;

(C) Violated a bacteria standard either in shellfish growing waters or during the period from June 1 through September 30; or

(D) Resulted in a documented fish or wildlife kill.

(3) Magnitudes for selected Solid Waste violations will be determined as follows:

(a) Operating a solid waste disposal facility without a permit or disposing of solid waste at an unpermitted site:

(A) Major — The volume of material disposed of exceeds 400 cubic yards;

(B) Moderate — The volume of material disposed of is greater than or equal to 40 cubic yards and less than or equal to 400 cubic yards; or

(C) Minor — The volume of materials disposed of is less than 40 cubic yards.

(D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.

(b) Failing to accurately report the amount of solid waste disposed:

(A) Major — The amount of solid waste is underreported by 15 percent or more of the amount received;

(B) Moderate — The amount of solid waste is underreported by 5 percent or more, but less than 15 percent, of the amount received; or

(C) Minor — The amount of solid waste is underreported by less than 5 percent of the amount received.

(4) Magnitudes for selected Hazardous Waste violations will be determined as follows:

(a) Failure to make a hazardous waste determination;

(A) Major — Failure to make the determination on five or more waste streams;

(B) Moderate — Failure to make the determination on three or four waste streams; or

(C) Minor — Failure to make the determination on one or two waste streams.

(b) Hazardous Waste treatment, storage and disposal violations of OAR 340-012-0068(1)(b), (c), (h), (k), (l), (m), (p), (q) and (r):

(A) Major:

(i) Treatment, storage, or disposal of more than 55 gallons or 330 pounds of hazardous waste; or

(ii) Treatment, storage, or disposal of at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Treatment, storage, or disposal of 55 gallons or 330 pounds or less of hazardous waste; or

(ii) Treatment, storage, or disposal of less than one quart or 2.2 pounds of acutely hazardous waste.

(c) Hazardous waste management violations classified in OAR 340-012-0068(1)(d), (e) (f), (g), (i), (j), (n), (s) and (2)(a), (b), (d), (e), (h), (i), (k), (m), (n), (o), (p), (r) and (s):

(A) Major:

(i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Hazardous waste management violations involving more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving less than one quart or 2.2 pounds of acutely hazardous waste.

(C) Minor:

(i) Hazardous waste management violations involving 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste.

(5) Magnitudes for selected Used Oil violations (OAR 340-012-0072) will be determined as follows:

(a) Used Oil violations set forth in OAR 340-012-0072(1)(f), (h), (i), (j); and (2)(a) through (h):

(A) Major — Used oil management violations involving more than 1,000 gallons or 7,000 pounds of used oil or used oil mixtures;

(B) Moderate — Used oil management violations involving more than 250 gallons or 1,750 pounds, up to and including 1,000 gallons or 7,000 pounds of used oil or used oil mixture; or

(C) Minor — Used oil management violations involving 250 gallons or 1,750 pounds or less of used oil or used oil mixtures.

(b) Used Oil spill or disposal violations set forth in OAR 340-012-0072(1)(a) through (e), (g) and (k).

(A) Major — A spill or disposal involving more than 420 gallons or 2,940 pounds of used oil or used oil mixtures;

(B) Moderate — A spill or disposal involving more than 42 gallons or 294 pounds, up to and including 420 gallons or 2,940 pounds of used oil or used oil mixtures; or

(C) Minor — A spill or disposal of used oil involving 42 gallons or 294 pounds or less of used oil or used oil mixtures.

NOTE: Tables & Publications referenced are available from the agency.

Statutory/Other Authority: ORS 468.065 & 468A.045
Statutes/Other Implemented: ORS 468.090 - 468.140 & 468A.060
History:
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0090, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 1-2003, f. & cert. ef. 1-31-03
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 21-1992, f. & cert. ef. 8-11-92

340-012-0140
Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) $12,000 Penalty Matrix:

(a) The $12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act, unless otherwise classified.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) by an automobile manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

(ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.

(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.

(F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.

(I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.

(J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.

(K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(M) Any violation of a hazardous waste statute, rule, permit or related order by:

(i) A person that is a large quantity generator or hazardous waste transporter.

(ii) A person that has or should have a treatment, storage or disposal facility permit.

(N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a solid waste disposal permit.

(ii) A person with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as an importer of blendstocks,

(S) Any violation classified under OAR 340-012-0054 (1) (ee), (ff), or (gg).

(T) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions greater than or equal to 25,000 metric tons per year or by a person that has not reported greenhouse gas emissions to DEQ during the past five years, or by a person for which DEQ has insufficient information to accurately estimate emissions.

(U) Any violation of the Third Party Verification rules under OAR Chapter 340, division 272.

(b) The base penalty values for the $12,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $12,000;

(ii) Moderate — $6,000;

(iii) Minor — $3,000.

(B) Class II:

(i) Major — $6,000;

(ii) Moderate — $3,000;

(iii) Minor — $1,500.

(C) Class III: $1,000.

(3) $8,000 Penalty Matrix:

(a) The $8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix, unless otherwise classified.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.

(F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.

(H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.

(L) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as a credit generator, an aggregator, or a registered fuel producer unless the violation is otherwise classified in this rule.

(M) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 metric tons per year.

(b) The base penalty values for the $8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $8,000.

(ii) Moderate — $4,000.

(iii) Minor — $2,000.

(B) Class II:

(i) Major — $4,000.

(ii) Moderate — $2,000.

(iii) Minor — $1,000.

(C) Class III: $ 700.

(4) $3,000 Penalty Matrix:

(a) The $3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person not listed under another penalty matrix.

(C) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

(v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.

(vi) A person that has or should have a WPCF individual stormwater UIC system permit.

(vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.

(G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.

(I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.

(J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.

(K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator, unless listed under another penalty matrix.

(L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.

(M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.

(N) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.

(O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.

(P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.

(Q) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 by a person registered as an importer of finished fuels unless the violation is otherwise classified in this rule.

(R) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 5,000 metric tons per year.

(b) The base penalty values for the $3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $3,000;

(ii) Moderate — $1,500;

(iii) Minor — $750.

(B) Class II:

(i) Major — $1,500;

(ii) Moderate — $750;

(iii) Minor — $375.

(C) Class III: $250.

(5) $1,000 Penalty Matrix:

(a) The $1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.

(H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.

(I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.

(J) Any violation of a statute, rule or order relating to the opportunity to recycle.

(K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.

(L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.

(M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.

(b) The base penalty values for the $1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $1,000;

(ii) Moderate — $500;

(iii) Minor — $250.

(B) Class II:

(i) Major — $500;

(ii) Moderate — $250;

(iii) Minor — $125.

(C) Class III: $100.

Statutory/Other Authority: ORS 468.020 & 468.090 - 468.140
Statutes/Other Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035
History:
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
Renumbered from 340-012-0042, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 19-1998, f. & cert. ef. 10-12-98
DEQ 9-1996, f. & cert. ef. 7-10-96
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 33-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89

340-012-0150
Determination of Economic Benefit

(1) The Economic Benefit (EB) is the approximate dollar value of the benefit gained and the costs avoided or delayed (without duplication) as a result of the respondent's noncompliance. Except as provided in (3), the EB will be determined using the U.S. Environmental Protection Agency's BEN computer model. DEQ may make, for use in the model, a reasonable estimate of the benefits gained and the costs avoided or delayed by the respondent.

(2) Upon request of the respondent, DEQ will provide the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model. The model’s standard values for income tax rates, inflation rate and discount rate are presumed to apply to all respondents unless a specific respondent can demonstrate that the standard value does not reflect the respondent’s actual circumstance.

(3) For violations of the Clean Fuels Program in OAR Chapter 340, division 253, DEQ will determine economic benefit according to subsections (a), (b), or (c), with interest and other considerations as needed to properly capture the full economic benefit of the violation.

(a) the actual purchase or sale price of the credits, or the implied value of the credits in a fuel transaction, when a transaction has been completed, if DEQ has sufficient information to determine it; or

(b) the average price of credits purchased or sold in the Clean Fuels Program market as published by DEQ for the time period relevant to the violation; or

(c) the Credit Clearance Market maximum credit price as calculated under OAR 340-253-1040, where a transaction has not been completed or DEQ has insufficient information to determine the price of the credits.

(4) DEQ need not calculate EB if DEQ makes a reasonable determination that the EB is de minimis or if there is insufficient information on which to make an estimate under this rule.

(5) DEQ may assess EB whether or not it assesses any other portion of the civil penalty using the formula in OAR 340-012-0045.

(6) DEQ's calculation of EB may not result in a civil penalty for a violation that exceeds the maximum civil penalty allowed by rule or statute. However, when a violation has occurred or been repeated for more than one day, DEQ may treat the violation as extending over at least as many days as necessary to recover the economic benefit of the violation.

Statutory/Other Authority: ORS 468.020 & 468.090 - 468.140
Statutes/Other Implemented: ORS 459.376, 459.995, 465.900, 465.992, 466.210, 466.990, 466.994, 467.050, 467.990, 468.090 - 468.140 & 468.996
History:
DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

State of Oregon Department of Environmental Quality

Division 215
Draft Rules – Edits Incorporated

Greenhouse Gas Reporting and Third-Party Verification 2019

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 215

OREGON GREENHOUSE GAS REPORTING PROGRAM

340-215-0010
Purpose and Scope

(1) This division establishes greenhouse gas registering, reporting, and other requirements for operators of certain facilities that emit greenhouse gases, fuel suppliers, and electricity suppliers.

(2) Subject to the requirements in this division and OAR 340-200-0010(3), the EQC designates LRAPA to implement the rules in this division within its area of jurisdiction.

(3) This division incorporates the provisions of title 40, Code of Federal Regulations (C.F.R.), part 98 that are specifically referenced in rules within the division. These provisions are a portion of the U.S. Environmental Protection Agency (EPA) Final Rule on Mandatory Reporting of Greenhouse Gases. Unless otherwise specified, references in this division to 40 C.F.R. part 98 are to those requirements promulgated by EPA and published in the Federal Register on December 9, 2016. Unless otherwise specifically provided, for the provisions of 40 C.F.R. part 98 (the "federal rules") that are incorporated by reference in this division:

(a) Wherever the term "Administrator" is used in the federal rules, the term "Director of DEQ" will be substituted;

(b) Wherever the term "EPA" is used in the federal rules, the term "Oregon Department of Environmental Quality" or "DEQ" will be substituted; and

(c) Where any incorporated provisions of 40 C.F.R. part 98 are in conflict with requirements in this division, the requirements in this division shall take precedence and are the provisions that reporting entities must follow.

Statutory/Other Authority: ORS 468.020, 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 12-2015, f. & cert. ef. 12-10-15
DEQ 11-2011, f. & cert. ef. 7-21-11

DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 13-2008, f. & cert. ef. 10-31-08

340-215-0020
Definitions

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

(1) "Air contamination source" has the meaning given the term in ORS 468A.005.

(2) "Asset-controlling supplier" or "ACS" means a person that owns or operates inter-connected electricity generating facilities or has exclusive rights to claim electricity from these facilities even though it does not own them, and that has been designated by DEQ as an asset-controlling supplier under OAR 340-215-0120(7) and received a DEQ-published emission factor. Asset controlling suppliers are specified sources.

(3) "Barrel" means a volume equal to 42 U.S. gallons.

(4) "Biogas" means gas that is produced from the breakdown of biomass in the absence of oxygen, including anaerobic digestion, anaerobic decomposition, and thermochemical decomposition.

(5) "Biogenic CO2 emissions" means carbon dioxide emissions generated as the result of biomass or biomass-derived fuel combustion from combustion units.

(6) "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues, and waste from agriculture, forestry, and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(7) "Biomass fuels" or "biofuels" or "biomass-derived fuels" means fuels derived from biomass.

(8) "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.

(9) "Bulk transfer/terminal system" means a fuel distribution system consisting of one or more 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.

(10) "Busbar" means a power conduit of a facility with electricity generating units that serves as the starting point for the electricity transmission system.

(11) “Cease to operate” for the purposes of this division means the air contamination source did not operate any GHG –emitting processes for an entire year. Continued operation of space heaters and water heaters as necessary until operations are restarted in a subsequent year does not preclude a source from meeting this definition.

(12) “C.F.R.” means Code of Federal Regulations.

(13) “Cogeneration unit” means a unit that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy and waste heat recovery.

(14) “Consumer-owned utility” means a people’s utility district organized under ORS Chapter 261, a municipal utility organized under ORS Chapter 225 or an electric cooperative organized under ORS Chapter 62.

(15) “Data year” means the calendar year in which emissions occurred.

(16) “Designated representative” means the person responsible for certifying, signing, and submitting a greenhouse gas emissions data report, and any registration or report required to be submitted under this division, on behalf of a regulated entity. For owners or operators of Oregon Title V Operating Permits the designated representative is the responsible official and certification must be consistent with OAR 340-218-0040(5).

(17) “Direct emissions” means emissions from an air contamination source, including but not limited to fuel combustion activities, process related emissions, and fugitive emissions.

(18) “Distillate fuel oil” means one of the petroleum fractions produced in conventional distillation operations and from crackers and hydrotreating process units. The generic term distillate fuel oil includes kerosene, kerosene-type jet fuel, diesel fuels (Diesel Fuels No. 1, No. 2, and No. 4), and fuel oils (Fuel Oils No. 1, No. 2, and No. 4).

(19) “EIA” means the Energy Information Administration. The Energy Information Administration (EIA) is a statistical agency of the United States Department of Energy.

(20) “Electricity generating unit” means any combination of physically connected generator(s), reactor(s), boiler(s), combustion turbine(s), or other prime mover(s) operated together to produce electric power.

(21) “Electricity service supplier” has the meaning given that term in ORS 757.600.

(22) “Electricity supplier” means persons that import, sell, allocate, or distribute electricity to end users in the state, including but not limited to the following types of entities:

(a) Investor-owned utilities;

(b) Electricity service suppliers;

(c) Consumer-owned utilities;

(23) “Emissions data report” means the report prepared and submitted to DEQ that provides the information required to be reported under this division. The emissions data report is for the year prior to the year in which the report is due, also known as the data year.

(24) “Fuel supplier” means a supplier of petroleum products, liquid petroleum gas, biomass-derived fuels, or natural gas including operators of interstate pipelines, or liquefied natural gas.

(25) “Fluorinated heat transfer fluids” is a fluorinated GHG that has the meaning given to that term in 40 C.F.R. 98.98.

(26) "Global warming potential” or "GWP" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of carbon dioxide (the reference gas). The GWPs used for emissions calculation and reporting are specified in 40 C.F.R. part 98, subpart A, Table A–1-Global Warming Potentials.

(27) “Greenhouse gas” or “GHG” means carbon dioxide (CO2), methane (CH4), nitrous oxide (N20), sulfur hexafluoride (SF6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases or fluorinated GHG as defined in 40 C.F.R. part 98.

(28) “Higher heat value” or “HHV” means the high or gross heat content of the fuel with the heat of vaporization included. The water vapor is assumed to be in a liquid state.

(29) “Hydrofluorocarbons” (HFCs) means gaseous chemical compounds containing only hydrogen, carbon, and fluorine atoms.

(30) To “Import” means owning electricity or fuel from locations outside of Oregon at the time electricity is brought into this state through transmission equipment or at the time fuel is brought into this state by any means of transport, other than fuel brought into this state in the fuel tank of a vehicle used to propel the vehicle.

(31) “Importer” means any person, company, or organization of record that for any reason brings a product into Oregon from outside of the state.

(32) “In-state producer” means:

(a) With respect to any liquid fuel, the person who makes the fuel in Oregon; or

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

(33) “Interstate pipeline” means a natural gas pipeline delivering natural gas across state boundaries for use in Oregon and that is subject to rate regulation by the Federal Energy Regulatory Commission (FERC).

(34) “Investor-owned utility” means a utility that sells electricity and that a corporation with

shareholders operates.

(35) “Large natural gas end users” means any end user receiving greater than or equal to 460,000 Mscf during the previous year.

(36) “Local distribution company” or “LDC” means a legal entity that owns or operates distribution pipelines and that physically delivers natural gas to end users in the state. This includes public utility gas corporations and intrastate pipelines engaged in the retail sale, delivery, or both of natural gas. This excludes intrastate pipelines.

(37) “Multi-jurisdictional utility” means a utility that is an electricity retail provider to customers in a service territory that is at least partially located in Oregon and at least one other state.

(38) “Metric ton,” “tonne,” “metric tonne,” or “MT” means a common international measurement for mass, equivalent to 2204.6 pounds or 1.1 short tons.

(39) “MMBtu” means million British thermal units.

(40) “Mscf” means one thousand standard cubic feet.

(41) “Natural gas marketer” means a person that arranges for the purchasing or selling of natural gas but that does not own physical assets in Oregon used in the supply of natural gas such as pipelines.

(42) “Natural gas supplier” means any person that imports, sells, or distributes natural gas to end users in Oregon.

(43) “Perfluorocarbons” (PFCs) means gaseous chemical compounds containing only carbon and fluorine atoms.

(44) “Position holder” means any person that holds the inventory position in gasoline, distillate fuel, ethanol, biodiesel, renewable diesel, propane, or aircraft fuel as reflected in the records of the terminal operator or a terminal operator that owns fuel in its terminal. “Position holder” does not include inventory held outside of a terminal, fuel jobbers (unless directly holding inventory at the terminal), retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

(45) “Power contract” as used for the purposes of documenting specified versus unspecified sources of electricity means a written document, including associated verbal or electronic records if included as part of the written power contract, arranging for the procurement of electricity. A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier’s system that is designated at the time the transaction is executed. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, electricity transactions, and tariff provisions, without regard to duration, or written agreements to import or export on behalf of another person.

(46) “Pre-charged equipment” has the meaning in 40 C.F.R. 98.438.

(47) “Preference sales” means power distributed by Bonneville Power Administration to Oregon consumer-owned utilities, other than “surplus” power as that term is defined in 16 U.S.C. 839c(f) (2017).

(48) “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.

(49) “Regulated entity” means any person subject to requirements to register and report under this division, as identified in OAR 340-215-0030.

(50) “Related entity” means any direct parent company, direct subsidiary, or company under common ownership or control.

(51) “Retail sales” means electricity sold to retail end users.

(52) “Shut down” means that the regulated entity has evidence that all industrial operations of a regulated entity are permanently shut down, including but not limited to, decommissioning and cancelling air permits. Permanent shutdown may include continued operations of space heaters and water heaters as necessary to support decommissioning activities.

(53) “Specified source of electricity” or “specified source” means a facility or unit which is allowed to be claimed as the source of electricity delivered. The regulated entity must have either full or partial ownership in the facility or unit, or a written power contract to procure electricity generated by that facility or unit. Specified facilities or units include cogeneration systems. Specified source also means electricity procured from an asset-controlling supplier recognized by DEQ.

(54) “Terminal” means a fuel storage and distribution facility that is supplied by pipeline or vessel, or is collocated where the fuel is produced and stored, and from which fuel may be removed at a rack.

(55) “Thermal energy” means the thermal output produced by a combustion source used directly as part of a manufacturing process, industrial or commercial process, or heating or cooling application, but not used to produce electricity.

(56) “Transmission loss correction factor” or “TL” means the correction to account for transmission losses between the busbar and receipt, which is either known if measured at the busbar, or is the default factor equal to 1.02.

(57) “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. For the purposes of this division, electricity imported, sold, allocated, or distributed to end users in this state through an energy imbalance market or other centralized market administered by a market operator is considered to be an unspecified source.

(58) “Verification” means a systematic and documented process for evaluation of an emissions data report as conducted by DEQ or in accordance with OAR chapter 340, division 272.

(59) “Year” means calendar year.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 5-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 124-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 12-2015, f. & cert. ef. 12-10-15
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 13-2008, f. & cert. ef. 10-31-08

340-215-0030
Applicability

(1) This division applies to the reporting of emissions of greenhouse gases by regulated entities subject to OAR 340-215-0030 through 340-215-0125.

(2) Air contamination sources. Any person that owns or operates a source listed in subsections (a) through (c) must register and report in compliance with this division, if the source’s direct GHG emissions meet or exceed 2,500 MT CO2e during the previous year. Once a source’s direct GHG emissions meet or exceed 2,500 MT CO2e during a year, the person that owns or operates the source must annually register and report in each subsequent year, regardless of the amount of the source’s direct GHG emissions in future years, except as provided in OAR 340-215-0032 and OAR 340-215-0034.

(a) Any source required to obtain a Title V Operating Permit.

(b) Any source required to obtain an Air Contaminant Discharge Permit.

(c) The following sources not otherwise listed in subsection (a) or (b):

(A) Solid waste disposal facilities required to obtain a permit issued under OAR chapter 340, divisions 93 through 96, excluding facilities that did not accept waste during the previous year and that are not required to report greenhouse gas emissions to EPA under 40 C.F.R. part 98;

(B) Wastewater treatment facilities required to obtain an individual National Pollutant Discharge Elimination System permit issued under OAR chapter 340, division 45; and

(C) Electric power system facilities as defined in 40 C.F.R. part 98 subpart DD located in Oregon and owned or operated by investor-owned utilities.

(3) Fuel suppliers and in-state producers including but not limited to gasoline, distillate fuel oil, propane, and aircraft fuel dealers.

(a) Except as provided in subsections (b) and (c), persons listed in this section that import, sell, or distribute fuel for use in the state, must register and report in compliance with this division:

(A) Any dealer, as that term is defined in ORS 319.010 that is subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax under OAR chapter 735, division 170;

(B) Any seller, as that term is defined in ORS 319.520, that is subject to the Oregon Use Fuel Tax under OAR chapter 735, division 176; and

(C) Any person that produces, imports, sells, or distributes at least 5,500 gallons of gasoline, distillate fuel oil, biofuels, or aircraft fuel during a year for use in the state and that is not subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax or the Oregon Use Fuel Tax under OAR chapter 735, divisions 170 and 176.

(b) Persons listed in paragraphs (3)(a)(B) and (C) are not required to register and report fuel reported under this division by dealers described in paragraph (3)(a)(A).

(c) Persons that import propane for use in the state are not subject to reporting if annual imports brought into the state are less than 10,500 gallons of propane.

(4) Natural gas suppliers. Any person, including but not limited to local distribution companies, interstate pipelines, and owners or operators of facilities, that either produces natural gas, compressed natural gas, or liquefied natural gas in Oregon, or that imports, sells, or distributes natural gas, compressed natural gas, or liquefied natural gas to end users in the state, must register and report in compliance with this division.

(5) Electricity suppliers. All investor-owned utilities, multi-jurisdictional utilities, electricity service suppliers, consumer-owned utilities, and other persons that import, sell, allocate, or distribute electricity to end users in the state must register and report in compliance with this division.

(6) Petroleum and natural gas systems. Any person that owns or operates a facility physically located in Oregon that contains petroleum and natural gas systems industry segments listed in 40 C.F.R. 98.230(a)(1) through (10) must register and report in compliance with this division, as applicable under subsections (a) though (e):

(a) For a facility, as defined in 40 C.F.R. 98.6 that contains the industry segments listed in 40 C.F.R. 98.230(1), (3), (4), (5), (6) or (7), if the facility's greenhouse gas emissions meet or exceed 2,500 MT CO2e per year;

(b) For a facility with respect to onshore petroleum and natural gas production as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(c) meet or exceed 2,500 MT CO2e per year;

(c) For a facility with respect to natural gas distribution as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(i) meet or exceed 2,500 MT CO2e per year;

(d) For a facility with respect to onshore petroleum and natural gas gathering and boosting as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(j) meet or exceed 2,500 MT CO2e per year;

(e) For a facility with respect to the onshore natural gas transmission pipeline segment as defined in 40 C.F.R. 98.238, if emission sources specified in 40 C.F.R. 98.232(m) meet or exceed 2,500 MT CO2e per year.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 5-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 12-2015, f. & cert. ef. 12-10-15
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 13-2008, f. & cert. ef. 10-31-08

340-215-0032
Deferrals and Exemptions

DEQ may defer or exempt specific processes, categories of sources, or specific types of greenhouse gas emissions, from this division's requirements if DEQ determines that adequate reporting protocols are not available or that other extenuating circumstances make reporting unfeasible.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0034
Changes in Ownership and Cessation of Reporting Requirements

(1) Cessation of reporting for reduced emissions.

(a) A regulated entity is no longer required to report if the regulated entity retains records as required in subsection (b), makes the report required in subsection (c), and if any of the following are applicable:

(A) Direct total reported emissions for air contamination sources required to register and report under OAR 340-215-0030(2) are less than 2,500 MT CO2e per year for a consecutive three year period. If total reported emissions for an air contamination source meets or exceeds 2,500 MT CO2e in any year after the reporting cessation requirements have been met, persons that own or operate the air contamination source must resume reporting as required under this division;

(B) Fuel suppliers, including natural gas suppliers, and in-state producers that cease to supply

fuel in Oregon after submitting an emissions data report for the year in which they ceased to supply fuel in Oregon;

(i) Fuel suppliers and in-state producers that cease to have a reporting obligation due to a change in ownership or sale or relinquishment of an inventory position at a terminal must continue to report emissions from the reportable fuel transactions that occurred within the calendar year prior to the change;

(ii) If a fuel supplier or in-state producer supplies fuel in Oregon in any year after the reporting cessation requirements have been met, the fuel supplier must resume reporting as required under this division;

(C) Electricity suppliers that cease to supply electricity in Oregon, after submitting an emissions data report for the year in which they ceased to supply electricity in Oregon. If an electricity supplier provides electricity in Oregon in any year after the reporting cessation requirements have been met, the electricity supplier must resume reporting as required under this division.

(b) Persons no long subject to reporting under this division must retain the records required under OAR 340-215-0042 for a period of five years following the last year that they were subject to reporting, including all production information, fuel use records, emission calculations and other records used to document greenhouse gas emissions. Persons meeting cessation requirements specified in OAR-215-0034(1)(a)(A) must retain records for each of the three consecutive years that the person does not meet or exceed the emission threshold for a period of five years following the last year they met the cessation requirements; and

(c) Persons that meet the applicable cessation of reporting requirements of this section must notify DEQ in writing of their reason(s) for ceasing to report no later than the applicable reporting deadline for the year.

(2) Cessation of reporting for shut down air contamination sources.

(a) If the operations of an air contamination source are changed such that all applicable greenhouse gas emitting processes and operations cease to operate or are shut down, the person that owns or operates the air contamination source must submit an emissions data report for the year in which the source's greenhouse gas emitting processes and operations ceased to operate.

(b) The person that owns or operates the air contamination source must submit a written notification to DEQ that announces the cessation of reporting and certifies to the cessation of all greenhouse gas emitting processes and operations no later than the reporting deadline of the year following the cessation of operations or permanent shutdown.

(c) This section does not apply to seasonal operational cessations, other temporary cessation of operations, or solid waste disposal facilities that are required to report under 40 C.F.R. part 98.

(3) Changes in ownership or operational control. If a regulated entity undergoes a change of

ownership or operational control, the following requirements apply regarding reporting and providing notice to DEQ:

(a) The new person that owns or operates the regulated entity must notify DEQ in writing of the ownership or operational control change, including providing the following information: the name of the previous owner or operator; the name of the new owner or operator; date of ownership or operator change, and name of a new designated representative.

(b) Reporting responsibilities. Except as specified in paragraph (B) below and OAR 340-215-0034(1)(a)(B)(i), the person that owns or operates the regulated entity at the time of a reporting deadline specified in this division has the responsibility for complying with the requirements of this division.

(A) If an ownership change takes place during the year, reported data must not be split or subdivided for the year, based on ownership. A single annual emissions data report must be submitted by the current owner or operator.

(B) Fuel suppliers that cease to have emissions subject to reporting under this division as a result of an ownership change that affects supplier operations retain the responsibility for complying with the requirements of this division.

(4) Any person specified in OAR 340-215-0030 that has ceased reporting under this rule must resume reporting for any future year during which any of the greenhouse gas emitting processes or operations resume operation and are subject to reporting as required by this division.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0040
Greenhouse Gas Registration and Reporting Requirements

(1) Each registration or emissions data report submitted by a regulated entity according to this division must contain certification by a designated representative of the truth, accuracy, and completeness of the submission. This certification and any other certification required under this division must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. The certification must contain the following statement: "Based on information and belief formed after reasonable inquiry, the statements and information submitted are true, accurate and complete."

(2) DEQ may require a regulated entity to submit or make available additional information if the materials submitted with the emissions data report are not sufficient to determine or verify greenhouse gas emissions and related information. Regulated entities must provide within 14 days of notification, unless a different schedule is approved by DEQ, any and all information that DEQ requires for the purposes of assessing applicability, verifying or investigating either or both actual and suspected sources of greenhouse gas emissions, and to ascertain compliance and noncompliance with rules in this division.

(3) Calculating total greenhouse gas emissions. Total carbon dioxide equivalent emissions (CO2e) must be calculated as the sum of the CO2, CO2 from biomass-derived fuels, CH4, N2O, and each fluorinated GHG required to be reported in an emissions data report in compliance with this division using equation A-1 in C.F.R. 98.2.

(4) Alternative calculation methods. Regulated entities may petition DEQ to use calculation methods other than those specified in this division. Regulated entities must receive written DEQ approval to use alternative calculation methods prior to reporting.

(5) Third-party verification of emissions data reports. Regulated entities must comply with the requirements of OAR chapter 340, division 272 for third-party verification of emissions data reports, as applicable.

(6) Regulated entities must report legal names and addresses of all related entities and, if known, indicate which related entity may also be a regulated entity reporting under this division.

Statutory/Other Authority: ORS 468A.050
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 5-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 125-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 12-2015, f. & cert. ef. 12-10-15
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 13-2008, f. & cert. ef. 10-31-08

340-215-0042
Recordkeeping Requirements

(1) Each regulated entity subject to the requirements under OAR chapter 340, division 272 must retain all records as required by this rule, and any records or other materials maintained under any applicable requirements of 40 C.F.R. part 98, in paper or electronic format, or both, for a period of at least seven years.

(2) Each regulated entity not subject to the requirements under OAR chapter 340, division 272 must retain all records as required by this rule, and any records or other materials maintained under any applicable requirements of 40 C.F.R. part 98, in paper or electronic format, or both, for a period of at least five years.

(3) Each regulated entity must retain records sufficient to document and allow for verification of each emissions data report submitted to DEQ and make such information available for verification upon request. This includes, but is not limited to the following:

(a) A list of all units, operations, processes, and activities for which GHG emission were calculated, as applicable;

(b) The data and information used to calculate emissions for each unit, operation, process,

and activity, categorized by fuel or material type. These data include, but are not limited to the following:

(A) The GHG emissions calculations and methods used;

(B) Analytical results for the development of site-specific emissions factors;

(C) The results of any analyses for high heat value, carbon content, and other fuel or feedstock parameters conducted or as required under 40 C.F.R. part 98, if applicable; and

(D) Any facility operating data or process information used for the GHG emission calculations;

(c) Records of supporting documentation required by or used to prepare the emissions data report, including but not limited to underlying monitoring and metering data, invoices of receipts or deliveries, fuel use records, production information, sales transaction data, electricity or fuel transaction data, calibration records, and any other relevant information;

(d) Any annual emissions data report(s) submitted to DEQ, including any revised emissions data report(s);

(e) Documentation to support any revision(s) made to any emissions data report(s);

(f) Records of supporting documentation and calculations for any missing data computations according to 40 C.F.R. part 98, or otherwise. Retain a record of the cause of the event and the corrective actions taken to restore malfunctioning monitoring equipment;

(g) The results of all required certification and quality assurance tests of continuous monitoring systems, fuel flow meters, and other instrumentation used to provide data to calculate emissions reported under this division; and

(h) Maintenance records for all continuous monitoring systems, flow meters, and other instrumentation used to provide data to calculate emissions reported under this division.

(4) Regulated entities reporting biomass-derived fuels, as required under OAR-215-0044(5), must retain supporting documentation that authenticates the purchase of gaseous or liquid biomass-derived fuel between parties.

(a) This documentation may include, but is not limited to, documentation from each upstream party, invoices, bills of lading, shipping reports, balancing reports, storage reports, in-kind nomination reports, allocation, contracts confirming the source of fuel supplied in the state, attestations, information on the environmental attributes associated with the sale or use of the fuel, or any combination therein.

(b) Supporting documentation must be made available for verification upon request.

(5) Each regulated entity that is an in-state producer or fuel supplier, including a natural gas supplier, must retain records for exported products to demonstrate final destination outside

Oregon. Documentation must be made available for verification upon request.

(6) Each regulated entity that is an electricity supplier must retain documentation supporting claims of specified sources of electricity. Supporting documentation must be made available for verification upon request.

(7) Electricity suppliers that sell wholesale electricity must maintain records for each sale of specified or unspecified source sales. Documentation must be made available for verification upon request.

(8) Each person designated by DEQ as an asset-controlling supplier must retain documentation to confirm that the power sold by the supplier originated from the supplier's fleet of facilities and either that the fleet is under the supplier's operational control or that the supplier has exclusive rights to market electricity for the fleet or facility. Documentation must be made available for verification upon request.

(9) Regulated entities subject to 40 C.F.R. part 98 federal requirements must retain the written GHG monitoring plan as required by 98.3(g)(5). The GHG monitoring plan must be made available for verification upon request.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0044
Emissions Data Reports

(1) Regulated entities must monitor emissions and submit emissions data reports to DEQ following the requirements specified in this division. Individual emissions data reports are identified as follows:

(a) An individual emissions data report must be submitted by each air contamination source required to register and report under OAR 340-215-0030(2) for each individual permitted source or facility identified under that section;

(b) An individual emissions data report including emissions from all electric power system facilities located in Oregon must be submitted by an investor-owned utility required to register and report under OAR 340-215-0030(2)(c)(C);

(c) An individual emissions data report must be submitted by each fuel supplier or in-state producer required to register and report under OAR 340-215-0030(3);

(d) An individual emissions data report must be submitted by each natural gas supplier or in-state producer required to register and report under OAR 340-215-0030(4);

(e) An individual emissions data report must be submitted by each electricity supplier required to register and report under OAR 340-215-0030(5) or a third-party reporting on behalf of a consumer-owner utility. A third-party reporting on behalf of a consumer-owned utility must also include all information described under OAR 340-215-0120(4) and (5), as

applicable;

(f) An individual emissions data report submitted by each asset-controlling supplier seeking designation by DEQ must include all information described under OAR 340-215-0120(7);

(g) An individual emissions data report must be submitted by the owner or operator of a facility containing petroleum and natural gas systems required to register and report under OAR 340-215-0030(6) and must include all emissions and related information described in OAR 340-215-0125;

(2) Regulated entities must:

(a) Utilize registration and reporting tools approved and issued by DEQ for all certifications and submissions;

(b) Submit and certify completed registration and emissions data reports. A separate emissions data report must be submitted for each sector and for each individual air contamination source, and must include all data and information as required by OAR 340-215-0105 through OAR 340-215-0125, as applicable; and

(c) Submit and certify any revisions to emissions data reports. If a regulated entity identifies an error in a submission, or is notified of such an error, the regulated entity must submit a revision to correct the error within 45 days of discovery. Regulated entities subject to the requirements under OAR chapter 340 division 272 must submit revisions in compliance with that division 272.

(3) Emissions data reports submitted to DEQ must include the following information:

(a) Facility name or supplier name (as appropriate), facility or supplier ID number, and physical street address of the facility or supplier, including the city, state, and zip code;

(b) Year and months covered by the report;

(c) Date of submittal;

(d) All information required by this division to calculate and report greenhouse gas emissions;

(e) Annual emissions of each greenhouse gas, as required under this division; and

(f) A certification from the designated representative as required under OAR 340-215-0040(1).

(4) Increases or decreases in emissions. In addition to the requirements of section (3), if a regulated entity subject to OAR 340-215-0105 submits an emissions data report that indicates emissions equaled or exceeded 25,000 MT CO2e during the previous year, then the regulated entity must include the following information in the emissions data report:

(a) Whether a change in operations or status resulted in an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous data year; and

(b) If there is an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous year, the regulated entity must provide a brief narrative description of what caused the increase or decrease in emissions. Include in this description any changes in air contamination source permit status.

(5) Reporting biomass-derived fuels.

(a) In addition to the requirements of section (3), a regulated entity reporting biomass-derived fuels must separately identify, calculate, and report all direct emissions of CO2 resulting from the combustion of biomass-derived fuels, as provided in this section.

(b) When reporting fuel combustion and emissions from gaseous or liquid biomass-derived fuels, report the following information for each contracted delivery:

(A) Name and address of the vendor from which the fuel is purchased;

(B) Name, address, and facility type of the facility from which the fuel is produced; and

(C) Annual amount delivered by each vendor in MMBtu for biomethane, standard cubic feet for other gaseous fuels, and gallons for liquid fuels.

(6) Regulated entities subject to the requirements of 40 CFR 98.3(i) must meet those requirements for data used in developing emissions data reports.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0046
Reporting Deadlines

(1) Reporting deadlines.

(a) Air contamination sources required to register and report under OAR 340-215-0030(2) must register and submit annual emissions data reports to DEQ under OAR 340-215-0044 by the due date for the annual report for non-greenhouse gas emissions specified in the source's Title V Operating Permit or Air Contaminant Discharge Permit, or by March 31 of each year, whichever is later.

(b) The following regulated entities must register and submit annual emissions data reports to DEQ by March 31 of each year:

(A) Natural gas suppliers required to register and report under OAR 340-215-0030(4);

(B) Petroleum and natural gas systems required to register and report under OAR 340-215-0030(6).

(c) Fuel suppliers and in-state producers required to register and report under OAR 340-215-0030(3) must submit annual registration and emissions data reports to DEQ by April 30 of each year.

(d) Electricity suppliers required to register and report under OAR 340-215-0030(5) must submit an annual registration and emissions data report to DEQ by June 1 of each year.

(2) Reports submitted in the years 2020 and 2021. All registrations and reports submitted under this division after the effective date of these rules must comply with these rules, notwithstanding that regulated entities may be reporting information for years prior to the effective date of these rules, except that:

(a) Fuel suppliers and in-state producers required to register and report under OAR 340-215-0030(3) must submit an annual registration and emissions data report to DEQ under OAR 340-215-0044 by March 31, 2020 for data year 2019 and in accordance with subsection (1)(c) in each year thereafter;

(b) Electricity suppliers required to register and report under OAR 340-215-0030(5) must retain documentation supporting claims of each specified source of electricity as required by OAR 340-215-0042(6) beginning in 2021 for data year 2020, and in each year thereafter (i.e., those persons do not have to report that information in reports submitted in 2020); and

(c) Any person that owns or operates a petroleum or natural gas system required to register and report under OAR 340-215-0030(6) must comply with the requirements of this division beginning in 2021 by submitting a registration and emissions data report to DEQ by March 31, 2021 for data year 2020, and in each year thereafter (i.e., those persons are not required to report in 2020 for data year 2019).

(3) DEQ may extend reporting deadlines or effective dates as DEQ deems necessary and will issue notice of any extensions.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0105
Requirements for Air Contamination Sources

Regulated entities required to register and report to DEQ under OAR 340-215-0030(2) must:

(1) Calculate and report greenhouse gas emissions using quantification methodologies and report data and information described in 40 C.F.R. part 98 subparts C through UU, as applicable, unless otherwise specified in this rule. Emissions data reports submitted to DEQ must include all emissions with calculation methodology in 40 C.F.R. part 98 subparts C through UU or listed in this division, but may exclude emissions from categorically insignificant activities as defined in OAR 340-200-0020. If categorically insignificant activities cannot be separated from other activities, entities may report aggregate emissions that include categorically insignificant activities;

(2) As applicable, separately report fuel types, quantities, and emissions from fuel combustion reported utilizing 40 C.F.R. part 98, subpart H - Cement Production, subpart W - Petroleum and Natural Gas Systems, and subpart AA - Pulp and Paper Manufacturing quantification methodology;

(3) Provide supplemental documentation, including data inputs for equations to describe how emissions are calculated. Data inputs include but are not limited to fuel throughput, emission factors, and production volumes or product usage used to calculate emissions;

(4) For air contamination sources that include electricity generating units, cogeneration units, or both that meet the applicability requirements of section OAR 340-215-0030(2), follow the requirements of subparts C and D of 40 C.F.R. part 98, as applicable, in reporting emissions and other data from electricity generating and cogeneration. In addition, such regulated entities must report the following information:

(a) Information for each facility as defined in 40 C.F.R. 98.6, including separately for each facility under the same air contamination source permit: name, address, and contact person and phone number;

(b) If applicable, report facility identification numbers assigned by the U.S. Energy Information Administration, California Air Resources Board and Federal Energy Regulatory Commission's PURPA Qualifying Facility program;

(c) Report net and gross electricity generated in megawatt-hours; and

(d) Regulated entities that own or operate a cogeneration unit must report the thermal energy in MMBtu generated by a combustion source that is used directly as part of a manufacturing, industrial or commercial process, or as part of as heating or cooling application, separately for the following categories: generated thermal energy provided to end users outside the air contamination source facility boundary and generated thermal energy for on-site industrial applications not related to electricity generation;

(5) An investor-owned utility that owns or operates electric power system facilities as defined in 40 C.F.R. part 98 subpart DD in Oregon must report emissions utilizing calculation methodologies in 40 C.F.R. part 98 subpart DD and must submit an emissions data report including all emissions from electric transmission and distribution equipment and servicing inventory physically located in Oregon for the previous year;

(6) For in-state producers of goods containing fluorinated greenhouse gases in pre-charged equipment or closed-cell foams, report the mass of each fluorinated greenhouse gas in all goods produced in a year and comply with 40 C.F.R. part 98 subpart QQ in reporting emissions to DEQ as modified below:

(a) Report total mass in metric tons of each fluorinated greenhouse gas contained within pre-charged equipment or closed cell foams;

(b) For each type of pre-charged equipment with a unique combination of charge size and charge type, report the identity of the fluorinated greenhouse gas used as a refrigerant or

electrical insulator, charge size, holding charge, where applicable and number produced;

(c) For closed–cell foams the identity of the fluorinated greenhouse gas in the foam, the density of the fluorinated GHG in the foam (kilograms of fluorinated greenhouse gas per cubic feet), and the volume of foam produced (cubic feet) for each type of closed–cell foam with a unique combination of F-GHG density and identity; and

(d) Calculate greenhouse gas emissions from foam blowing operations using the following equation. When the blowing agent is a blend of gases, emissions must be calculated separately for each constituent of the blowing agent used during the foam manufacture process.

$$CO2e = \sum\{[(Qi \times FYLEi) + (Qi \times ALi \times (Y-1)) + (Qi \times Li)] \times GWPi\}/2204.62$$

For the purposes of the calculation in subsection (d), the following definitions apply:

(A) "Q_i" means quantity of blowing agent, *i*, (in pounds) used to manufacture the foam;

(B) "$FYLE_i$" means first-year loss emission factor associated with the foam application;

(C) "AL_i" means annual loss emission factor associated with the foam application;

(D) "Y" means number of years remaining in the project;

(E) "L_i" means quantity of blowing agent, *i*, released during product output including all processes (such as foam shaping, grinding, trimming, and shaving) leading to product formation;

(F) "2204.62" is applied to convert pounds to metric tons conversion; and

(G) "GWP_i" means GWP for each GHG from table A-1 of 40 C.F.R. part 98;

(7) Calculate and report emissions of CO2 that originate from biomass-derived fuels separately from other greenhouse gas emissions. Use the following procedures when calculating emissions from biomass-derived fuels that are intermixed with fossil fuels:

(a) When calculating emissions from the combustion of municipal solid waste (MSW) or any other fuel for which the biomass fraction is not known, follow the procedures specified in 40 C.F.R. 98.33(e)(3) to specify a biomass fraction;

(b) When calculating emissions from a biomethane and natural gas mixture as described in 40 C.F.R. 98.33(a)(2) calculate emissions based on contractual deliveries of biomethane;

(c) When calculating emissions from a biomethane and natural gas mixture as described in 40 C.F.R. 98.33(a)(4) using a continuous emission monitoring system (CEMS), or when calculating those emissions according to Subpart D of 40 C.F.R. part 98, calculate the biomethane emissions as described above, with the remainder of emission being from natural gas;

(d) When calculating emissions from a biogas and natural gas mixture using 40 C.F.R. 98.33(a)(4) or the carbon content method described in 40 C.F.R. 98.33(a)(3) or when calculating those emissions according to subpart D of 40 C.F.R. part 98, calculate biogas emissions using a carbon content method as described in 40 C.F.R. 98.33(a)(3), with the remainder of emissions being from natural gas.

(8) When reporting emissions from the combustion of natural gas, report the name(s) of the supplier(s) of natural gas to the facility, including information identifying the seller of natural gas, natural gas customer account, and the annual MMBtu delivered to each account according to billing statements (10 therms = 1 MMBtu); and

(9) Report the air permit numbers and NAICS codes according to 40 C.F.R. 98.3(c)(10).

Statutory/Other Authority: ORS 468A.050
Statutes/Other Implemented: ORS 468 & 468A

340-215-0110
Requirements for Fuel Suppliers and In-State Producers

Fuel suppliers and in-state producers including but not limited to gasoline, distillate fuel oil, propane, and aircraft fuel dealers required to register and report under OAR 340-215-0030(3), but not including natural gas suppliers, must:

(1) Report all quantities of fuel disbursed for use in the state by fuel type, regardless of whether the fuel is intended for transportation or non-transportation use and regardless of whether the fuel is subject to state or federal fuel taxes. Such reports must include the fuel type and quantity imported, sold, or distributed for use in this state during the previous year and quantities must be reported in standard cubic feet for gaseous fuels and gallons for liquid fuels. In addition:

(a) Fuel suppliers and in-state producers who report renewable biomass-derived fuels must provide supporting documentation as required under OAR 340-215-0044(5); and

(b) Meeting the requirements of this division does not replace the requirements that must be met in order to satisfy the requirements of OAR chapter 340 division 253 for any given fuel supplier subject to the Oregon Clean Fuels Program (CFP);

(2) For reporting of regulated fuels as defined under OAR chapter 340 division 253, comply with OAR chapter 340 division 253 and submit quarterly and annual reports. In annual reports, persons dealing in regulated fuels as defined by OAR 340-253-0200(2) may further report fuel volumes by individual fuel type as defined in 40 C.F.R. part 98 subpart MM. If volumes are not reported by individual fuel type, default emission factors defined in 40 C.F.R. part 98 subpart MM must be used for emissions calculation purposes;

(3) For reporting all other fuels not reported as regulated fuels under section (3) including, but not limited to, importers and producers of opt-in fuels and small importers of finished fuels as defined by OAR 340-253-0040(86), report fuel imported or produced in the state during the previous year by fuel type as defined in 40 C.F.R. part 98 subpart MM. Report as

follows:

(a) Report the type and quantity in gallons of fuel owned at the time the fuel is brought into Oregon from out of state or produced in Oregon that is delivered directly to intermediate storage, retail, or end users,

(b) Report the type and quantity in gallons of fuel owned and dispersed from terminals in Oregon as a position holder. This applies to the fuel supplier owning the fuel at the loading rack as it is being dispensed;

(c) If formulations are unknown for a given quantity of gasoline, report that quantity of gasoline using the fuel type "Gasoline formulation unknown." If distillate or residual fuel oil numbers are unknown for a given quantity of distillate fuel oil, report that quantity using the fuel type "Diesel type unknown;" and

(d) Exclude fuel for which a final destination outside of Oregon can be demonstrated; and

(4) For all fuel suppliers and in-state producers, calculate and report the CO2, CO2 from biomass-derived fuels, CH4, N2O, and CO2e emissions in metric tons that would result from the complete combustion or oxidation of the annual quantity of fuel imported, sold, or distributed for use in this state. In such reports, GHG emissions must be calculated as follows:

(a) Utilize emission quantification methodology prescribed in 40 C.F.R. part 98 subpart MM and equation MM-1 as specified in 40 C.F.R. 98.393(a)(1) to calculate the CO2 emissions and CO2 from biomass-derived fuels that would result from the complete combustion of the fuel reported under this division;

(b) Calculate CH4 and N2O emissions using equation C–8 and Table C-2 as required in 40 C.F.R. 98.33(c)(1); and

(c) Utilize a DEQ assigned emission factor for fuel and emission types not listed in 40 C.F.R. part 98.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0115
Requirements for Natural Gas Suppliers and In-State Producers.

Natural gas suppliers and in-state producers required to register and report under OAR 340-215-0030(4) must:

(1) Report the information required including the volume (Mscf), energy (MMBtu), type of natural gas and associated emissions for all gas imported, sold, or distributed for use in the state for the previous year, and:

(a) If the regulated entity has developed reporter-specific emission factors or high heating

values, then report the following:

(A) Information used to develop the reporter-specific emission factor(s) and/or higher heating value(s);

(B) The developed emission factor(s); and

(C) The developed higher heating value(s);

(b) For the purposes of this section large natural gas end users are end users receiving greater than or equal to 460,000 Mscf of natural gas during the year; and

(c) Report biomethane as specified under OAR 340-215-0044(5).

(2) For local distribution companies, calculate and report greenhouse gas emissions using quantification methodologies and report data and information described in 40 C.F.R part 98 subpart NN for suppliers of natural gas and natural gas liquids, as applicable, unless otherwise specified in this rule including the following:

(a) In addition to submitting all information needed to meet the requirements of 40 C.F.R. 98.406(b)(1) through (b)(7), report the annual MMBtu of natural gas associated with the volumes reported;

(b) Report the amount of natural gas delivered to each large natural gas end user separately in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number if available; and

(c) Report identifying information for each natural gas marketer contracting use of the distribution system during the year including company name, and address;

(3) For interstate pipeline owners and operators, report the total amount of natural gas delivered to end users in the state for use in the state, excluding gas delivered to an Oregon local distribution company, and:

(a) Report the annual amount of natural gas delivered to each large natural gas end user separately in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number(s) if available. In instances where multiple end users are downstream of a delivery point that registers at least 460,000 Mscf annually report the total gas delivered and identifying information for each user downstream of the delivery point; and

(b) Report identifying information for each natural gas marketer contracting use of the distribution system during the year including company name, and address;

(4) For importers of natural gas, compressed natural gas, or liquefied natural gas into the state by any means other than a pipeline distribution system or interstate pipeline, including but not limited to imports by rail or truck, report the total amount of natural gas, compressed natural gas, and liquefied natural gas imported into the state for use in the state. Such

regulated entities must report the total amount of natural gas, compressed natural gas, or liquefied natural delivered to each large natural gas end user in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number if available;

(5) For regulated entities that own or operate facilities that make liquefied natural gas or compressed natural gas products report the total annual amount of natural gas delivered or sold for use in the state, excluding volumes delivered to an Oregon local distribution company, report the annual amount of natural gas delivered to each large natural gas end user in the state including customer information required in 40 C.F.R. 98.406(b)(12), and source identification number if available; and

(6) For all natural gas suppliers, calculate and report the CO2, CO2 from any reported biomass-derived fuel, CH4, N2O, and CO2e emissions in metric tons that would result from the complete combustion or oxidation of the annual quantity of natural gas imported, sold, or distributed for use in this state. Calculate and report greenhouse gas emissions for the previous year utilizing emission quantification methodology prescribed in 40 C.F.R. part 98 and as follows:

(a) Calculate greenhouse gas emissions separately for natural gas, compressed natural gas and liquefied natural gas;

(b) Calculate and report CO2 emissions as follows:

(A) Local distribution companies must utilize quantification methodologies and report all data elements as required by 40 C.F.R. 98 subpart NN - Suppliers of Natural Gas and Natural Gas liquids for the total volume of gas supplied in the state; and

(B) All other natural gas suppliers including interstate pipeline owners or operators, importers of natural gas, and owners or operators of facilities that make natural gas products must calculate and report using calculation methodology 1 as specified in 40 C.F.R. 98.403(a)(1);

(c) Calculate and report CH4 and N2O emissions from natural gas imported, sold, or distributed for use in this state using equation C-8 and table C-2 as required in 40 C.F.R. 98.33(c)(1) for all fuels subject to reporting;

(d) CO2 emissions from biomass-derived fuel are based on the fuel the natural gas supplier contractually purchased on behalf of and delivered to end users. Emissions from biomethane are calculated using the methods for natural gas required by this section, including the use of the emission factor for natural gas in 40 C.F.R. 98.408, table NN-1. Natural gas suppliers who report emissions from biomethane must provide supporting documentation as required under OAR 340-215-0044(5); and

(e) Not report data or emissions for products for which a final destination outside Oregon can be demonstrated.

Statutory/Other Authority: ORS 468A.050 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

340-215-0120
Requirements for Electricity Suppliers

Electricity suppliers required to register and report under OAR 340-215-0030(5) must report information and emissions related to the generation of electricity delivered or distributed to end users in this state during the previous year, regardless of whether the electricity was generated in this state or imported. Such reports must;

(1) Report the megawatt-hours (MWh) and greenhouse gas emissions from the generation of electricity from unspecified sources and from each specified source delivered or distributed to end users in Oregon during the previous year, as follows:

(a) For unspecified sources, report the MWh of electricity and calculate and report the associated GHG emissions according to section (5)(a);

(b) For specified sources of electricity, report as follows:

(A) Report specified sources when one of the following applies:

(i) The electricity supplier is a facility or unit operator, full or partial owner, party to a power contract for generation from the facility or generating unit, party to a tolling agreement and rents a facility or unit from the owner or is an exclusive power deliverer that is not a retail provider and that has prevailing rights to claim electricity from the specified source; or

(ii) The electricity supplier has a power contract for electricity from a DEQ-approved asset-controlling supplier (ACS) or generated by a facility or unit, subject to meeting all other specified source requirements and can provide documentation that the contract specified the source prior to the delivery of the specified electricity.

(B) Electricity suppliers reporting specified sources must:

(i) Report the MWh of electricity disaggregated by facility or unit, and by fuel type or ACS, as measured at the busbar. If not measured at the busbar, report the amount of electricity delivered in Oregon, including estimated transmission losses using the default transmission loss correction factor of 1.02;

(ii) Report the GHG emissions associated with the electricity calculated according to subsection (5)(b); and

(iii) Report details about each specified facility, unit, or ACS, including fuel type or types and information about the seller, including company name and contact information;

(c) For electricity suppliers that are multi-jurisdictional utilities that deliver or distribute electricity in Oregon, report total MWh and greenhouse gas emissions from the generation of electricity from specified and unspecified sources in the utility's service territory or power system as required by subsections (a) and (b), and also report the following:

(A) Wholesale electricity purchased and taken from specified sources (MWh);

(B) Wholesale electricity purchased from unspecified sources (MWh);

(C) Wholesale electricity sold from specified sources (MWh); and

(D) Retail sales (MWh) to customers in Oregon's portion of the utility's service territory or power system; and

(2) Use DEQ approved and published emission factors for calculating and reporting GHG emissions, including;

(a) The emission factor for calculating emissions from unspecified power is 0.428 MT CO2e/MWh;

(b) Electricity suppliers reporting specified source power provided by a multi-jurisdictional utility or DEQ-approved ACS must calculate emissions using a system emission factor published by DEQ, which will be calculated by DEQ according to subsection (6)(b);

(c) Electricity suppliers reporting specified source power from a specific facility or unit must calculate emissions using emission factors published by DEQ, which will be calculated according to subsection (6)(a); and

(d) For reporting emissions from specified sources for which DEQ has not published an approved emission factor, electricity suppliers may propose facility-specific or unit-specific anthropogenic and biogenic emission factors expressed as metric tons of carbon dioxide equivalent (MT CO2e) per megawatt-hour of generation. Such a proposal to DEQ must include documentation describing how the proposed facility-specific or unit-specific emission factors are derived, including the necessary information for verification of these calculations. DEQ may adopt the proposed emission factors or may develop and assign facility-specific or unit-specific emission factors for the specified source. The regulated entity may use such an emission factor only if approved by DEQ;

(3) For utilities that do not receive electricity from other sources and who serve load exclusively in Oregon, a third-party report from the Bonneville Power Administration (BPA), reporting the preference sales provided to Oregon consumer-owned utilities may satisfy such regulated party's obligations under this division. If BPA does not report this information to DEQ, those consumer-owned utilities must report the information as required by this division;

(4) For a consumer-owned utility, a third-party may submit the registration and report, and the report may include information for more than one consumer-owned utility, provided that the report contains all information required under this division for each individual consumer-owned utility; and

(a) The consumer-owned utility must notify DEQ at least 30 days prior to the reporting deadline that a third-party will be reporting on its behalf. This notification must include the name and contact information for the third-party; and

(b) This notification may include notice that the third-party will report on behalf of the consumer-owned utility for future years; and

(c) For any future year in which there is a change in the third-party reporting on behalf of the consumer-owned utility, the consumer-owned utility must provide notification to DEQ at least 30 days prior to the reporting deadline;

(d) Third-parties reporting on behalf of a consumer-owned utility must notify DEQ and request authorization from DEQ prior to submitting any reports. This notification must include identifying information of the consumer-owned utility; and

(d) Each consumer-owned utility must ensure that reports submitted on its behalf meet all requirements of this division.

(5) Calculate and report greenhouse gas emissions as follows:

(a) Emissions reported for electricity associated with unspecified sources must be calculated using the following equation:

$$CO_2e = MWh \times TL \times EF_{unsp}$$

For the purposes of this calculation, "EF_{unsp}" means default emission factor for unspecified electricity equal to 0.428 MT CO2e/MWh.

(b) Emissions reported for electricity associated with specified sources must be calculated using the following equation:

$$CO_2e = MWh \times TL \times EF_{sp}$$

For the purposes of this calculation, "EF_{sp}" means facility-specific, unit-specific, or ACS system emission factor published by DEQ.

(c) Emissions reported by a multi-jurisdictional utility may be calculated according to a cost allocation methodology approved by the Oregon Public Utility Commission (OPUC) using the following equation:

$$CO_2e = MWh_{\mathrm{MJOR}} \times TL \times EF_{MJ}$$

For the purposes of this calculation, the following definitions apply:

(A) "MWh_{MJOR}" means total megawatt-hours of electricity delivered to retail customers in Oregon; and

(B) "EF_{MJ}" means multi-jurisdictional utility system emission factor calculated according to equation (6)(b) (MT CO2e/MWh).

(6) For electricity suppliers, use emission factors calculated and published by DEQ for calculating and reporting emissions, as follows:

(a) DEQ will calculate facility-specific or unit-specific emission factors using the following equation:

EFsp = Esp /EG

For the purposes of this calculation, the following definitions apply:

(A) "EFsp" means the facility-specific or unit specific emission factor;

(B) "Esp" means CO2e emissions for a specified facility or unit for the report year (MT CO2e); and

(C) "EG" means net generation from a specified facility or unit for the report year;

(b) DEQ will calculate multi-jurisdictional utility and asset-controlling supplier system emission factors using the following equations:

EF_{SYS} = *Sum of System Emissions MT* CO_2e ÷ *Sum of System MWh*

Sum of System Emissions MT $CO_2e = \sum E_{sp} + \sum(PE_{sp} \times EF_{sp}) + \sum(PE_{unsp} \times EF_{unsp}) - \sum(SE_{sp} \times EF_{sp})$

Sum of System MWh $= \sum EG_{sp} + \sum PE_{sp} + \sum PE_{unsp} - \sum SE_{sp}$

For the purposes of the calculations, the following definitions apply:

(A) "ΣE_{sp}" means Emissions from Owned Facilities. Sum of CO2e emissions from each specified facility/unit in the supplier's fleet, consistent with section (5)(b) (MT CO2e);

(B) "ΣEG_{sp}" means Net Generation from Owned Facilities. Sum of net generation for each specified facility/unit in the supplier's fleet for the data year as reported to DEQ under this division (MWh);

(C) "PE_{sp}" means Electricity Purchased from Specified Sources. Amount of electricity purchased wholesale and taken from specified sources by the supplier for the data year as reported to DEQ under this division (MWh);

(D) "PE_{unsp}" means Electricity Purchased from Unspecified Sources. Amount of electricity purchased wholesale from unspecified sources by the supplier for the data year as reported to DEQ under this division (MWh);

(E) "SE_{sp}" means Electricity Sold from Specified Sources. Amount of wholesale electricity sold from specified sources by the supplier for the data year as reported to DEQ under this division (MWh);

(F) "EF_{sp}" means CO2e emission factor as defined for each specified facility or unit calculated consistent with section (5)(b) (MT CO2e/MWh); and

(G) "EF_{unsp}" means default emission factor for unspecified sources calculated consistent with

section (5)(a) (MT CO2e/MWh).

(7) For a person that owns or operates inter-connected electricity generating facilities or has exclusive rights to claim electricity from these facilities even though it does not own them may request that DEQ designate them as an asset-controlling supplier, and:

(a) Persons seeking designation by DEQ as an asset-controlling supplier must annually adhere to the requirements of this division, or be removed from asset-controlling supplier designation.

(b) In addition to submitting the applicable information as required by this rule, persons seeking designation by DEQ as an asset-controlling supplier must also submit the following by June 1 of each year:

(A) General business information, including business name and contact information;

(B) A list of officer names and titles;

(C) Wholesale electricity purchased and taken from specified sources (MWh);

(D) Wholesale electricity purchased from unspecified sources (MWh);

(E) Wholesale electricity sold from specified sources (MWh); and

(F) An attestation, in writing and signed by designated representative of the applicant that the information submitted is true, accurate, and complete.

(c) DEQ will calculate and publish a supplier-specific system emission factor according to subsection (6)(b) for designated asset-controlling suppliers.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

340-215-0125
Requirements for Petroleum and Natural Gas Systems

(1) Any person required to register and report under OAR 340-215-0030(6) must submit an emissions data report utilizing EPA quantification methodologies and data reporting requirements in 40 C.F.R part 98 subpart W;

(2) The emissions data report submitted according to section (1) must:

(a) Include greenhouse gas emissions from each facility (or part of a facility for the onshore natural gas transmission pipeline industry segment) listed in OAR 340-215-0030(6)(a) through (e) that is physically located in Oregon and that meets the applicability threshold in OAR 340-215-0030(6); and

(b) If applicable, separately indicate subpart W emissions associated with an air permitted facility and report identifying information for that facility including the air permit identification number.

Statutory/Other Authority: ORS 468A.050 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A

State of Oregon Department of Environmental Quality

Division 253
Draft Rules – Edits Incorporated

Greenhouse Gas Reporting and Third-Party Verification 2019

Division 253

OREGON CLEAN FUELS PROGRAM

340-253-0040
Definitions

The definitions in OAR 340-200-0020, OAR 340-272-0020, and this rule apply to this division. If the same term is defined here and in either of the other two divisions, the definition in this rule applies to this division.

(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) "Aggregation indicator" means an identifier for reported transactions that are a result of an aggregation or summing of more than one transaction. 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.

(3) "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.

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

(5) "Alternative Fuel Portal" or "AFP" means the portion of the CFP Online System where fuel producers can register their production facilities and submit fuel pathway code applications and physical pathway demonstrations.

(6) "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.

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

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

(9) “Backstop aggregator” means a qualified entity approved by DEQ under OAR 340-253-0330(6) to aggregate credits for electricity used as a transportation fuel, when those credits would not otherwise be generated.

(10) “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.

(11) “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.

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

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

(14) "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.

(15) "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.

(16) “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.

(17) “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.

(18) “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.

(19) “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.

(20) “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.

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

(22) “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).

(23) “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.

(24) “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.

(25) “CFP Online System reporting deadlines” means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

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

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

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

(c) For alternative jet fuel, listed in Table 3 under OAR 340-253-8010.

(27) “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.

(28) “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.

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

(30) “Compliance period” means each calendar year(s) during which regulated parties must demonstrate compliance under OAR 340-253-0100.

(31) “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.

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

(33) “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.

(34) “Credit facilitator” means a person in the CFP Online System that a regulated party designates to initiate and complete credit transfers on behalf of the regulated party.

(35) “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.

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

(37) “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.

(38) “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 that is emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean fuel standard.

(39) "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.

(40) "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.

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

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

(43) “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.

(44) “Electric Transport Refrigeration Units (eTRUs)” means refrigeration systems powered by electricity designed to refrigerate or heat perishable products that are transported in various containers, including semi-trailers, truck vans, shipping containers, and rail cars.

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

(46) “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.

(47) “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(7).

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

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

(50) “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.

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

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

(53) “Fuel pathway holder” means the entity that has applied for and received a certified fuel pathway code from DEQ, or who has a certified fuel pathway code from the California Air Resources Board that has been approved for use in Oregon by DEQ.

(54) “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.

(55) “Fuel supply equipment” refers to equipment registered in the CFP Online System that dispenses alternative fuel into vehicles, including but not limited to electric vehicle chargers, hydrogen fueling stations, and natural gas fueling equipment.

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

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

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

(59) “Illegitimate credits” means credits that were not generated in compliance with this division.

(60) “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.

(61) “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 delivered for use in Oregon.

(62) “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.

(63) “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.

(64) “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.

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

(66) “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.

(67) “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.

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

(69) “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.

(70) “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.

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

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

(73) "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.

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

(75) “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 3.0. DEQ will make available a copy of OR-GREET 3.0 on its website (https://www.oregon.gov/deq/Pages/index.aspx). As used in this rule, OR-GREET refers to both the full model and the fuel-specific simplified calculators that the program has adopted.

(76) “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.

(77) “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.

(78) “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.

(79) “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.

(80) “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.

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

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

(83) “Registered party” means a regulated party, credit generator, or aggregator that has a DEQ-approved registration under OAR 340-253-0500 to participate in the Clean Fuels Program.

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

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

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

(87) “Renewable hydrocarbon diesel” or “renewable diesel”, means a diesel fuel that isproduced from non-petroleum 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.

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

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

(90) “Renewable propane” means liquefied petroleum gas (LPG or propane) that is produced from non-petroleum renewable resources.

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

(92) “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. Any fuel imported by persons that are related, or share common ownership or control, shall be aggregated together to determine whether a person meets this definition.

(93) “Specified source feedstocks” are feedstocks for fuel pathways that require chain of custody evidence to be elegibile for a reduced CI associated with the use of a waste, residue, by-product, or similar material under the pathway certification process under OAR 340-253-0400(7).

(94) “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.

(95) “Tier 1 calculator”, “Simplified calculator” or “OR-GREET 3.0 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 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 and Renewable Diesel;

(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; and

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

(96) “Tier 2 calculator” or “OR-GREET 3.0 model” means the tool used to calculate lifecycle emissions for next-generation fuels, including the instruction manual on how to use the calculator. Next-generation fuels include, but are not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first-generation 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).

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

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

(99) “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” means the transportation fuel was sold below the rack without a transfer of the compliance obligation;

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

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

(k) “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;

(l) “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;

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

(n) “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.;

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

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

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

(r) "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 - Locomotives", "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; or

(s) "Production for Import into Oregon" means the out-of-state production of a fuel that will be imported into Oregon.

(100) "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.

(101) "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.

(102) "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.

[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 through 468A.277
History:
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

340-253-0060
Acronyms

The following acronyms apply to this division:

(1) "AFP" means Alternative Fuel Portal.

(2) “ASTM” means ASTM International (formerly American Society for Testing and Materials).

(3) “BEV” means battery electric vehicle.

(4) “CARB” means the California Air Resources Board.

(5) “CA-GREET” means the California Air Resources Board adopted version of GREET.

(6) “CFP” means the Clean Fuels Program established under OAR chapter 340, division 253.

(7) “CI” means carbon intensity.

(8) “CNG” means compressed natural gas.

(9) “CO2e” means carbon dioxide equivalents.

(10) “DEQ” means Oregon Department of Environmental Quality.

(11) “EER” means energy economy ratio.

(12) “EN” means a European Standard adopted by one of the three European Standardization Organizations.

(13) “EQC” means Oregon Environmental Quality Commission.

(14) “EV” means electric vehicle.

(15) “FEIN” means federal employer identification number.

(16) “FFV” means flex fuel vehicle.

(17) “FPC” means fuel pathway code.

(18) “gCO2e/MJ” means grams of carbon dioxide equivalent per megajoule of energy.

(19) “HDV” means heavy-duty vehicle.

(20) “HDV-CIE” means a heavy-duty vehicle compression ignition engine.

(21) “HDV-SIE” means a heavy-duty vehicle spark ignition engine.

(22) “L-CNG” means liquefied-compressed natural gas.

(23) “LDV” means light-duty vehicle.

(24) “LNG” means liquefied natural gas.

(25) “LPG” means liquefied petroleum gas.

(26) “LPGV” means liquefied petroleum gas vehicle.

(27) “MDV” means medium-duty vehicle.

(28) “mmBtu” means million British Thermal Units.

(29) “NGV” means natural gas vehicle.

(30) “PHEV” means partial hybrid electric vehicle.

(31) “PTD” means product transfer document.

(32) “REC” means Renewable Energy Certificate.

(33) “RFS” means the Renewable Fuel Standard implemented by the US Environmental Protection Agency.

(34) “scf” means standard cubic foot.

(35) “ULSD” means ultra low sulfur diesel.

(36) “WREGIS” means the Western Renewable Energy Generation Information System run by the Western Electricity Coordinating Council.

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 161-2018, 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

340-253-0100
Oregon Clean Fuels Program Applicability and Requirements

(1) Regulated parties.

(a) All persons that produce in Oregon, or import into Oregon, any regulated fuel must comply with the rules in this division.

(b) The regulated parties for regulated fuels are designated under OAR 340-253-0310 and must comply with sections (4) through (8) below;

(c) An out-of-state producer of ethanol, biodiesel, renewable diesel, alternative jet fuel, renewable natural gas, or renewable propane is not required to participate in the program.

Any out-of-state producer who chooses voluntarily to participate in the program in order to generate credits from the volumes of their fuel that is imported into Oregon must comply with sections (4), (5), (7), (8), and (9) below;

(d) Small importers of finished fuels are exempt from sections (6) and (7) below;

(e) Regulated parties must comply with OAR chapter 340, division 215.

(2) Credit generators.

(a) The following rules designate persons eligible to generate credits for each of the following fuel types:

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

(B) OAR 340-253-0330 for electricity;

(C) OAR 340-253-0340 for hydrogen fuel or a hydrogen blend; and

(D) OAR 340-253-0350 for alternative jet fuel.

(b) Any person eligible to be a credit generator, and that is not a regulated party, is not required to participate in the program. Any person who chooses voluntarily to participate in the program in order to generate credits must comply with sections (4), (5), (7), (8), and (9) below.

(3) Aggregator.

(a) Aggregators must comply with this section and sections (4), (5), (7), and (8) below.

(b) Aggregators facilitate credit generation and trade credits only if a regulated party or a credit generator has authorized an aggregator to act on its behalf by submitting an Aggregator Designation Form. An eligible credit generator may designate an aggregator for its credit generation. The only exception to that designation by a credit generator is the backstop aggregator designated under OAR 340-253-0330(7). A regulated party or credit generator already registered with the program may also serve as an aggregator for others.

(4) Registration.

(a) A regulated party must submit a complete registration application to DEQ under OAR 340-253-0500 for each fuel type on or before the date upon which that party begins producing the fuel in Oregon or importing the fuel into Oregon. The registration application must be submitted using DEQ approved forms.

(b) A credit generator must submit a complete registration application to DEQ under OAR 340-253-0500 for each fuel type before it may generate credits for fuel produced, imported,

or dispensed for use in Oregon. DEQ will not recognize credits allegedly generated by any person that does not have an approved, accurate and current registration.

(c) An aggregator must submit a complete registration application to DEQ under OAR 340-253-0500 and an Aggregator Designation Form each time it enters into a new contract with a regulated party, a credit generator, or another aggregator to facilitate credit generation or trade credits. Any violations by the aggregator may result in enforcement against both the aggregator and the party it was designated to act on behalf of.

(5) Records. Regulated parties, credit generators, and aggregators must develop and retain all records OAR 340-253-0600 requires.

(6) Clean fuel standards. Each regulated party must comply with the following standards for all transportation fuel it produces in Oregon or imports into Oregon in each compliance period. Each regulated party may demonstrate compliance in each compliance period either by producing or importing fuel that in the aggregate meets the standard or by obtaining sufficient credits to offset the deficits it has incurred for such fuel produced or imported into Oregon. The initial compliance period is for two years, 2016 and 2017, and after that compliance periods will be for each single calendar year.

(a) Table 1 under OAR 340-253-8010 establishes the Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes; and

(b) Table 2 under OAR 340-253-8010 establishes the Oregon Clean Fuel Standard for Diesel and Diesel Substitutes.

(7) Quarterly report. Each regulated party, credit generator, and aggregator must submit quarterly reports under OAR 340-253-0630, unless they are exempt under subsection (1)(b) or they are a credit generator solely registered for residential charging of electric vehicles.

(8) Annual report. Each regulated party, credit generator, and aggregator must submit an annual report under OAR 340-253-0650. Each regulated party must submit an annual report for 2016 notwithstanding that the initial compliance period is for 2016 and 2017.

(9) Voluntary participation. The voluntary participation in the program by any person shall conclusively establish that person's consent to be subject to the jurisdiction of the State of Oregon, its courts, and the administrative authority of DEQ to implement this program. If a person does not consent to such jurisdiction, then the person may not participate in the program.

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 8-2014, 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

340-253-0200
Regulated and Clean Fuels

(1) Applicability. In-state producers, out-of-state producers that have voluntarily registered under 340-253-0100(c)(1), and importers of transportation fuels listed in this rule, unless the fuel is exempt under OAR 340-253-0250, are subject to division 253.

(2) Regulated fuels include:

(a) Gasoline;

(b) Diesel;

(c) Ethanol;

(d) Biodiesel;

(e) Renewable hydrocarbon diesel;

(f) Any blends or constituents of the above fuels; and

(g) Any other liquid or non-liquid transportation fuel not listed in section (3).

(3) Clean fuels include:

(a) Bio-based CNG;

(b) Bio-based L-CNG;

(c) Bio-based LNG;

(d) Electricity;

(e) Fossil CNG;

(f) Fossil L-CNG;

(g) Fossil LNG;

(h) Hydrogen or a hydrogen blend;

(i) Fossil LPG;

(j) Renewable LPG, and

(k) Alternative jet fuel.

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

340-253-0310
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 a position holder, an importer of blendstocks or a large importer of finished fuels above the rack. If a regulated party transfers the fuel to a position holder, 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:

(A) 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

(B) 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:

(A) 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;

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

(C) 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.

(6) Fuel produced by a voluntarily registered out-of-state producer registered under OAR 340-253-0100(1)(c) is ineligible to generate credits or deficits unless and until it is imported into 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 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

340-253-0400
Carbon Intensities

(1) OR-GREET. Carbon intensities for fuels must be calculated using OR-GREET 3.0 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. Every three years, or sooner if DEQ determines that new information becomes available that warrants an earlier review, DEQ will 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, 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) Regulated parties, credit generators and aggregators must use the statewide average carbon intensities listed in Tables 3 and 4 under OAR 340-253-8010 and -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;

(D) Fossil LNG; and

(E) Fossil LPG.

(b) For electricity suppliers,

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

(B) Credit generators or aggregators may use a carbon intensity different from the statewide average under subsection (b)(A) if:

(i) The utility has applied for an individual carbon intensity under OAR 340-253-0470; or

(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(3).

(c) A hydrogen supplier may use the applicable value in Table 4 under OAR 340-253-8010, or apply for a specific carbon intensity under OAR 340-253-0450.

(4) Carbon intensities for established fuel pathways. Except as provided in sections (3) or (5), regulated parties, credit generators, and aggregators can use a carbon intensity that:

(a) CARB has certified for use in the California Low Carbon Fuel Standard program, as adjusted for fuel transportation distances and indirect land use change, and that has been reviewed and approved by DEQ as being consistent with OR-GREET 3.0; or

(b) Matches the description of a fuel pathway listed in Table 4 under OAR 340-253-8010. For Hydrogen produced using biomethane or renewable power, the producer of the hydrogen will have to demonstrate to DEQ that the value in Table 4 is appropriate for its production facility and must submit attestations on an annual basis that the renewable power and biomethane attributes, as applicable, were not claimed in any other program except for the federal RFS. Any such claims under the federal RFS must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP, or the claim under the CFP is invalid.

(5) Transition to OR-GREET 3.0.

(a) Pathways certified under OR-GREET or CA-GREET 2.0 will be deactivated by DEQ in the CFP Online System for reporting after the fourth quarter of 2020. Fuel pathway holders with pathways certified under OR-GREET or CA-GREET 2.0 that wish to keep generating credits from those fuels from January 1, 2021 onward must follow the pathway application and certification process in this rule to obtain a new pathway under OR-GREET 3.0, or request DEQ approval of a CARB-certified CA-GREET 3.0 pathway.

(b) Table 4 pathways. Entities reporting fuels using Table 4 pathways that do not require an application under subsection (a) will have those pathways automatically updated to the OR-GREET 3.0 values on January 1, 2019 for first quarter 2019 reporting.

(c) New pathway applications. DEQ will not consider new applications using OR-GREET 2.0.

(6) 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;

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

(C) Renewable diesel produced from conventional feedstocks (plant oils, tallow and related animal wastes and used cooking oil);

(D) Natural Gas; and

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

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

(A) Cellulosic alcohols;

(B) Biomethane from other sources;

(C) Hydrogen;

(D) Renewable hydrocarbons other than renewable diesel produced from conventional feedstocks;

(E) Biogenic feedstocks co-processed at a petroleum refinery

(F) Alternative Jet Fuel;

(G) Renewable propane; and

(H) 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.

(7) Specified source feedstocks. Fuels that are produced from a specified source feedstock may be eligible for a reduced carbon intensity score 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, 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) The specified source feedstocks are used in 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(9)(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 pathway approval condition .

(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.

(e) In order to maintain the pathway, the fuel production 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.

(8) The carbon intensity value certified under OAR 340-253-0450, including any margin of safety requested by the fuel producer, is the maximum carbon intensity value that a fuel can be reported in the CFP under. 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 shall not report fuel sales under any CFP carbon intensity unless the actual operational carbon intensity is equal to or less than the certified CI.

(9) Fuel producers labeling fuel sold in Oregon with a carbon intensity under the CFP and registered entities using those labeled carbon intensities to report in the CFP Online 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.

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 8-2014, 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 must provide:

(a) The application package submitted to CARB;

(b) The CARB-approved Tier 1 or Tier 2 CA-GREET 3.0 calculator, and the OR-GREET 3.0 equivalent with the fuel transportation and distribution cells modified for that fuel's pathway to Oregon;

(c) The CARB review report for the approved fuel pathway;

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

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

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

(B) A notification of any changes to the status of its CARB-approved provisional 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) 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).

(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.

(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:

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

(b) A positive verification statement from an approved verification body stating that it has reviewed and validated all of the data used to form the inputs for the Tier 1 calculator submitted under (a), or the invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, along with a summary of those invoices and receipts; and

(c) The most recent RFS third party engineering report, if one has been conducted for the facility.

(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 3.0 model must submit the following:

(a) A positive verification statement from an approved verificiation body stating that it has reviewed and validated all of the data used to form the inputs for the Tier 2 calculator submitted under (c), or the invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, and a summary of those invoices and receipts;

(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 days but less than 24 months, it can 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 CFP Online 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 quarterly 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 regulated party or credit generator 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(11).

(a) The request must:

(A) Be submitted within 45 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.

(9) Approval process to use carbon intensities for fuels other than electricity.

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

(A) Confirm that the proposed fuel pathway is consistent with OR-GREET 3.0; and

(B) Review the materials submitted under subsection (2).

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

(A) Replicate the calculator outputs; and

(B) Verify the energy consumption and other inputs.

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

(d) DEQ may impose conditions in its approval of the carbon intensity. 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 of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked.

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

(i) In order to maintain an active provisional pathway eligible to generate credits, the applicant must file the annual fuel pathway report and seek verification if required under OAR 340-272.

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

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

(iv) For pathways that are not subject to verification, DEQ may remove the provisional status upon review of 24 months of operational data demonstrating that the 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 pathway's approval is revoked by CARB then:

(i) The fuel pathway holder must inform DEQ within seven 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 pathway's use in Oregon at any time.

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

(v) Based on the underlying facts that led to CARB's modification of the pathway's status, within 30 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, 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 CFP Online System;

(C) Beginning in calendar year 2021, 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:

(i) 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;

(ii) The annual fuel pathway report for renewable electricity and hydrogen lookup table pathways, in lieu of the CI calculator, must include invoices or metering records substantiating the quantity of renewable or low-CI inputs procured from a qualifying source.;

(iii) If the fuel or fuel production process involves biomethane or renewable electricity, the fuel producer must provide the attestation regarding environmental attributes or proof of non-generation or retirement of any RECs as required by OAR 340-253-0640(1)(d) or OAR 340-253-0470(3)(d);

(iv) Any fuel pathway holder, including a joint applicant, who is not subject to site visits by a third party verifier, whose pathway involves the use of renewable or low-CI process energy, must submit invoices for that energy to the AFP. Additionally, for any electricity that is used to reduce the carbon intensity of electricity used as a transportation fuel or hydrogen production via electrolysis, the pathway holder must upload records demonstrating that any renewable energyenrgy certificates generated were retired in WREGIS for the purpose of lowering the certified CI, or for credit generation;

(v) 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. The information required to be submitted under this section must cover the same time period as the updated OR-GREET model required under subparagraph (i);

(vi) 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 pathway holder may elect to add a margin of safety to the new certified CI, and 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; and

(vii) If the operational CI is found to be greater than the certified CI, the fuel pathway holder is out of compliance with this division and may be subject to investigation and enforcement by DEQ;

(D) Comply with the requirements of this division and OAR chapter 340, division 272. Failure to timely submit an annual fuel pathway report or a required verification statement for a facility's pathways will result in the deactivation of those pathways; and

(E) If a 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) If DEQ determines the proposal for the 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.

(g) DEQ may modify an approved fuel pathway's CI or approval conditions upon receipt of a verification statement that shows that the verified operational CI is higher than the certified CI.

(h) Any applicant 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.

(10) Completeness determination process.

(a) For applications calculated using the Tier 1 or Tier 2 calculator, DEQ will determine whether the proposal is complete within 1 month after receiving a registration application.

(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 has 30 calendar days to determine if the supplemental submittal is complete, or to notify the party and identify the continued deficiencies. 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 registration application.

(11) 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 pathway codes) under OAR 340-253-8010. If any are approved, DEQ will post these additional pathway codes in the CFP Online System and on its public website for the Clean Fuels Program.

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

(b) If DEQ agrees with the request, it will post the proposed new substitute or temporary 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 and make any modifications if necessary.

(d) DEQ will publish its final decision on its website.

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

(12) Measurement accuracy.

(a) All measurement devices that log or record data for use in fuel pathway application smust comply with the manufacturer-recommeneded calibration frequency and precision requirements. If manufacturer-recommendations are not provided, the measurement devices must be calibrated 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. In such cases, the owner or operator may submit a written request to the DEQ to postpone calibration or inspection until the next scheduled maintenance outage. Such postponements are subject to the procedures of (A) and (B) below and must be documented in the monitoring plan required in OAR 340-253-0600.

(A) A written request for postponement must be submitted to DEQ not less than 30 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 ten (10) business days of a request for documentation.

(B) The request 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.

(13) 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.

(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 the DEQ.

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

(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 the DEQ.

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

340-253-0470
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 over the most recent five years and determining the average of the five values. For 2018 and beyond, the carbon intensities for electricity will be calculated using the rolling five-year average of data submitted to DEQ under OAR chapter 340, division 215. 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 CFP Online System effective for Q1 reporting for the next year.

(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 recent five years and determining the average of the five values.

(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 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 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.

(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 in the CFP online system from that facility must be retired in the REC tracking system.

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

340-253-0500
Registration

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

(a) To register as a regulated party, credit generator, aggregator, or 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, and EPA RFS identification numbers;

(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 transportation 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, the number of dispensing facilities located in Oregon and their locations and the estimated annual fuel throughput per location;

(F) For registrants charging electric vehicles, the number of chargers located in Oregon and their locations and the estimated annual discharge of electricity per location;

(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) Designate an aggregator to act on their behalf under OAR 340-253-0330(2) or (3); and

(iii) Obtain a utility-specific carbon intensity under OAR 340-253-0400;

(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 CFP Online System.

(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 CFP Online System 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 decides voluntarily to opt-out of the CFP. The credit generator or aggregator must provide a 90-day notice of intent to opt out of the CFP and a proposed effective date for the completion of the opt-out process.

(B) A regulated party, credit generator or aggregator that is cancelling its registration under this section must submit any outstanding quarterly reports and annual reports. Any regulated party must be in full compliance with the program's standards for the annual reports it submits, and any credit generator or aggregator must not have any outstanding deficits.

(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 CFP Online System 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) Starting in December 2020 and each December thereafter, registered parties must submit to DEQ an updated version of the list required in (1)(a)(D).

(2) Registering as a fuel producer.

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

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

(ii) 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 CFP Online System and comply with the requirements of this division and any conditions placed upon the fuel pathway codes that it holds.

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 8-2014, 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. Regulated parties, credit generators, and aggregators 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 described in OAR 340-253-0450;

(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.

(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 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.

(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.

(7) 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.

(8) Attestations regarding environmental attributes.

(a) An entity reporting any biomethane as a transportation fuel in the CFP, 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.

(b) Any such claims under the federal RFS must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP, or the claim under the CFP is invalid.

(c) The attestations must be made available to DEQ within seven days upon request by DEQ. Failure to provide such attestations is grounds for credit invalidation under OAR 340-253-0670.

(9) Monitoring plan for entities and fuel producers who are required to obtain verification services. Each entity responsible for obtaining verification or validation of their data under

division 272 must complete and retain a written Monitoring Plan for review by a verifier or DEQ. If a fuel production facility is been required to complete and maintain a monitoring plan by the California LCFS, the same monitoring plan may be used to meet the requirements of this rule unless the are substantive differences between the two programs' treatment of the fuel production process.

(a) 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 subarticle, 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 subarticle, 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 CFP Online 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(12);

(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) The monitoring plan must also include the following elements specific to fuel pathway carbon intensity calculations and produced quantities of fuels per fuel pathway code, as applicable:

(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 perscribed 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 transportation use in carbon intensity determination, and confirm feedstock and finished fuel transportation distance;

(I) All documentation required pursuant to OAR 340-253-0600(10) for specified source feedstocks, defined in OAR 340-253-0400(7)

(c) The monitoring plan must also include documentation that can be used to justify transaction types reported for fuel in the CFP Online System, including the production amount, sale/purchase agreements and final fuel dispensing records. 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.

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

(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.

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 8-2014, 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.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.

(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
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

340-253-0630
Quarterly Reports

(1) Quarterly reports. Except for persons exempt from this requirement under OAR 340-253-0100, regulated parties, credit generators, and aggregators must submit a quarterly progress report using the CFP Online System by:

(a) June 30 — for January through March of each year;

(b) September 30 — for April through June of each year;

(c) December 31 — for July through September of each year; and

(d) March 31 — for October through December of each previous year.

(2) General reporting requirements for quarterly reports.

(a) Quarterly reports must contain the information specified in Table 5 under OAR 340-253-8010 for each transportation fuel subject to the CFP.

(b) Reporters must upload the data for the quarterly reports in the CFP Online System within the first 45 days after the end of the quarter.

(c) During the second 45 days, reporters must work with each other to resolve any fuel transaction discrepancies between different reporters' reported transactions.

(d) In order to allow for carry-back credits to have been generated only in the applicable years, the Q1 report may not be submitted prior to May 1st.

(3) Conditions of submitting a quarterly report. In order to submit a quarterly report, a registered party must confirm the following statement by acceptance and certification in the CFP Online System:

"I, [Name of real person], as person with Signatory Authority, am submitting this report on behalf of [Company Name], with the understanding that the information contained in this report is considered an official submission to Oregon Department of Environmental Quality for purposes of compliance with the Clean Fuels Program (CFP) regulation. Furthermore, by submitting this report, I understand that I am bound by, and authenticate this record, and attest to the statements contained within. I also understand that submitting or attesting to false statements is prohibited under Oregon law, and may subject me to civil enforcement, criminal enforcement, or both. I certify that information supplied herein is correct and that I have the authority to submit this report on behalf of the company named above. As a condition of participating in the program, I acknowledge that credits are regulatory instruments that do not constitute personal property, instruments, securities or any other form of property, as provided in OAR 340-253-1005(1)(a). Credits and deficit calculations are subject to the provisions of OAR 340-253-0670, under which DEQ may, without limitation, correct errors should a regulated party or credit generator not do so themselves, place holds on credits and/or accounts as part of an inquiry, and invalidate credits or fuel pathway codes that were illegitimately generated or otherwise created in error. I acknowledge that DEQ may, at its discretion, place a hold on credits and accounts while DEQ undertakes any inquiry regarding such credits or accounts. Suspension, revocation, and/or modification actions by DEQ may be contested as provided under Oregon law."

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 8-2014, 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

(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 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 340-253-8010;

(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.

(7) Reporting Position Holder Transactions.

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

(b) Fuel sold to entities not registered in the CFP may be aggregated and reported in a single transaction using the "'Undefined' Business partner" transaction category.

(c) Fuel sold below the rack for export must identify the recipient if they are registered in the CFP.

(8) Reporting Below the Rack Exports. Purchasers of fuel from a position holder that is directly exported without modification must report such fuel using the "Purchase below the rack for export" transactioncategory.

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

340-253-0650
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 report using the CFP Online System, not later than 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
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

340-253-0670
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;

(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);

(g) Failure to submit a verification statement when it is required under OAR 340-272; or

(h) An adverse verification statement submitted under OAR 340-272.

(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

The following applications and reports are subject to third party verification requirements in accordance with OAR 340-272-0110:

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

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

(3) Quarterly reports submitted under OAR 340-253-0630; and

(4) 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:

340-253-1000
Credit and Deficit Basics

(1) Carbon intensities.

(a) Except as provided in subsections (b),(c), or (d), when calculating carbon intensities, regulated parties, credit generators, and aggregators must use a carbon intensity approved by DEQ under OAR 340-253-0450.

(b) If a regulated party, credit generator, or aggregator has an approved provisional carbon intensity approved under OAR 340-253-0450, the regulated party, credit generator, or aggregator must use the DEQ-approved provisional carbon intensity.

(c) If a regulated party, credit generator, or aggregator has an approved temporary carbon intensity under OAR 340-253-0450, the regulated party, credit generator, or aggregator 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 otherwise approved and posted by DEQ under OAR 340-253-0450(11) 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 otherwise approved and posted by DEQ under OAR 340-253-0450(11), 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. Regulated parties, credit generators, and aggregators must express fuel quantities in the unit of fuel for each fuel.

(3) Compliance period. The annual compliance period is January 1 through December 31 of each year, except:

(a) The initial compliance period is January 1, 2016, through December 31, 2017; and

(b) The initial compliance period for large importers of finished fuels is January 1, 2016 through December 31, 2018.

(4) Metric tons of CO2 equivalent. Regulated parties, credit generators, and aggregators must express credits and deficits to the nearest whole metric ton of carbon dioxide equivalent.

(5) Deficit and credit generation.

(a) Credit generation. A clean fuel credit is generated when fuel is produced, imported, or dispensed for use in Oregon, as applicable, and the carbon intensity of the fuel approved for use under OAR 340-253-0400 through -0470 is less than the clean fuel standard for gasoline and gasoline substitutes in Table 1 under OAR 340-253-8010, for diesel fuel and diesel substitutes in Table 2 under 340-253-8010, or for alternative jet fuel in Table 3 under 340-253-8010. Credits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

(b) Deficit generation. A clean fuel deficit is generated when fuel is produced, imported, or dispensed for use in Oregon, as applicable, and the carbon intensity of the fuel 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. Deficits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

(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.

(6) Mandatory retirement of credits. When filing the annual report at the end of a compliance period, a registered party that possesses credits must retire a sufficient number of credits such that:

(a) Enough credits are retired to completely meet the registered party's compliance obligation 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.

(7) Credit Retirement Hierarchy. The CFP Online System will use the following default hierarchy to retire credits for the purposes of meeting a compliance obligation, first retiring credits under subsection (a), next retiring credits under subsection (b), and last retiring credits under subsection (c):

(a) Credits acquired or generated in a previous compliance period prior to credits generated or acquired in the current compliance period;

(b) Credits with an earlier completed transfer "recorded date" before credits with a later completed transfer "recorded date;" and

(c) Credits generated in an earlier quarter before 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 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

340-253-1005
Transacting Credits

(1) General.

(a) Credits are a regulatory instrument and do not constitute personal property, instruments, securities or any other form of property.

(b) Regulated parties, credit generators, and aggregators may:

(A) Retain credits without expiration within the CFP in compliance with this division; and

(B) Acquire or transfer credits from or to other regulated parties, credit generators, and aggregators that are registered under OAR 340-253-0500.

(c) Regulated parties, credit generators, and aggregators may not:

(A) Use credits that have not been generated in compliance with this division; or

(B) Borrow or use anticipated credits from future projected or planned carbon intensity reductions.

(2) Credit transfers between registered parties.

(a) "Credit seller," as used in this rule, means a registered party that wishes to sell or transfer credits.

(b) "Credit buyer," as used in this rule, means a registered party that wishes to acquire credits.

(c) A credit seller and a credit buyer may enter into an agreement to transfer credits.

(d) A credit seller may only transfer credits up to the number of credits in the credit seller's CFP Online System account on the date of the transfer.

(3) Credit seller requirements. When parties wish to transfer credits, the credit seller must initiate an online "Credit Transfer Form" provided in the CFP Online System and must include the following:

(a) The date on which the credit buyer and credit seller reached their agreement;

(b) The names and FEINs of the credit seller and credit buyer;

(c) The first and last names and contact information of the persons who performed the transaction on behalf of the credit seller and credit buyer;

(d) The number of credits proposed to be transferred; and

(e) The price or equivalent value of the consideration (in US dollars) to be paid per credit proposed for transfer, excluding any fees. If no clear dollar value can be easily arrived at for the transfer, a price of zero must be entered and a qualitative decription of the transaction's valuation must be entered in the seller's notes field.

(4) Credit buyer requirements. Within 10 days of receiving the "Credit Transfer Form" from the credit seller in the CFP Online System, the credit buyer must confirm the accuracy of the information therein and may accept the credit transfer by signing and dating the form using the CFP Online System.

(5) If the credit buyer and credit seller have not fulfilled the requirements of sections (3) and (4) within 20 days of the seller initiating the credit transfer, the transaction will be voided. If a transaction has been voided, the credit buyer and credit seller may initiate a new credit transfer.

(6) Aggregator. An aggregator may only act as a credit seller or credit buyer if that aggregator:

(a) Has an approved and active registration under OAR 340-253-0500;

(b) Has an account in the CFP Online System; and

(c) Has an approved Aggregator Designation Form from a regulated party or credit generator for whom the aggregator is acting in any given transaction.

(7) Illegitimate credits.

(a) A registered party must report accurately when it submits information into the CFP Online System. If inaccurate information is submitted that results in the generation of one or more credits when such an assertion is inconsistent with the requirements of OAR 340-253-1000 through 340-253-1020, or a party's submission otherwise causes credits to be generated in violation of the rules of this division, those credits are illegitimate and invalid. If DEQ determines that one or more credits that a party has generated are illegitimate credits, then:

(A) If the registered party that generated the illegitimate credits still holds them in its account, DEQ will cancel those credits;

(B) If the registered party that generated the illegitimate credits has retired those credits to meet its own compliance requirement or if it has transferred them to another party, the party that generated the illegitimate credits must retire an approved credit to replace each illegitimate credit; and

(C) The party that generated the illegitimate credits is also subject to enforcement for the violation, as deemed appropriate in DEQ's discretion.

(b) A registered party that has acquired one or more illegitimate credits, but was not the party that generated the illegitimate credits:

(A) When the initial generator of the illegitimate credits has not retired approved credits in place of the illegitimate credits and DEQ determines that that initial generator is unlikely to be able to do so, then the party that has acquired such credits may have those credits canceled by DEQ if the party still holds the credits in its account, or if the party has used such illegitimate credits to meet its own compliance requirement, then DEQ may require the party to retire an approved credit to replace each such illegitimate credit that it retired to meet its compliance obligation;

(B) May be subject to enforcement at DEQ's discretion, unless DEQ determines that the party from whom the credits were acquired engaged in false, fraudulent, or deceptive trading practices.

(8) Prohibited credit transfers. A credit transfer involving, related to, in service of, or associated with any of the following is prohibited:

(a) Fraud, or an attempt to defraud or deceive using any device, scheme or artifice;

(b) Either party employed any unconscionable tactic in connection with the transfer;

(c) Any false report, record, or untrue statement of material fact or omission of a material fact related to the transfer or conditions that would relate to the price of the credits being transferred. A fact is material if it is reasonably likely to influence a decision by another party or by the agency;

(d) Where the intended effect of the activity is to lessen competition or tend to create a monopoly, or to injure, destroy or prevent competition;

(e) A conspiracy in restraint of trade or commerce; or

(f) An attempt to monopolize, or combine or conspire with any other person or persons to monopolize.

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 17-2017, renumbered from 340-253-1050, filed 11/06/2017, effective 11/06/2017
DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16
DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15

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) When fuels are exported from Oregon:

(a) Any bulk quantity of fuel that is exported must be reported by the person who holds title to the fuel when it is exported;

(b) If the exporter purchased the fuel with the compliance obligation, the exported fuels will not generate deficits or credits;

(c) If credits or deficits were generated and separated from the fuel through a transfer without obligation, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits detached from the fuel; and

(d) If the fuel was imported in one quarter and exported in another quarter, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits, respectively, associated with the fuel exported in the later quarter.

(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 airplanes 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
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 or 8 under OAR 340-253-8010, 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 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;

(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) For electricity used to power fixed guideway vehicles on track placed in service prior to 2012 and forklifts, credit and deficit 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) 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 annually 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 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 year's 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 once per year into the CFP Online System account of the utility, its designated aggregator, or the backstop aggregator within three months of the close of that year.

(f) Registered parties eligible to generate credits for the 2018 year also will generate credits for 2016 and 2017 residential electric vehicle charging.

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

340-253-8010
Tables

(1) Table 1 — Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

(2) Table 2 — Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

(3) Table 3 — Oregon Clean Fuel Standard for Alternative Jet Fuel

(4) Table 4 — Oregon Carbon Intensity Lookup Table

(5) Table 5 - Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

(6) Table 6 - Oregon Energy Densities of Fuels

(7) Table 7 - Oregon Energy Economy Ratio Values

(8) Table 8 – Oregon Substitute Fuel Pathway Codes

(9) Table 9 – Oregon Temporary Fuel Pathway Codes

(10) Table 10 – Indirect Land-Use Change Values

OAR 340-253-8010
Table 1
Oregon Clean Fuel Standard for Gasoline and Gasoline Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO2e per MJ)	Percent Reduction
2015	None (Gasoline Baseline is 98.62 for 2016-2017, 98.64 for 2018, and 98.06 for 2019 and beyond)	
2016*	98.37	0.25 percent
2017	98.13	0.50 percent
2018	97.66	1.00 percent
2019	96.59	1.50 percent
2020	95.61	2.50 percent
2021	94.63	3.50 percent
2022	93.15	5.00 percent
2023	91.68	6.50 percent
2024	90.21	8.00 percent
2025 and beyond	88.25	10.0 percent

*Initial compliance period is a two-year period for 2016 and 2017.

OAR 340-253-8010
Table 2
Oregon Clean Fuel Standard for Diesel Fuel and Diesel Substitutes

Calendar Year	Oregon Clean Fuel Standard (gCO2e per MJ)	Percent Reduction
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond)	
2016*	99.39	0.25 percent
2017	99.14	0.50 percent
2018	98.61	1.00 percent
2019	97.26	1.50 percent
2020	96.27	2.50 percent
2021	95.29	3.50 percent
2022	93.81	5.00 percent
2023	92.32	6.50 percent
2024	90.84	8.00 percent
2025 and beyond	88.87	10.00 percent
*Initial compliance period is a two-year period for 2016 and 2017.		

OAR 340-253-8010
Table 3
Oregon Clean Fuel Standard for Alternative Jet Fuel

Calendar Year	Oregon Clean Fuel Standard (gCO2e per MJ)
2015	None (Diesel Baseline is 99.64 for 2016-2017, 99.61 for 2018, and 98.74 for 2019 and beyond. The fossil jet baseline is 90.97.)
2019	90.80
2020	90.80
2021	90.80
2022	90.80
2023	90.80
2024	90.80
2025 and beyond	88.87

OAR 340-253-8010
Table 4
Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO2e/MJ) Total Lifecycle Emissions
Gasoline	ORGAS001	Clear gasoline - based on a weighted average of gasoline supplied to Oregon	100.14
	ORGAS002	Imported blended gasoline (E10) – 90% clear gasoline & 10% corn ethanol based on Midwest average. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.06
Diesel	ORULSD001	Clear diesel, based on a weighted average of diesel fuel supplied to Oregon	100.74
	ORULSD002	Imported blended diesel (B5) – 95% clear diesel & 5% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	98.74
	ORULSD003	Imported blended diesel (B20) – 80% clear diesel & 20% soybean biodiesel. Cannot be used to report exports except when the specific gallon was also imported under this fuel pathway code.	92.68
Compressed Natural Gas	ORCNG001	North American NG delivered via pipeline; compressed in OR	79.98
Liquefied Natural Gas	ORLNG001	North American NG delivered via pipeline; liquefied in OR using liquefaction with 80% efficiency	86.88
Liquefied Petroleum Gas	ORLPG001	Liquefied petroleum gas	80.88
Electricity	ORELEC100	Solar power, produced at or directly connected to the site of the	0

OAR 340-253-8010
Table 4
Oregon Carbon Intensity Lookup Table

Fuel	Pathway Identifier	Pathway Description	Carbon Intensity Values (gCO2e/MJ) Total Lifecycle Emissions
		charging station in Oregon, subject to OAR 340-253-0470 (3).	
	ORELEC101	Wind power, produced at or directly connected to the site of the charging station in Oregon, subject to OAR 340-253-0470 (3).	0
Hydrogen	ORHYF	Compressed H2 produced in Oregon from central steam methane reformation of North American fossil-based NG	120.68
	ORHYFL	Liquefied H2 produced in Oregon from central steam methane reformation of North American fossil-based NG	157.29
	ORHYB	Compressed H2 produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	116.76
	ORHYBL	Liquefied H2 produced in Oregon from central steam methane reformation of biomethane (renewable feedstock) from North American landfills	149.70
	ORHYEG	Compressed H2 produced in Oregon from electrolysis using Oregon average grid electricity	205.38
	ORHYEB	Compressed H2 produced in Oregon from electrolysis using BPA average grid electricity	31.65
	ORHYER	Compressed H2 produced in Oregon from electrolysis using solar- or wind-generated electricity	13.11

OAR 340-253-8010
Table 5
Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

Parameters to Report	Gasoline & Diesel Fuel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
Company or organization name	x	x	x	x	x
Reporting period	x	x	x	x	x
Fuel pathway code	x	x	x	x	x
Transaction type	x	x	x	x	x
Transaction date	x	x	x	x	x
Business Partner	x	x	x	x	x
Production Company ID and Facility ID	n/a	x	n/a	n/a	x
Physical transport mode code	x	x	x	x	x
Aggregation	x	x	x	x	x
Application / EER	x	x	x	x	x
Amount of each fuel used as gasoline replacement	x	x	x	x	x
Amount of each fuel used as diesel fuel replacement	x	x	x	x	x
*Credits/deficits generated per quarter (MT)	x	x	x	x	x
For Annual Compliance Reporting (in addition to the items above)					
*Credits and Deficits generated per year (MT)	x	x	x	x	x

OAR 340-253-8010
Table 5
Summary Checklist of Quarterly Progress and Annual Compliance Reporting Requirements

Parameters to Report	Gasoline & Diesel Fuel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
*Credits/deficits carried over from the previous year (MT), if any	x	x	x	x	x
*Credits acquired from another party (MT), if any	x	x	x	x	x
*Credits sold to another party (MT), if any	x	x	x	x	x
*Credits retired within LCFS (MT) to meet compliance obligation, if any	x	x	x	x	x

OAR 340-253-8010
Table 6
Oregon Energy Densities of Fuels

Fuel (unit)	MJ/unit
Gasoline (gallon)	122.48 (MJ/gallon)
Diesel fuel (gallon)	134.48 (MJ/gallon)
Compressed natural gas (therm)	105.5 (MJ/therms)
Electricity (kilowatt hour)	3.60 (MJ/kilowatt hour)
Denatured ethanol (gallon)	81.51 (MJ/gallon)
Clear biodiesel (gallon)	126.13 (MJ/gallon)
Liquefied natural gas (gallon)	78.83 (MJ/gallon)
Hydrogen (kilogram)	120.00 (MJ/kilogram)
Liquefied petroleum gas (gallon)	89.63 (MJ/gallon)
Renewable hydrocarbon diesel (gallon)	129.65 (MJ/gallon)
Undenatured anhydrous ethanol (gallon)	80.53 (MJ/gallon)
Alternative Jet Fuel (gallon)	126.37 (MJ/gallon)
Renewable naphthalene (gallon)	117.66 (MJ/gallon)

OAR 340-253-8010
Table 7
Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	**EER Value Relative to Gasoline**	**Fuel/Vehicle Combination**	**EER Value Relative to Diesel**	**Fuel/Vehicle Combination**	**EER Value relative to conventional jet**
Gasoline (including E10) or any other gasoline-ethanol blend	1	Diesel fuel (including B5) or any other blend of diesel and biodiesel or renewable hydrocarbon diesel	1	Alternative Jet Fuel	1
CNG Internal Combustion Engine Vehicle (ICEV)	1	CNG, LNG, or LPG (Spark-Ignition Engines)	0.9	- - -	
Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	3.4	CNG,LNG, or LPG(Compression-Ignition Engines)	1		
Electricity/On-Road Electric Motorcycle	4.4	Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	5		
Propane/Propane Forklift	0.9	Electricity/Battery Electric or Plug-in Hybrid Transit Bus	5		
Hydrogen/Fuel Cell Vehicle	2.5	Electricity/Fixed Guideway Light Rail	3.3		
- -	- -	Electricity/Fixed Guideway Streetcar	2.1		
- - - -		Electricity/Fixed Guideway Aerial Tram	2.6		

OAR 340-253-8010
Table 7
Oregon Energy Economy Ratio Values for Fuels

Light/Medium Duty Applications (Fuels used as gasoline replacements)		Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements)		Aviation Applications (Fuels used as jet fuel replacements)	
Fuel/Vehicle Combination	**EER Value Relative to Gasoline**	**Fuel/Vehicle Combination**	**EER Value Relative to Diesel**	**Fuel/Vehicle Combination**	**EER Value relative to conventional jet**
- - -		Electricity/Electric Forklift	3.8	- - -	
		Electricity/Electric TRU (eTRU)	3.4		
		Hydrogen/Fuel Cell Vehicle	1.9		
		Hydrogen/Fuel Cell Forklift	2.1		

OAR 340-253-8010
Table 8
Oregon Substitute Fuel Pathway Codes

Fuel	Fuel Pathway code	CI (gCO2e/MJ)
Substitute CI for Ethanol. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ETH0116	40
Substitute CI for Biodiesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	BIOD0116	15
Substitute CI for Renewable Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	RNWD0116	15
Substitute CI for E10 Gasoline. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORGAS0116	For 2019: 96.59 For 2020 and beyond: 96.00
Substitute CI for B5 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation,	ORULSD01165	For 2019: 97.26 For 2020 and beyond: 96.71

OAR 340-253-8010
Table 8
Oregon Substitute Fuel Pathway Codes

Fuel	Fuel Pathway code	CI (gCO2e/MJ)
exports, loss of inventory, not for transportation use, and exempt fuel use.		
Substitute CI for B20 Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.	ORULSD011620	84.45

OAR 340-253-8010
Table 9
Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO_2e/MJ)
Ethanol	Corn	Grid electricity, natural gas, and/or renewables	ORETH100T	77.8
	Sorghum	Grid electricity, natural gas, and/or renewables	ORETH101T	95
	Sugarcane and Molasses	Bagasse and straw only, no grid electricity	ORETH102T	55
	Any starch or sugar feedstock	Any	ORETH103T	100.14
	Corn Stover, Wheat Straw, or Sugarcane Straw	As specified in OR-Greet 2.0	ORETH104T	50
Biodiesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORBIOD200T	45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORBIOD201T	65
	Any feedstock	Any	ORBIOD202T	100.74
Renewable Diesel	Any feedstock derived from animal fats, corn oil, or a waste stream	Grid electricity, natural gas, and/or renewables	ORRNWD300T	45
	Any feedstock derived from plant oils except for Palm-derived oils	Grid electricity, natural gas, and/or renewables	ORRNWD301T	65

OAR 340-253-8010
Table 9
Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO_2e/MJ)
	Any feedstock	Any	ORRNWD302T	100.74
Biomethane CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORCNG500T	70
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORCNG501T	45
Biomethane LNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLNG501T	85
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLNG502T	60
Biomethane L-CNG	Landfill or Digester Gas	Grid electricity, natural gas, and/or renewables	ORLCNG502T	90
	Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste	Grid electricity, natural gas, and/or parasitic load	ORLCNG503T	65
Biomethane CNG, LNG, L-CNG	Dairy and Swine Manure	Grid electricity, natural gas, and/or parasitic load	ORLCNG504T	-150
Renewable LPG	Fats, Oils, and Grease residues	Grid electricity, natural gas, and/or renewables	ORRNWP400T	45

OAR 340-253-8010
Table 9
Oregon Temporary Fuel Pathway Codes for Fuels with Indeterminate CIs

Fuel	Feedstock	Process Energy	FPC	CI (gCO_2e/MJ)
	Any feedstock derived from plant oils (excluding palm and palm derivatives)	Grid electricity, natural gas, and/or renewables	ORRNWP401T	65
Electricity	Coal, Natural Gas, Hydroelectric Dams, Wind Mills, etc.	Oregon average electricity mix	ORELEC600T	135.00
Any Gasoline Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSG800T	100.14
Any Diesel Substitute Feedstock-Fuel Combination Not Included Above	Any	Any	ORSD801T	100.74

OAR 340-253-8010

Table 10

Oregon Summary of Indirect Land-Use Change Values for Crop-Based Biofuels

Feedstock	ILUC Value (gCO_2e/MJ)
Corn Ethanol	7.60
Sorghum Ethanol	19.40
Sugarcane Ethanol	11.80
Soybean Biodiesel or Renewable Diesel	29.10
Canola Biodiesel or Renewable Diesel	14.50
Palm Biodiesel or Renewable Diesel	71.40

State of Oregon Department of Environmental Quality

Division 272
Draft Rules

Greenhouse Gas Reporting and Third-Party Verification 2019

Note: These are all new rules so there are no changes highlighted.

Division 272

THIRD PARTY VERIFICATION

340-272-0010
Purpose and Scope

(1) The purpose of this division is to establish requirements for responsible entities that must engage the services of a verification body approved by DEQ to perform verification under this division for emissions data reports submitted under OAR chapter 340, division 215, reports or fuel pathway applications submitted under OAR chapter 340, division 253, or any combination therein, and to establish requirements for verification bodies and verifiers seeking DEQ approval to perform the third party verifications.

(2) This division supports the following programs:

(a) Greenhouse Gas Reporting Program as adopted under OAR chapter 340, division 215; and

(b) Clean Fuels Program as adopted under OAR chapter 340, division 253.

(3) LRAPA. Notwithstanding Lane Regional Air Protection 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.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0020
Definitions

The definitions in this rule and in OAR 340-200-0020, OAR 340-215-0020, and OAR 340-

253-0040, and the acronyms in OAR 340-253-0060 apply to this division. If the same term is defined in this rule and another division, the definition in this rule applies to this division.

(1) “Adverse verification statement” means a verification statement from a verification body that (either or both):

(a) It cannot say with reasonable assurance the submitted report or fuel pathway application is free of a material misstatement; or

(b) The submitted report or fuel pathway application contains correctable errors and thus is not in conformance with the requirements to fix such errors according to OAR 340-272-0435.

(2) “California ARB” means California Air Resources Board.

(3) “CFP” means the Oregon Clean Fuels Program established under OAR chapter 340, divison 253.

(4) “Conflict of interest” means a situation in which, because of financial or other activities or relationships with other persons or organizations, a verification body is unable or potentially unable to provide an impartial verification statement of a potential client’s report or fuel pathway application, or the verification body’s objectivity in providing verification services is or might be otherwise compromised.

(5) “Correctable errors” means errors identified by the verification team that affect data in the submitted report or fuel pathway application , which result from a nonconformance with OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable. Differences that, in the professional judgment of the verification team, are the result of differing but reasonable methods of truncation or rounding or averaging, where a specific procedure is not prescribed by this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, are not considered errors and therefore do not require correction.

(6) “DEQ” means Oregon Department of Environmental Quality.

(7) “Difference in CI” means the absolute value result of the reported operational CI minus the verifier’s calculation of CI for material misstatement of carbon intensity assessments for a CFP fuel pathway application or annual report. The verifier’s calculation of CI is based on site-specific data inputs modified to include discrepancies, omissions, and misreporting found during the course of verification services.

(8) “Full verification” means all verification services as required under OAR 340-272-0300(1).

(9) “GHG Reporting Program” means the Oregon Greenhouse Gas Reporting Program established under OAR chapter 340, division 215.

(10) “Independent reviewer” means a lead verifier within a verification body that has not participated in providing verification services for a responsible entity for the current

reporting year and provides an independent review of verification services provideded to the responsible entity.

(11) “Lead verifier” means a person that has met the requirements to perform such role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to act as the lead of a verification team providing verification services as described by this division.

(12) “Less intensive verification” means all verification services required for full verification, except for site visit(s) as described under OAR 340-272-0420, and only requiring data checks and document reviews based on the analysis and risk assessment in the most recent sampling plan developed as part of the most current full verification.

(13) “Material misstatement” means any discrepancy, omission, misreporting, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that reported data or a submitted report or fuel pathway application contains one or more errors, as described in OAR 240-272-0450, OAR 240-272-0455, and OAR 240-272-0460, as applicable.

(14) “Member” means any employee or subcontractor of the verification body or related entities of the verification body and includes any individual with majority equity share in the verification body or its related entities.

(15) “Nonconformance” means the failure to meet the applicable requirements of this division or the failure to meet requirements of OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable, to calculate or report data or submit a fuel pathway application.

(16) “Positive verification statement” means a verification statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway application is free of material misstatement and that it conforms to the requirements of this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable.

(17) “Professional judgment” means decisions based on professional qualifications and relevant greenhouse gas accounting and auditing experience.

(18) “Qualified positive verification statement” means a statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway application is free of material misstatement and has been corrected or modified in conformance with OAR 340-272-0435, but may include one or more other nonconformance(s) with the requirements of this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, which do not result in a material misstatement.

(19) “Quarterly review” means a review process conducted by the verification team after quarterly data is submitted and before annual data is submitted and verified.

(20) “Reasonable assurance” means high degree of confidence in the accuracy and truth of a conclusion.

(21) “Reported emissions reductions” means the total of all greenhouse gas emissions reductions reported in a CFP project report.

(22)“Reported Operational CI Value” means the absolute value of the operational CI submitted in a CFP fuel pathway application or annual report used for material misstatement of carbon intensity assessments.

(23) “Reported quarterly fuel transaction quantity for fuel pathway code” means the total of all reported fuel quantities for each fuel pathway code for each transaction type for each quarter in a CFP quarterly report for which the verifier is conducting a material misstatement of quarterly fuel quantity assessment.

(24) “Responsible entity” means a person that is subject to or voluntarily agrees to be subject to the requirements of OAR 340-272-0110, OAR 340-272-0120, or both.

(25) “Sector specific verifier” means a person that has met the requirements to perform such a role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to act as a sector specific verifier in providing verification services as described by this division. This may include, but is not limited to, demonstrating specialized experience in transactions, oil and gas systems, or process emissions.

(26) “Total reported emissions” means the total annual greenhouse gas emissions in a GHG Reporting Program emissions data report.

(27) “Validation statement” means the final statement produced by a verification body attesting whether a fuel pathway application is free of material misstatement and whether it conforms to the requirements of California ARB’s Low Carbon Fuel Standard.

(28) “Verification” or “third-party verification” means a systematic, independent, and documented process for evaluation of a report or fuel pathway application according to this division.

(29) “Verification body” means a business entity that has met the requirements under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to provide verification services and produce verification statements as described by this division.

(30) “Verification services” means services provided during full verification or less intensive verification, including but not limited to reviewing a report or fuel pathway application submitted by a responsible entity, assessing compliance with DEQ regulations, ensuring accuracy according to the standards specified by DEQ, and submitting a verification statement(s) to DEQ.

(31) “Verification statement” means the final statement produced by a verification body attesting whether a report or fuel pathway application submitted by a responsible entity is free of or contains material misstatement and whether it does or does not conform to the applicable requirements.

(32) “Verification team” means all persons working for a verification body, including all

subcontractors, to provide verification services.

(33) “Verifier” means an individual person that has met the requirements to perform such role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to provide verification services as described by this division.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0100
General Requirements for Verification of Reports and Fuel Pathway Applications

(1) The annual third party verification requirements set forth in this division apply beginning in 2022 for reports with data for calendar year 2021, and in each year thereafter.

(2) Each responsible entity must:

(a) Engage the services of a verification body to perform verification under this division;

(b) Do the following before verification services begin:

(A) Conduct a conflict of interest evaluation in coordination with the verification body according to OAR 340-272-0500 and develop a conflict of interest mitigation plan, if needed, according to OAR 340-272-0500. Submit both the evaluation and the plan, as applicable, to DEQ, and receive from DEQ approval in writing to proceed with verification services; and

(B) Submit to DEQ the report that is to be verified and attest that the data submitted to DEQ in the report is true, accurate, and complete;

(c) Ensure that a verification statement is submitted to DEQ from the verification body for each report identified under OAR 340-272-0110 and OAR 340-272-0120 by the deadline specified under section (3); and

(d) Ensure the requirements of this division are met, including but not limited to, ensuring that verification services are provided in compliance with the requirements of OAR 340-272-0300 and that a potential for a conflict of interest is evaluated, monitored, and mitigated according to OAR 340-272-0500;

(3) Verification deadlines.

(a) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from a verification body by August 31 of the year a report is submitted, for each report identified below:

(A) Any CFP report, as applicable under OAR 340-272-0110; and

(B) Any GHG Reporting Program emissions data report described under OAR 340-215-0044(1)(a) through (d), and (g), as applicable under OAR 340-272-0120.

(b) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from a verification body by September 15 of the year a report is submitted, for each GHG Reporting Program emissions data report described under OAR 340-215-0044(1)(e) and (f), as applicable under OAR 340-272-0120.

(c) DEQ may extend verification deadlines in subsections (a) or (b) as necessary and will issue notice of any extensions.

(4) Requirements for full or less intensive verification. Responsible entities required to engage the services of a verification body to perform annual verification under this division of CFP quarterly reports under OAR 340-272-0110(3), GHG Reporting Program emissions data reports under OAR 340-272-0120(1), or both must do so according to the following:

(a) Engage the services of a verification body to provide full verification, as described by this division, in the first year that verification is required under section (1), and then in at least every third year thereafter.

(b) For up to two years out of every three year period, less intensive verification may be provided by a verification body in place of full verification if:

(A) There has not been a change in the verification body;

(B) A positive verification statement was issued for the previous year; and

(C) No change of operational control of the responsible entity occurred in the previous year.

(c) A verification body may choose to provide full verification, at its discretion, in instances where the responsible entity has made changes in sources, significant changes in emissions, significant changes in data management systems, or any combination therein, occurred compared to the previous year, based on the professional judgment of the verification body.

(A) The verification body must provide reasons why it opted for full verification to the responsible entity and to DEQ.

(B) The verification body must provide justification in the verification report if it did not opt for full verification in instances where the total reported emissions differ by greater than 25 percent relative to the previous year's emissions.

(5) Verification body and verifier rotation requirements.

(a) A responsible entity must not use the same verification body or verifier(s) to perform verification under this division for a period of more than six consecutive years.

(b) A responsible entity must wait at least three years before re-engaging the previous verification body or verifier(s) to perform verification under this division.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0110
Requirements for Verification of CFP Reports and Fuel Pathway Applications Submitted under OAR Chapter 340, Division 253

(1) Optional verification of CFP fuel pathway (carbon intensity or CI) applications.

(a) Fuel pathway applicants supplying site-specific CI data for the fuel pathway application are not required to meet the requirements of this division or engage the services of a verification body to perform verification under this division for each fuel pathway application submitted under OAR chapter 340, division 253.

(b) Fuel pathway applications that have been verified according to the requirements of this division, including site visit(s), will be prioritized for approval by DEQ.

(A) Fuel pathway applicants that choose to engage the services of a verification body to perform verification under this division may do so once a list of approved verification bodies and verifiers qualified to verify CFP fuel pathway applications is made available on DEQ's website according to OAR-340-272-0220(1)(d)(B).

(B) Fuel pathway applicants submitting fuel pathway applications to DEQ that have been verified according to the requirements of this division must submit the verification statement at the same time that the application is submitted.

(C) A fuel pathway application submitted to DEQ that includes an adverse verification statement will not be considered.

(c) Fuel pathway applications submitted to DEQ that have been verified under California ARB's Low Carbon Fuel Standard may submit to DEQ materials relating to that verification.

(A) Fuel pathway applications submitted to DEQ that include a positive or qualified positive validation statement under California ARB's Low Carbon Fuel Standard will be prioritized for approval by DEQ.

(B) Fuel pathway applications submitted to DEQ that include an adverse validation statement under California ARB's Low Carbon Fuel Standard will not be considered.

(C) Any verification statements for the fuel pathway under California ARB's Low Carbon Fuel Standard must also be submitted at the same time that the fuel pathway application and validation statement are submitted to DEQ.

(2) 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 section (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 under subsection (a) required 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 days of 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 prior to 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 under this division and ensure a fuel pathway verification statement for each annual fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(3) 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 section (b):

(A) 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.

(B) Except as provided in (b), reporters of volumes for any of the following transaction types must engage the services of a verification body to perform verification under this division for the following transaction types:

(i) All liquid fuels, including:

(I) Production in Oregon;

(II) Import;

(III) Export;

(IV) Gain of inventory;

(V) Loss of inventory;

(VI) Not used for transportation; and

(VII) Transactions used to claim exempt uses under OAR 340-253-0250;

(ii) NGV fueling; and

(iii) Propane fueling.

(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 during the previous calendar year. For the purposes of this rule, any credits or deficits generated by persons that are related entities or share common ownership or control must be aggregated together to determine whether or not the exemption applies;

(B) Persons reporting fuel transactions only in one or more of the transaction types Export, Gain of inventory, Loss of inventory, and Not used for transportation if all the following conditions are met:

(i) All such transactions do not generate 6,000 or more total credits and deficits 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.

(4) Annual verification of CFP annual project reports.

(a) Applicability. The following responsible entities 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)(D):

(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 through 468A.277

340-272-0120
Requirements for Verification of GHG Reporting Program Emissions Data Reports Submitted under OAR Chapter 340, Division 215

(1) Annual verification of GHG Reporting Program emissions data reports.

(a) Applicability. The following regulated entities must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification of the entire emissions data report under this division, including required site visit(s), for each separate emissions data report submitted under OAR chapter 340, division 215, except as otherwise provided under section (b):

(A) A regulated entity submitting an emissions data report as described under 340-215-0044(1) that indicates emissions equaled or exceeded 25,000 metric tons of CO2e, excluding CO2 from biomass-derived fuels;

(B) A third party that is not the Bonneville Power Administration (BPA) that registers and submits an emissions data report on behalf of a consumer-owned utility for emissions, data, and information submitted for each individual utility with emissions that equaled or exceeded 25,000 metric tons of CO2e, excluding CO2 from biomass-derived fuels and excluding emissions associated with preference power purchased from BPA; and

(C) A regulated entity that submitted an emissions data report that indicated emissions exceeded the threshold in paragraph (A) in the prior year, but that is submitting an emissions data report that indicates emissions are reduced below that applicability threshold in the current reporting year.

(b) Exemptions. The following are not subject to the requirements of this division:

(A) A regulated entitiy submitting an emissions data report as described under 430-215-0044(1) that indicates emissions were less than 25,000 metric tons of CO2e, excluding CO2 from biomass-derived fuels. For the purposes of this rule, any GHG emissions in an emissions data report as described under 340-215-0044(1)(c) submitted by fuel suppliers or in-state producers that are related entities or share common ownership or control must be aggregated together to determine whether or not the exemption applies;

(B) An emissions data report as described under 340-215-0044(1)(a) that includes emissions data and information described in 40 C.F.R. part 98 subpart HH – Municipal Solid Waste Landfills;

(C) An emissions data report as described under 340-215-0044(1)(d) submitted by a natural gas supplier that is an interstate pipeline; and

(D) Any emissions data report as described under 340-215-0044(1)(e) submitted by Bonneville Power Administration (BPA) acting as a third-party reporter on behalf of any consumer-owned utility, as allowable under OAR 340-215-0120(4).

(c) Verification schedule. Responsible entities under subsection (a) required to engage the

services of a verification body to perform verification of emissions data reports must ensure a verification statement for each emissions data report is submitted to DEQ according to OAR 340-272-0100.

(A) These requirements are in addition to the requirements in 40 C.F.R. 98.3(f).

(B) An asset-controlling supplier that submitted an emissions data report to DEQ as described under 340-215-0044(1)(f) that includes the same data and information reported to and verified under California ARB's Mandatory Reporting of Greenhouse Gas Emissions program may submit the same verification statement to DEQ. If an adverse verification statement is received, a current issues log must also be submitted to DEQ.

(2) Cessation of verification requirement.

(a) Responsible entities must have an emissions data report verified for the first year that the report indicates emissions are reduced below the applicability threshold defined in paragraph (1)(a)(A). An emissions data report is not subject to verification in any following year thereafter where emissions remain below the threshold.

(b) A responsible entity that meets the verification cessation requirements for two consecutive years must notify DEQ in writing in the second year that it is ceasing the verification requirement according to this paragraph and provide the reason(s) for cessation of verification. The notification must be submitted no later than the applicable reporting deadline under OAR chapter 340, division 215 for that year.

(c) If in any subsequent year after meeting verification cessation requirements an emissions data report meets the applicability requirements of subsection (1)(a), the responsible entity must have the emissions data report verified according to the requirements of this division, and verification must continue until the cessation requirement is met again.

Statutory/Other Authority: ORS 468.020, 468A.050, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, & 468A.280

340-272-0210
Applications and Criteria for DEQ Approval of Verification Bodies and Verifiers

(1) Application for approval. A business entity or person seeking DEQ approval or renewal of DEQ approval to perform verification under this division as a verification body or verifier must submit an application to DEQ, on a form approved by DEQ, that includes the following information:

(a) For verifier applications, a statement about whether the application is for approval as a verifier, a lead verifier, or a sector specific verifier;

(b) A statement about which specific types of emissions data reports submitted under OAR chapter 340, division 215, fuel pathway applications or specific types of CFP reports submitted under OAR chapter 340, division 253, or any combination therein, for which the applicant is seeking approval to perform verification;

(c) Documentation demonstrating that the person or business entity holds the accreditation requirements described in section (2);

(d) Additional information as required by sections (2) through (7), as applicable;

(e) A certification that the person or business entity agrees to comply with and be subject to the requirements of this division in relation to all verification work for responsible entities; and

(f) Any other information requested by DEQ that DEQ determines is relevant to determine whether to approve the applicant.

(2) Application information and accreditation criteria for approval.

(a) Any person or business entity that wants to perform verification under this division must hold active accreditation under at least one of the following programs:

(A) California ARB's Low Carbon Fuel Standard program (LCFS);

(B) California ARB's Mandatory Reporting of Greenhouse Gas Emissions program (MRR);

(C) American National Standards Institute for Greenhouse Gas Validation/Verification Bodies (ANSI); or

(D) A substantially equivalent program to one of the programs described in paragraphs (A), (B), or (C) approved by DEQ.

(b) Approval to provide verification services for CFP reports or fuel pathway applications submitted under OAR chapter 340, division 253 requires accreditation under California ARB's LCFS, or a substantially equivalent program approved by DEQ.

(c) Approval to provide verification services for emissions data reports submitted under OAR chapter 340, division 215 requires accreditation under California ARB's MRR, ANSI, or a substantially equivalent program approved by DEQ.

(d) Submit additional information in the application with details of accreditatation and verification experience, including but not limited to, recognition or designation as a lead verifier or sector specific verifier, and sector specific accreditations by California ARB or organization-level sector accreditations by ANSI, as applicable, to demonstrate qualifications to provide verification services for specific types of emissions data reports submitted under OAR chapter 340, division 215, fuel pathway applications or specific types of CFP reports submitted under OAR chapter 340, division 253, or any combination therein.

(3) Application information and criteria for approval for a verification body. To be approved as a verification body, the applicant must also submit the following information to DEQ in the application:

(a) A list of all verification staff and subcontractors and a description of their duties and

qualifications, including DEQ-approved verifiers on staff. The applicant must demonstrate staff qualifications by listing each individual's education, experience, professional licenses, accreditations, status as verifier, lead verifier, or sector specific verifier, and other relevant information. A verification body must employ and retain at least two lead verifiers;

(b) A list of any judicial proceedings, enforcement actions, or administrative actions filed against the verification body within the previous five years, with an explanation as to the nature of the proceedings;

(c) Documentation that demonstrates that the body maintains a minimum of four million U.S. dollars of professional liability insurance;

(d) Identification of services provided by the verification body, the industries that the body serves, and the locations where those services are provided;

(e) A detailed organizational chart that includes the verification body, its management structure, and any related entities; and

(f) The verification body's internal conflict of interest policy that identifies activities and limits to monetary or non-monetary gifts that apply to all employees and procedures to monitor potential conflicts of interest.

(4) Application information and criteria for approval as a verifier. To be approved as a verifier, the applicant must also submit the following information to DEQ in the application:

(a) Applicants must indicate their employer or affiliated verification body on the application; and

(b) Applicants must must demonstrate verification qualifications by providing information on education, experience, professional licenses, accreditations, status as verifier, lead verifier, or sector specific verifier, and other relevant information or other personal development activities that demonstrate communication, technical, and analytical skills necessary to perform verification. Evidence demonstrating necessary skills may include, but is not limited to:

(A) A bachelor's level college degree or equivalent in engineering, science, technology, business, statistics, mathematics, environmental policy, economics, or financial auditing; or

(B) Work experience in a professional role involved in emissions data management, emissions technology, emissions inventories, environmental auditing, financial auditing, life cycle analysis, transportation fuel production, or other technical skills necessary to perform verification.

(5) Application information and criteria for approval as a lead verifier for the GHG Reporting Program. To be approved as a lead verifier for verification of emissions data reports submitted under OAR chapter 340, division 215, in addition to submitting information as required by section (4), the applicant must also submit documentation to DEQ in the application indicating that at least one of the following qualifications are met:

(a) The verifier is accredited as a lead verifier by California ARB for the Mandatory Reporting of Greenhouse Gas Emissions program;

(b) The verifier is designated as a lead verifier by the ANSI-accredited verification body with which it is employed or affiliated; or

(c) The verifier is designated as a lead verifier by a substantially equivalent accreditation program to one of the programs described in section (a) or (b) approved by DEQ.

(6) Application information and criteria for approval as a lead verifier for the CFP. To be approved as a lead verifier for verification of CFP reports or fuel pathway applications submitted under OAR chapter 340, division 253, in addition to submitting information as required by section (4), the applicant must also submit the following documentation to DEQ in the application:

(a) Indication that verifier is accredited as a lead verifier by California ARB for the Low Carbon Fuel Standard program, or is designated as a lead verifier by a substantially equivalent accreditation program approved by DEQ.

(b) To be approved as a lead verifier for verification of CFP fuel pathway applications or annual fuel pathway reports, the applicant must also submit documentation to DEQ in the application that demonstrates experience in alternative fuel production technology and process engineering.

(c) To be approved as a lead verifier for verification of CFP project reports and quarterly reports submitted by producers and importers of gasoline or diesel, the applicant must submit documentation to DEQ in the application that demonstrates experience with oil and gas systems. This evidence may include accreditation as an oil and gas systems sector specific verifier.

(7) Application information and criteria for approval as a sector specific verifier. To be approved as a sector specific verifier, in addition to submitting information as required by section (4), the applicant must also submit documentation to DEQ in the application demonstrating at least two years of professional experience related to the sector in which the individual is seeking approval.

(8) Verification training and exam requirements.

(a) To be approved by DEQ, individual applicants must take DEQ-approved general verification training, sector specific verification training, CFP specific verification training, and GHG Reporting Program specific verification training, as made available and deemed applicable by DEQ based on the application submitted to DEQ and for the type of approval the applicant has requested.

(b) Applicants must receive a passing score of greater than an unweighted 70 percent on an exit examination.

(A) If the applicant does not pass the exam after the training, the applicant may retake the

exam a second time.

(B) Only one retake of the examination is allowed before the applicant must retake the applicable training.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0220
DEQ Review and Approval of Verification Bodies and Verifiers

(1) DEQ review and approval process.

(a) After receipt of an application under OAR 340-272-0210, DEQ will inform the applicant either that a submitted application is complete or that additional specific information is required to make the application complete. If the application is incomplete, DEQ will not consider the application further until the applicant provides the additional information requested by DEQ.

(b) DEQ will review complete applications to prescreen and ensure all requirements are met. DEQ will notify an applicant in writing which verification training(s) and exam(s) are required to be completed according OAR 340-272-0210(8). An applicant may choose to take trainings and exams in addition to those required by DEQ.

(c) DEQ will not consider or issue final approval until DEQ finds an application for approval as a verification body or verifier is complete and meets all applicable requirements under OAR 340-272-0210(1) and all required verification training(s) and exam(s) as deemed applicable by DEQ under subsection (b), have been completed according to OAR 340-272-0210(8).

(d) Following completion of the application process and all applicable training and examination requirements, DEQ will notify the applicant in writing if approval has been granted or denied.

(A) DEQ may issue approval to verification bodies, verifiers, lead verifiers, and sector specific verifiers that apply and meet the requirements under OAR 340-272-0210 and successfully complete verification training(s) and exam(s) as required under OAR 340-272-0210(8).

(B) DEQ approval will be limited to certain report types, data types, sources of emissions, or sectors, according to the information in the application and the qualifications of the applicant, and based on DEQ's determination of whether the applicant demonstrates, to DEQ's satisfaction, sufficient knowledge of the relevant methods and requirements in this division, OAR chapter 340, division 215, and OAR chapter 340, division 253, as applicable.

(C) DEQ will maintain a current list of approved verification bodies, verifiers, lead verifiers, and sector specific verifiers on DEQ's website.

(e) DEQ approval is valid for a period of three years from the date the approval is issued by DEQ. The applicant may re-apply for approval as a verification body, verifier, lead verifier, or sector specific verifier any time, following the same application procedures according to OAR 340-272-0210, and must satisfy all DEQ-approved training and examination requirements applicable at the time of re-application.

(2) Requirements to maintain approval.

(a) Except as provided under subsection (c) below, a verification body, verifier, lead verifier, or sector specific verifier must notifiy DEQ within 30 days of when it no longer meets the requirements for approval under OAR 340-272-0210, as applicable.

(b) A verification body must notify DEQ of any verifier staffing changes within 30 days of any such change as these changes are considered an amendment to the verification body's approval.

(c) DEQ must be notified immediately if a verification body or verifier loses or withdraws from accreditation under any program specified or approved under OAR 340-272-0210(2)(a).

(d) Within 20 days of being notified of any nonconformance in another voluntary or mandatory greenhouse gas emissions reporting program or fuels program, a DEQ-approved verification body or verifier must provide written notice to DEQ of the non-conformance, including a copy of any written notification of nonconformance from the agency or body that administers the program, and information about any corrective actions taken by the verification body or verifier. That notification must include reasons for the corrective action and the type of corrective action. The verification body or verifier must provide additional information to DEQ upon request.

(e) Verification bodies and verifiers must provide in a reasonably timely manner any and all information that DEQ reasonably requires for the purpose of evaluating continued compliance with the requirements of this division, including the criteria for approval.

(3) Modification, suspension, or revocation of DEQ approval.

(a) DEQ may modify, suspend, or revoke an approval to perform verification if a verification body or verifier:

(A) Fraudulently obtained or attempted to obtain accreditation under any program specified under OAR 340-272-0210(2)(a);

(B) Fraudulently obtained or attempted to obtain approval from DEQ under this division;

(C) Failed at any time to satisfy the eligibility criteria and requirements specified under OAR 340-272-0210;

(D) Does not satisfy the requirements to maintain approval according to section (2);

(E) Provided verification services that failed to meet the requirements under OAR 340-272-0300(1) and (3);

(F) Violated the conflict of interest requirements under OAR 340-272-0500; or

(G) Knowingly or recklessly submitted false or inaccurate information or verification statement(s) to DEQ.

(b) A verifier or verification body that is subject to a DEQ action to modify, suspend, or revoke an approval to perform verification may contest DEQ's action by providing DEQ with a written request for a hearing within 20 days of being notified of DEQ's action.

(A) The hearing will be conducted as a contested case under ORS 183.413 through 183.470 and OAR chapter 340, division 11.

(B) Any DEQ action taken in subsection (a) will remain in place pending the outcome of the contested case.

(c) A verification body or verifier that has had approval to perform verification revoked may re-apply according to OAR 340-272-0210 after the applicant demonstrates to DEQ that the cause of the revocation has been resolved.

(4) Voluntary withdrawal from DEQ approval. An approved verification body or verifier may request to voluntarily withdraw its approval by providing a written notice to DEQ requesting such withdrawal.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0300
Requirements for Verification Services

(1) Verification services provided and completed must meet the requirements of OAR 340-272-0405 through OAR 340-272-0495, as applicable to the type of CFP report or fuel pathway application submitted under OAR chapter 340, division 253 or emissions data report submitted under OAR chapter 340, division 215.

(2) Requirements for responsible entities.

(a) Responsible entities must engage the services of a verification body that meets the requirements and criteria under OAR 340-272-0210 and has been approved by DEQ under 340-272-0220 to perform verification under this division for the type of verification services applicable to the responsible entity.

(b) A responsible entity that has been notifed by DEQ or by it's verification body that the verification body's DEQ approval has been suspended or revoked, must engage the services of a different DEQ-approved verification body to perform verification.

(c) Each responsible entity must ensure that the verification services provided on its behalf meet the requirements of this division.

(d) Records retention and availability requirements.

(A) Responsible entities must retain records necessary for completing verification services and records requested by the verification team according to the recordkeeping requirements of OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable.

(B) Responsible entities must retain for verification purposes and make available to the verification team the following:

(i) All information and documentation used to calculate and report emissions, fuel quantities, and fuels and electricity transactions;

(ii) All data and information required by or submitted under OAR chapter 340, division 215 or OAR chapter 340, division 253; and

(iii) Other data and information as necessary in order for verification services to be completed.

(C) Responsible entities must maintain documentation to support any revisions made to the initial report or fuel pathway application submitted to DEQ as a result of verification. Documentation for all submittals must be retained by the responsible entity in paper or electronic format, or both, for a period of at least seven years.

(3) Requirements for verification bodies and verifiers.

(a) Eligibility to perform verification.

(A) A verification body or verifier must meet the requirements and criteria of OAR 340-272-0210 and must have DEQ approval under OAR 340-272-0220 to be eligible to perform verification under this division.

(B) Verifiers must be employed by, or contracted with a DEQ-approved verification body in order to provide verification services under this division.

(b) Subcontracting.

(A) Any verification body that elects to subcontract a portion of verification services must meet the following requirements:

(i) The verification body must assume full responsibility for verification services provided by subcontractor verifiers.

(ii) A verification body may not use subcontractors to meet the minimum lead verifier requirements as specified under OAR 340-272-0210(3)(a).

(iii) A verification body may not use a subcontractor as the independent reviewer.

(B) All subcontractors must apply for and meet the requirements and criteria for DEQ approval under OAR 340-272-0210 and be approved by DEQ under OAR 340-272-0220 in order to provide the verification services for which the subcontractor has been engaged by the verification body.

(c) A verification body must notify all responsible entities with which it is currently engaged to provide verification services or that have received verification services from it within the past six months of a modification relevant to the verification services or of suspension or revocation of DEQ approval of the body or any of its verifiers, lead verifiers, sector specific verifiers, or subcontractors within ten days of DEQ's final determination under OAR 340-272-0220(3) and may not continue to provide verification services.

(d) Records retention.

(A) Verification bodies that provide verification services under this division must retain documentation relating to verification in paper or electronic format, or both, for a period of at least seven years following the submission of each verification statement.

(B) The documentation must allow for a transparent review of how a verification body reached its conclusion in the verification statement, including independent review. At a minimum, the documentation retained must include:

(i) Report(s) or fuel pathway application(s) submitted by the responsible entity to DEQ for which verification services are being provided;

(ii) Contracts for verification;

(iii) Verification plan(s);

(iv) Sampling plan(s);

(v) Verification report(s);

(vi) Verification statement(s); and

(vii) Any other documentation, calculations, and verification notes developed as part of providing and completing verification services.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0350
DEQ Review and Approval of Verification and Re-verification Requirements

(1) DEQ review of verification.

(a) In addition to any other enforcement authority DEQ may have, DEQ retains full authority in determining whether to approve, modify, or reject any verification statement submitted to DEQ for a report or fuel pathway application by a verification body on behalf of a responsible entity under this division.

(b) DEQ may issue an adverse verification statement for a report or fuel pathway application, if it has information to support such a conclusion, even if it has received a positive verification statement from a verification body.

(c) DEQ may also issue an adverse verification statement for:

(A) Failure to submit a complete or accurate fuel pathway application or annual or quarterly report in a timely manner;

(B) Failure to conduct or complete third-party verification as required by this division; or

(C) Any other violation of this division, OAR chapter 340, division 215, or OAR chapter 340, division 253.

(2) Re-verification requirements.

(a) DEQ may not accept a positive or qualified positive verification statement submitted to DEQ by a verification body and require the responsible entity to have a report or fuel pathway application re-verified by a different verification body within 90 days if:

(A) DEQ finds a high level of conflict of interest existed between a verification body and a responsible entity;

(B) DEQ finds a potential conflict of interest has arisen between the responsible entity and the verification body or any verifier engaged by the responsible entity to perform verification through monitoring as required under OAR 340-272-0500(8);

(C) DEQ makes a determination that any of the bases for modification, suspension, or revocation of DEQ approval under OAR 340-272-0220(3)(a) for a verification body or verifier engaged by the responsible entity to perform verification have occurred, had impacted on the verification services provided, or impacted the verification statement(s) submitted to DEQ;

(D) An error is identified that affects the emissions in an emissions data report(s) submitted under OAR chapter 340, division 215, or the credit or deficit calculations in a CFP report(s) or fuel pathway application(s) submitted under OAR chapter 340, division 253; or

(E) A report that received a positive or qualified positive verification statement fails DEQ verification or audit under OAR 340-272-0355.

(b) In instances where an error is identified and determined by DEQ to not affect the emissions in an emissions data report(s) submitted under OAR chapter 340, division 215, or the credit or deficit calculations in a CFP report(s) or fuel pathway application(s) under OAR chapter 340, division 253, a correction may be made without a set aside of the positive or qualified positive verification statement.

(c) A verification body may not continue to provide verification services to a responsible entity, and the responsible entity must have any report(s) or fuel pathway application(s) verified by a different verification body upon receiving notification from the verification body with which it is currently engaged to provide verification services of either of the following:

(A) A modification to DEQ approval of the verification body or any members of the verification team that is relevant to the verification services being performed; or

(B) Suspension or revocation of DEQ approval of the verification body or any members of the verification team.

(d) A responsible entity that must have a report or fuel pathway application verified by a different verification body according to subsection (c) may contact DEQ if it believes it cannot meet the applicable verification deadline under OAR 340-272-0100(3) and must receive written approval from DEQ of any extended deadline(s).

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0355
DEQ Data Requests and Audits

(1) DEQ data requests and audits of responsible entities.

(a) Upon written request by DEQ, the responsible entity must provide the data used to generate a report or fuel pathway application including all data made available to the verification team engaged by the responsible entity to perform verification, within 14 calendar days of DEQ's request.

(b) Upon written notification by DEQ, the responsible entity must make itself, its personnel, and other entities in its feedstock and finished fuel supply chain, as applicable, available for a DEQ audit.

(2) DEQ data requests and audits of verification bodies.

(a) Upon written request by DEQ, the verification body must provide to DEQ the verification

report given to the responsible entity, as well as the sampling plan, contracts for verification, and any other supporting documents, within 14 calendar days.

(b) Upon written notification by DEQ, the verification body must make itself and its personnel available for a DEQ audit.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0405
Notice of Verification Services

(1) The responsible entity must ensure the verification body submits a notice of verification services to DEQ that meets the requirements of this rule. The notice of verification services must be submitted after DEQ has provided a determination that the potential for a conflict of interest is acceptable as specified under OAR 340-272-0500(7) and that verification services may proceed.

(a) If the conflict of interest evaluation submitted by the responsible entity and the notice of verification services submitted by the verification body are submitted at the same time, verification services may not begin until DEQ has determined the potential for conflict of interest is acceptable in writing.

(b) Except as provided in section (a), the verification body may begin verification services for the responsible entity after the notice of verification services is received by DEQ, but must allow a minimum of 14 calendar days advance notice of a site visit unless an earlier date is approved by DEQ.

(c) Verification services may not begin until after the responsible entity has submitted to DEQ the report that is subject to verification and attests that the data and information contained in the report is true, accurate, and complete.

(2) The verification notice must include the following information:

(a) A list of the staff designated to provide verification services as a verification team, including the names of each individual, the lead verifier, and all subcontractors, and a description of the roles and responsibilities each member will have during verification. The independent reviewer must also be listed separately.

(b) Documentation that the verification team has the skills required to provide verification services for the responsible entity and type of report or fuel pathway application requiring verification. When required by DEQ, the notice must include a demonstration that the verification team includes at least one individual approved by DEQ as a sector specific verifier that is not also the independent reviewer, but may be the lead verifier.

(c) General information about the responsible entity, including the following, as applicable:

(A) Name and list of facilities and other locations that will be subject to verification, and contact, address, telephone number, and e-mail address for each facility;

(B) The industry sector, North American Industry Classification System (NAICS) code, or source identification number for reporting facilities under OAR chapter 340, division 215.;

(C) The CFP ID(s) for the responsible entity under OAR chapter 340, division 253.;

(D) The date(s) of the site visit if full verification is being provided and if required under OAR 340-272-0420, with physical address and contact information.; and

(E) A brief description of expected verification services to be provided, including expected completion date and whether quarterly review is planned in the context of an annual verification requirement.

(3) The responsible entity must ensure the verification body submits an updated notice of verification services to DEQ immediately if any of the information under section (2) changes after the notice of verification services is submitted to DEQ. The conflict of interest must be reevaluated and information must be resubmitted according to OAR 240-272-0500. Verification services must be suspended until DEQ approves the resubmitted conflict of interest evaluation information in writing.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0410
Scoping Verification Services

(1) The responsible entity and the verification team must discuss the activities and scope of the verification services and there must be a transfer of information and documents that are needed for initial verification services.

(2) The verification team must review original documents and supporting data provided to them by the responsible entity.

(3) The verification team must create a draft sampling plan and verification plan prior to any site visit(s).

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0415
Verification Plan

(1) Verification services must include the development of a verification plan that meets the requirements of this rule.

(2) All verification plans must contain information on the timing of verification services, including:

(a) Dates of proposed meetings and interviews with with personnel of the responsible entity;

(b) Dates of proposed site visits;

(c) Types of proposed document and data reviews and, for CFP reports submitted under OAR chapter 340, division 253, how quarterly review is planned in the context of an annual verification requirement, as applicable; and

(d) Expected date for completing verification services.

(3) In addition to the information required under section (2), verification plans for verification services provided for CFP reports and fuel pathways applications submitted under OAR chapter 340, division 253 must also include the following information from the responsible entity:

(a) Information to allow the verification team to develop an understanding of facility or entity boundaries, operations, accounting practices, type of CFP report(s) the person is responsible for, CFP regulatory sections the responsible entity is subject to, other renewable or low carbon fuels markets the responsible entity participates in, and other mandatory or voluntary auditing programs the responsible entity is subject to, as applicable;

(b) Information regarding the training or qualifications of personnel involved in developing the report(s) or fuel pathway application(s);

(c) Description of the specific methodologies used to quantify and report data, including but not limited to calibration procedures and logs for measurement devices capturing site-specific data;

(d) Information about the data management system and accounting procedures used to capture and track data for each fuel pathway application and each type of CFP report as needed to develop the verification plan;

(e) Information about the entities in the supply chain upstream and downstream of the fuel producer that contribute to site-specific CI data, including a list of feedstock suppliers and contact names with physical addresses;

(f) Evidence demonstrating that any joint applicants are being separately verified; and

(g) Previous CFP verification reports, as applicable, and other audit reports including reports from production or management system certifications and internal audits.

(4) In addition to the information required under section (2), verification plans for

verification services provided for GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must also include the following information from the responsible entity:

(a) Information to allow the verification team to develop a general understanding of facility or entity boundaries, operations, emissions sources, and electricity or fuel transactions, as applicable;

(b) Information regarding the training or qualifications of personnel involved in developing the emissions data report;

(c) Description of the specific methodologies used to quantify and report greenhouse gas emissions, electricity and fuel transactions, and associated data as needed to develop the verification plan;

(d) Information about the data management system used to track greenhouse gas emissions, electricity and fuel transactions, and associated data as needed to develop the verification plan; and

(e) Previous GHG Reporting Program verification reports.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0420
Site Visits

(1) Verification services must include site visit(s) that meet the requirements of this rule.

(2) Site visit(s) conducted as part of verification services for verification of CFP reports and fuel pathway applications submitted under OAR chapter 340, division 253 must meet the requirements of this section.

(a) Site visits must occur after all data and CFP reports for the previous calendar year have been attested to and submitted to DEQ, except that a site visit conducted as part of a quarterly review may substitute for this requirement if:

(A) No aspects of the data management systems or accounting practices change following the site visit; and

(B) There are no significant changes to the fuel production process or facility when the verification is for an annual fuel pathway report.

(b) At least one DEQ-approved lead verifier on the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit, during each year full verification is required under OAR 340-272-0100(4), to each facility; and, if different from

the fuel production facility, the central records location for which the records supporting a report or fuel pathway application subject to verification are submitted.

(c) A separate site visit is required if a responsible entity elects to engage the services of a verification body to provide verification services for verification of a fuel pathway application.

(d) The following must be conducted during a site visit:

(A) Review supporting evidence used to develop CFP reports submitted to DEQ.

(B) Review and understand the data management systems and accounting practices used by the responsible entity to acquire, process, track, and report CFP data. Evaluate the uncertainty and effectiveness of these systems.

(C) Carry out tasks that, in the professional judgment of the verification team, are needed in the verification process, including the following, at minimum:

(i) Conduct interviews with key personnel, such as process engineers, metering experts, accounting personnel, and project operators, as well as staff involved in compiling data and preparing the CFP reports;

(ii) Make direct observations of production equipment, confirming diagrams for processes, piping, and instrumentation; measurement system equipment; and accounting systems for data types determined in the sampling plan to be high risk;

(iii) Assess conformance with measurement accuracy, data capture, temporary measurement method requirements, and the monitoring plan for consistency with the requirements of OAR chapter 340, division 253; and

(iv) Review financial transactions to confirm complete and accurate reporting.

(3) Site visit(s) conducted as part of verification services for verification of GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must meet the requirements of this section.

(a) Site visits must occur after all data and emissionds data reports for the previous calendar year have been attested to and submitted to DEQ.

(b) At least one approved verifier in the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit, during each year full verification is required under OAR 340-272-0100(4), to each facility for which an emissions data report is submitted. The headquarters or other location of central data management must be visited when the responsible entity is an electricity supplier or fuel supplier, including natural gas suppliers.

(c) The following must be conducted during a site visit:

(A) Check that all sources specified under OAR 340-215-0030, as applicable to the responsible entity are identified appropriately.

(B) Review and understand the data management systems used by the responsible entity to track, quantify, and report greenhouse gas emissions and, when applicable, electricity and fuel transactions. Evaluate the uncertainty and effectiveness of these systems.

(C) Carry out tasks that, in the professional judgment of the verification team, are needed in the verification process, including the following, at minimum:

(i) Conduct interviews with key personnel, such as process engineers and metering experts, as well as staff involved in compiling data and preparing the emissions data report;

(ii) Make direct observations of equipment for data sources and equipment supplying data for sources determined in the sampling plan to be high risk;

(iii) Assess conformance with measurement accuracy, data capture, and missing data substitution requirements for consistency with the requirements of OAR chapter 340, division 215, as applicable; and

(iv) Review financial transactions to confirm fuel and electricity purchases and sales, and to confirm the complete and accurate reporting of required data such as facility fuel suppliers, fuel quantities delivered, and the entity from which fuel was received.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0425
Sampling Plan

(1) Verification services must include the development of a sampling plan that meets the requirements of this rule.

(2) All sampling plans must meet the following requirements:

(a) The sampling plan must be developed based on a strategic analysis developed from document reviews and interviews to assess the likely nature, scale, and complexity of the verification services for a responsible entity and type of report or fuel pathway application. The analysis must review the inputs for the development of the submitted report(s) and fuel pathway application(s), the rigor and appropriateness of data management systems, and the coordination within the responsible entity's organization to manage the operation and maintenance of equipment and systems used to develop submitted report(s) and fuel pathway application(s).

(b) The sampling plan must be revised to describe tasks completed as information becomes available and potential issues emerge with material misstatement or nonconformance.

(c) The sampling plan must be retained according to the recordkeeping requirements of OAR 340-272-0300(3)(d). The sampling plan must be made available to DEQ upon request.

(3) In addition to meeting the requirements under section (2), sampling plans for verification services provided for CFP reports and fuel pathway applications submitted under OAR chapter 340, division 253 must also meet the requirements of this section.

(a) The sampling plan must include a ranking of data sources by relative contribution to the data type to be assessed for material misstatement and a ranking of data sources with the largest calculation uncertainty, including risk of incomplete reporting, based on type of report or fuel pathway application.

(b) The sampling plan must include a qualitative narrative of uncertainty risk assessment in the following areas as applicable:

(A) Data acquisition equipment;

(B) Data sampling and frequency;

(C) Data processing and tracking;

(D) Tracking of fuel transportation into Oregon to include modes of transportation and distances traveled, as applicable for CFP fuel pathway applications or annual fuel pathway reports;

(E) CI calculations, as applicable;

(F) Fuel pathway code allocation methodology, as applicable; or

(G) Management policies or practices in developing CFP reports.

(c) After the verification team completes the strategic analysis and risk assessment, the sampling plan must be revised to include a list with the following information in paragraphs (A) through (C). The sampling plan list must be updated and finalized prior to the completion of verification services. The final sampling plan must describe in detail how the identified risks were addressed during the verification. When quarterly reviews are conducted as part of annual verification services, the final sampling plan must describe in detail how the risks and issues identified for the annual data set were addressed during each quarterly review and final annual verification. The sampling plan list must include the following:

(A) Data sources that will be targeted for document reviews, data checks as specified under OAR 340-272-0430, and an explanation of why they were chosen;

(B) Methods used to conduct data checks for each data type; and

(C) A summary of the information analyzed in the data checks and document reviews conducted for each data type.

(d) Specified source feedstocks included in CFP fuel pathway applications and annual fuel pathway reports that require verification must be included in the scope of verification services. When verification is not required for a fuel pathway, specified source feedstocks must be included in the scope of verification of the CFP quarterly reports. The verification team must use professional judgment and include in its risk assessment and sampling plan its analysis of the need for a desk review or site visit for verification of any entity in the feedstock chain of custody. This analysis must include an evaluation of the need to trace feedstock through feedstock suppliers, including aggregators, storage or pretreatment facilities, and traders or brokers, to the point of origin. If an error is detected during data checks of records maintained by the responsible entity, the risk assessment and sampling plan must be updated to assure specified source feedstock characterization and quantities to the point of origin.

(4) In addition to meeting the requirements under section (2), sampling plans for verification services provided for GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must also meet the requirements of this section.

(a) The sampling plan must include a ranking of emissions sources by amount of contribution to total reported emissions (metric tons of CO2e) for the responsible entity and a ranking of emissions sources with the largest calculation uncertainty. As applicable and deemed appropriate by the verification team, fuel and electricity transactions must also be ranked or evaluated relative to the amount of fuel or power exchanged and uncertainties that may apply to data provided by the responsible entity including risk of incomplete reporting.

(b) The sampling plan must include a qualitative narrative of uncertainty risk assessment in the following areas, as applicable:

(A) Data acquisition equipment;

(B) Data sampling and frequency;

(C) Data processing and tracking;

(D) Emissions calculations;

(E) Data reporting; and

(F) Management policies or practices in developing emissions data reports.

(c) After the verification team completes the strategic analysis and risk assessment, the sampling plan must be revised to include a list with the following information in paragraphs (A) through (C). The sampling plan list must be updated and finalized prior to the completion of verification services. The final sampling plan must describe in detail how the identified risks were addressed during the verification. The sampling plan list must include the following:

(A) Emissions sources and transactions, as applicable, that will be targeted for document reviews, and data checks as specified under OAR 340-272-0430, and an explanation of why

they were chosen;

(B) Methods used to conduct data checks for each source or transaction; and

(C) A summary of the information analyzed in the data checks and document reviews conducted for each emissions source or transaction targeted.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0430
Data Checks

(1) Verification services must include data checks that meet the requirements of this rule.

(2) General requirements applicable to all data checks.

(a) Data checks must be used to determine the reliability of the submitted report or fuel pathway application and to ensure that the appropriate methodologies and emissions factors have been applied as required under OAR chapter 340, division 253 or OAR chapter 340, division 215, as applicable.

(b) Data checks must be chosen to ensure the accuracy of data submitted in the report or fuel pathway application.

(c) The verification team must use professional judgment in establishing the extent of data checks required in order to conclude with reasonable assurance whether each data type or reported emissions quantity in the report or fuel pathway application is free of material misstatement.

(d) Data checks must be used to ensure that there is reasonable assurance that the report or fuel pathway application conforms to the requirements of OAR chapter 340, division 253 or OAR chapter 340, division 215, as applicable.

(e) Results calculated by the verification team must be compared with the data in the report or fuel pathway application in order to confirm the extent and impact of any omissions and errors. Any discrepancies must be investigated.

(3) In addition to meeting the requirements under section (2), data checks for CFP reports and fuel pathway applications submitted under OAR chapter 340, division 253 must also meet the requirements of this section.

(a) Data checks must be chosen based on the relative contribution to greenhouse gas emissions or reductions and the associated risks of contributing to material misstatement or nonconformance, as indicated in the sampling plan.

(b) At a minimum, data checks must include:

(A) Tracing data in the fuel pathway application or CFP report to its origin;

(B) Reviewing the procedure for data compilation and collection;

(C) Recalculating intermediate and final data to check original calculations;

(D) Reviewing calculation methodologies used by the responsible entity for conformance with OAR chapter 340, division 253; and

(E) Reviewing meter and analytical instrumentation measurement accuracy and calibration for consistency with the requirements of OAR chapter 340, division 253, as applicable.

(c) In the comparison of the verification team's calculated results with reported data, the comparison of data checks must also include the following:

(A) A narrative to indicate which data were checked;

(B) The types and quantity of data evaluated;

(C) The percentage of reported source data covered by data checks; and

(D) Any separate discrepancies that were identified in the CFP report or fuel pathway application.

(4) In addition to meeting the requirements under section (2), data checks for GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must also meet the requirements of this section.

(a) Data checks must be used for emissions sources and fuel and electricity transactions data, as applicable, based on their relative contributions to emissions and the associated risks of contributing to material misstatement or nonconformance, as indicated in the sampling plan.

(b) At a minimum, data checks must include:

(A) Tracing data in the emissions data report to its origin;

(B) Recalculating emissions estimates to check original calculations;

(D) Reviewing calculation methodologies used by the responsible entity for conformance with OAR chapter 340, division 215; and

(E) Reviewing meter and fuel analytical instrumentation measurement accuracy and calibration for consistency with the requirements of OAR chapter 340, division 215, as applicable.

(c) In addition to ensuring with reasonable assurance that the emissions data report conforms to the requirements of OAR chapter 340, division 215, the review of conformance must

ensure the following information is correctly reported, as applicable:

(A) For facilities that combust natural gas, natural gas supplier customer account number, service account identification number, or other primary account identifier(s);

(B) For suppliers of natural gas, end user names, account identification numbers, and natural gas deliveries are reported using the appropriate units; and

(C) Energy generation, disposition information, and electricity purchases and acquisitions.

(d) In the comparison of the verification team's calculated results with reported data, the comparison of data checks must also include the following:

(A) A narrative to indicate which sources and transactions were checked;

(B) The types and quantity of data that were evaluated for each source and transaction;

(C) The percentage of reported emissions covered by data checks; and

(D) Any separate discrepancies that were identified in emissions data.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0435
Modifications to Reports and Fuel Pathway Applications

(1) As a result of data checks conducted by the verification team and prior to completion of a verification statement(s), the responsible entity must fix all correctable errors that affect the data in the submitted report or fuel pathway application, and submit a revised report or fuel pathway application to DEQ.

(a) Failure to fix all correctable errors identified prior to the completion of the verification services and submit a revised report or fuel pathway application to DEQ will result in an adverse verification statement.

(b) Failure to fix misreported data that do not affect credit or deficit calculations in CFP reports submitted under OAR chapter 340, division 253 represents a nonconformance but does not, absent other errors, result in an adverse verification statement.

(c) Failure to fix misreported data that do not affect emissions in emissions data reports submitted under OAR chapter 340, division 215 represents a nonconformance but does not, absent other errors, result in an adverse verification statement.

(2) Correctable errors must be determined using professional judgment of the verification team, including whether differences are not errors but result from truncation, rounding, or

averaging.

(3) The source of any difference identified by the verification team must be documented, including whether the difference results in a correctable error or whether the difference does not require further investigation because it is the result of truncation, rounding, or averaging.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0440
Findings

(1) To verify that the report or fuel pathway application is free of material misstatements, the verification team must make its own determination of emissions for checked sources or make its own calculation of specified data types reported by substituting the checked data from OAR 340-272-0430, as applicable.

(a) The verification team must determine whether there is reasonable assurance that the CFP report or fuel pathway application submitted under OAR chapter 340, division 253 does not contain a material misstatement as calculated according to OAR 340-272-0450 or OAR 340-272-0455, as applicable.

(b) The verification team must determine whether there is reasonable assurance that the GHG Reporting Program emissions data report submitted under OAR chapter 340, division 215 does not contain a material misstatement in emissions as calculated according to OAR 340-272-0460.

(2) To assess conformance, the verification team must review the methods and factors used to develop the report or fuel pathway application for adherence to the requirements of this division and ensure that the requirements of OAR chapter 340, division 215 and OAR chapter 340, division 253 are met, as applicable.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0445
Log of Issues

(1) A log must be kept that documents any issues identified in the course of verification that may affect determinations of material misstatement and nonconformance, whether identified by the verification team, by the responsible entity regarding the original or subsequent submitted reports, or by DEQ.

(2) The issues log must identify the regulatory section related to the material misstatement,

nonconformance, or potential nonconformance, if applicable, and indicate if the issues were corrected by the responsible entity prior to completing the verification services.

(3) Any other concerns with the preparation of the report or fuel pathway application must be documented in the issues log and communicated to the responsible entity during the course of verification services.

(4) The log of issues must indicate whether each issue has a potential bearing on material misstatement, nonconformance, or both, and whether an adverse verification statement may result if not addressed.

(5) If quarterly review is conducted before an annual verification for CFP reports submitted under OAR chapter 340, division 253, any issues identified must be formalized according to this rule in the log of issues during the quarterly review. The log of issues for the annual verification must include the cumulative record of issues from all quarterly reviews, as well as the annual verification.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0450
Material Misstatement Assessments for CFP Fuel Pathways and Quarterly Fuel Transactions Submitted under OAR Chapter 340, Division 253

(1) Separate assessments of material misstatement must be conducted on each calculated operational CI value and each quarterly fuel transaction quantity per fuel pathway code (expressed in units from the applicable sections of OAR chatper 340 division 253). Material misstatement assessments are not conducted for quarterly review.

(2) Material misstatement of carbon intensity.

(a) Each fuel pathway CI is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of its carbon intensity. The inputs and annual operational carbon intensity for fuel pathway codes that are not a recertification of a California Fuel Pathway Code(s) but have an active California Fuel Pathway Code(s) must be assessed.

(b) Material misstatement of carbon intensity includes any discrepancy, omission, or misreporting, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported operational CI (grams of carbon dioxide equivalent per megajoule or gCO2e/MJ) in a CFP fuel pathway application or report contains one or more errors that, individually or collectively, result in an overstatement or understatement more than five percent of the reported operational CI, or 2 gCO2e/MJ, whichever absolute value expressed in gCO2e/MJ is greater.

(A) Discrepancies include any differences between the reported site-specific CI inputs and

the verifier's calculated site-specific CI inputs subject to data checks under OAR 340-272-0430.

(B) Omissions include any site-specific CI inputs or associated source data the verifier concludes must be part of a fuel pathway application or report, but were not included.

(C) Misreporting includes duplicate, incomplete, or other CI input data the verifier concludes should or should not be part of a fuel pathway application or report.

(c) One or more material misstatements of carbon intensity will result in a finding of material misstatement for the fuel pathway application or report.

(d) A controlled version of the Simplified CI Calculator for Tier 1 pathways, a DEQ-approved OR-GREET for Tier 2 pathways, or another substantially equivalent model approved by DEQ for the specific fuel pathway application under OAR 340-253-0400(1), as applicable, must be populated to assess whether a fuel pathway application or report contains a material misstatement of carbon intensity.

(e) The following equations for percent error, relative error threshold, and absolute error threshold must be used to determine whether any reported operational CI value contains a material misstatement of carbon intensity and must be included in the final verification report according to OAR 340-272-0495.

$$\text{Percent error (CI)} = (\sum |\text{Difference in CI}| \div |\text{Reported Operational CI}|) \times 100\%$$

$$\text{Relative error threshold (CI)} = |\text{Difference in CI}| \geq 0.05 \times |\text{Reported Operational CI Value}|$$

$$\text{Absolute error threshold (CI)} = |\text{Difference in CI}| \geq 2 \text{ g } CO_2e/MJ$$

(3) Material misstatement of quarterly fuel quantity per fuel pathway code.

(a) Each aggregated quarterly fuel quantity per fuel pathway code is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of quartery fuel quantity.

(b) Material misstatement of quarterly fuel quantity includes any discrepancy, omission, or misreporting, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported fuel quantity per fuel pathway code per quarter in a CFP quarterly report contains one or more errors that, individually or collectively, result in an overstatement or understatement greater than five percent.

(A) Discrepancies include any differences between the fuel quantity for the fuel pathway code reported and the verifier's review of calculation of fuel quantity subject to data checks under OAR 340-272-0430.

(B) Omissions include any fuel quantity the verifier concludes must be part of a quarterly report, but was not included.

(C) Misreporting includes duplicate, incomplete, or other fuel quantity data the verifier concludes should or should not be part of a quarterly report.

(c) One or more material misstatements of quarterly fuel quantity will result in a finding of material misstatement for the annual verification of the quarterly fuel quantity per fuel pathway code.

(d) The following equation for percent error must be used to determine whether any quarterly fuel quantity per fuel pathway code contains a material misstatement of quarterly fuel quantity and must be included in the final verification report according to OAR 340-272-0495.

Percent error (fuel quantity) = (∑(Discrepencies + Omissions + Misreporting) ÷ Reported quarterly fuel transaction quantity for fuel pathway code) × 100%

(4) When evaluating material misstatement of quarterly fuel quantity, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.271, & 468A.277
Statutes/Other Implemented: ORS 468A.010, 468A.015, & 468A.265 through 468A.277

340-272-0455
Material Misstatement Assessments for CFP Project Reports Submitted under OAR Chapter 340, Division 253

(1) Each project report must be assessed separately for material misstatement of project data.

(2) Material misstatement of project data includes any discrepancy, omission, or misreporting, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the project report contains one or more errors that, individually or collectively, result in an overstatement greater than five percent of the responsible entity's reported emissions reductions.

(a) Discrepancies include any differences between the reported emissions reductions and the verifier's calculated value based on data checks under OAR 340-272-0430.

(b) Omissions include any emissions, excluding any emissions reductions, the verifier concludes must be part of a project report, but were not included.

(c) Misreporting includes duplicate, incomplete, or other emissions or emissions reductions data the verifier concludes should or should not be part of a project report.

(3) A material misstatement of project data is not found when discrepancies, omissions, or misreporting, or an aggregation of the three, result in an understatement of reported emissions reductions in the project report.

(4) The following equation for percent error must be used to determine whether the greenhouse gas reductions quantified and reported in the project report contain a material

misstatement of project data and must be included in the final verification report according to OAR 340-272-0495.

Percent error (project data) = (∑(Discrepencies + Omissions + Misreporting) ÷ Reported emissions reduction) × 100%

(5) Any discrepancies, omissions, or misreporting found must include the positive or negative impact on the reported emissions reductions when entered in the equation in section (4).

(6) When evaluating material misstatement of project data, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.271, & 468A.277
Statutes/Other Implemented: ORS 468A.010, 468A.015, & 468A.265 through 468A.277

340-272-0460
Material Misstatement Assessments for Emissions Data Submitted under OAR Chapter 340, Division 215

(1) Each emissions data report must be assessed separately for material misstatement of total reported emissions.

(2) Material misstatement of emissions data includes any discrepancy, omission, or misreporting, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the total reported emissions (metric tons of CO2e) in a GHG Reporting Program emissions data report contains errors greater than five percent.

(a) Discrepancies include any differences between the reported emissions and the verifier's review of emissions for a data source subject to data checks under OAR 340-272-0430.

(b) Omissions include any emissions the verifier concludes must be part of an emissions data report, but were not included.

(c) Misreporting includes duplicate, incomplete, or other emissions the verifier concludes should or should not be part of an emissions data report.

(3) Each emissions data report is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of emissions data.

(4) The following equation for percent error must be used to determine whether the total reported emissions in an emissions data report contain a material misstatement of emissions data and must be included in the final verification report according to OAR 340-272-0495.

Percent error (emissions) = (∑(Discrepencies + Omissions + Misreporting) ÷ Total reported emissions) × 100%

(5) When evaluating material misstatement, correctly substituted missing data must be

deemed to be accurate, regardless of the amount of missing data.

Statutory/Other Authority: ORS 468.020, 468A.050, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, & 468A.280

340-272-0465
Review of Missing Data Substitution

(1) If a source selected for a data check was affected by a loss of data used for the reported data in the report or fuel pathway application, the verification team must confirm that the reported data or reported emissions for that source were calculated using any missing data procedures as required under OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable, that a reasonable temporary data collection procedure was used for the source, or that DEQ approved an alternative method; and

(2) If a source selected for a data check was affected by a loss of data used for the reported data in the report or fuel pathway application, the verification team must note the date, time, and source of any missing data substitutions discovered during the course of verification in the verification report.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0470
Review of Operations and Emissions for Emissions Data Reports Submitted under OAR Chapter 340, Division 215

(1) Verification services for verification of GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must include review that meets the requirements of this rule.

(2) Facility operations must be reviewed to identify applicable greenhouse gas emissions sources.

(a) The review must be conducted by the verification team.

(b) The review must include a review of the emissions inventory and each type of emissions source to ensure that all sources specified under OAR 340-215-0030 are included in the emissions data report, as applicable.

(c) The reported current primary and any secondary (if reported) NAICS codes must be reviewed to ensure they accurately represent the NAICS-associated activities for the facility.

(A) Review of these NAICS codes and associated activities must be documented in the sampling plan.

(B) If the reported NAICS code(s) is determined to be inaccurate and the responsible entity does not submit a revised emissions data report to correct the current NAICS code(s), the result will be an adverse verification statement.

(3) Electricity transaction records must be reviewed, including but not limited to written power contracts and any other applicable information required to confirm reported electricity procurements and deliveries. Documentation retained by the responsible entity to support claims of specified sources of electricity, as required under OAR 340-215-0042(6) must be reviewed to ensure it is sufficient to support the claim. Verifiers must use professional judgement to determine whether the records retained authenticate the claim.

(4) Information regarding increases or decreases in emissions, as required under OAR 340-215-0044(4) must be reviewed to ensure it is reported in conformance with the requirements of that division, however, the narrative description itself is not subject to the verification requirements of this division.

(5) Supporting documentation retained by the responsible entity to authenticate the purchase of gaseous or liquid biomass-derived fuels, as required under OAR 340-215-0042(4) must be reviewed to ensure it is sufficient to authenticate the purchase. Verifiers must use professional judgement to determine whether the records retained authenticate the purchase and fuel type.

Statutory/Other Authority: ORS 468.020, 468A.050, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, & 468A.280

340-272-0495
Completion of Verification Services

(1) Verification statement. The verification body must complete a verification statement(s) upon completion of verification services, provide its statement to the responsible entity, and submit its statement to DEQ by the applicable verification deadline specified under OAR 340-272-0100(3). Each positive, qualified positive, or adverse verification statement must describe the findings of the verification.

(2) Independent review. The verification body must have the verification services and findings of the verification team independently reviewed within the verification body by an independent reviewer before the verification statement(s) are completed. The independent reviewer must be a lead verifier not involved in verification services for the responsible entity during that reporting year or for that fuel pathway application period, but does not need to be a sector specific verifer.

(a) The independent reviewer must serve as a final check on the verification team's work to identify any significant concerns, including:

(A) Errors in planning;

(B) Errors in data sampling; and

(C) Errors in judgment by the verification team that are related to the draft verification statement.

(b) The independent reviewer must maintain independence from the verification services by not making specific recommendations about how the verification services should be performed.

(c) The independent reviewer must review documents applicable to the verification services provided, and identify any failure to comply with requirements of this division, OAR chapter 340, division 215, OAR chapter 340, division 253, and with the verification body's internal policies and procedures for providing verification services, as applicable. The independent reviewer must concur with the verification findings before the verification body can issue the verification statement(s).

(3) Completion of findings and verification report and verification statement.

(a) The verification body must provide the responsible entity with the following:

(A) A detailed verification report, which must be submitted to the responsible entity at the same time as or before the final verification statement is submitted to DEQ. The detailed verification report must be made available to DEQ upon request. The verification report must at a minimum include:

(i) A list of all verification team members that provided verification services, including identification of verifiers, lead verifiers, sector specific verifiers, and the independent reviewer;

(ii) A detailed description of the facility or entity including all data sources and boundaries;

(ii) A detailed description of the accounting procedures and data management systems, including data acquisition, tracking, and emissions calculation, as applicable;

(iii) The verification plan;

(iv) The detailed comparison of the data checks conducted during verification services;

(v) The log of issues identified in the course of verification services and their resolution;

(vi) Any qualifying comments on findings during verification services;

(vii) Findings of omissions, discrepancies, and misreporting, and the material misstatement calculations required under OAR 340-272-0450, OAR 340-272-0455, or OAR 340-272-0460, as applicable; and

(viii) For CFP reports submitted under OAR chapter 340, division 253, a detailed description of entities in the supply chain contributing CI parameters; and

(B) The verification statement(s), which must be provided to the responsible entity and

submitted to DEQ.

(i) For every qualified positive verification statement, the verification body must explain the nonconformances contained within the report or fuel pathway application and cite the sections(s) in OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, that corresponds to the nonconformance and why the nonconformances do not result in a material misstatement.

(ii) For every adverse verification statement, the verification body must explain all nonconformances or material misstatements leading to the adverse verification statement and cite the sections(s) in OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, that corresponds to the nonconformance(s) and material misstatement(s).

(b) The verification team must have a final discussion with the responsible entity explaining its findings, and notify the responsible entity of any unresolved issues noted in the issues log before the verification statement is finalized.

(4) Attestations in the verification statement. The verification statement must contain the following attestations:

(a) The verification body must attest whether it has found the submitted report or fuel pathway application to be free of material misstatement, and whether the report or fuel pathway application is in conformance with the requirements of this division, OAR chapter 340, division 215, and OAR chapter 340, division 253, as applicable;

(b) The lead verifier on the verification team must attest that the verification team has carried out all verification services as required by this division; and

(c) The lead verifier that has performed the independent review of verification services and findings must attest to his or her independent review on behalf of the verification body and his or her concurrence with the findings that they are true, accurate, and complete.

(5) Procedures for potential adverse verification statement and petition process.

(a) Prior to the verification body submitting an adverse verification statement to DEQ, the verification body must notify the responsible entity of the potential of an adverse verification statement, and the responsible entity must be provided at least 14 days to make modifications to correct any material misstatements or nonconformance found by the verification team.

(A) The responsible entity must make modifications to correct any material misstatements or nonconformance found by the verification team.

(B) The modified report and verification statement must be submitted to DEQ before the applicable verification deadline specified in OAR 340-272-0100(3), even if the responsible entity makes a request to DEQ according to subsection (c).

(b) The verification body must provide notice to DEQ of the potential for an adverse verification statement at the same time it notifies the responsible entity, and include in its

notice to DEQ the current issues log.

(c) If the responsible entity and the verification body cannot reach agreement on modifications that result in a positive or qualified positive verification statement because of a disagreement on the requirements of this division, the responsible entity may petition DEQ before the verification deadline and before the verification statement is submitted to make a final decision as to the verifiability of the submitted report or fuel pathway application.

(A) At the same time that the responsible entity petitions DEQ, the responsible entity must submit all information it believes is necessary for DEQ to make a determination.

(B) If at any point DEQ requests information from the responsible entity or the verification body in order to make a determination under this rule, the information must be submitted to DEQ within ten days.

(C) DEQ will notify both the responsible entity and the verification body of its determination.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280

340-272-0500
Requirements for Conflict of Interest Evaluation

(1) Conflict of interest evaluation. Before verification services may begin, each responsible entity must coordinate with the verification body with which it has engaged to perform verification to conduct a conflict of interest evaluation between itself and any verification bodies, verifiers, lead verifiers, sector specific verifiers, independent reviewers, and subcontractors intending to perform verification under the requirements of this division.

(2) High conflict of interest. The potential for a conflict of interest must be deemed to be high where:

(a) The responsible entity and the verification body share any management staff or board of directors membership, or any of the senior management staff of the responsible entity have been employed by the verification body, or vice versa, within the previous five years;

(b) Any employee of the verification body, or any employee of a related entity, or a subcontractor who is a member of the verification team has provided to the responsible entity any of the services in paragraph (A) (B), or (C), as applicable, within the previous five years:

(A) High conflict of interest services provided to any responsible entity:

(i) Designing or providing consultative engineering or technical services in the development and construction of a fuel production facility; or energy efficiency, renewable power, or other projects which explicitly identify greenhouse gas reductions as a benefit;

(ii) Any service related to development of information systems, or consulting on the development of environmental management systems except for systems that will not be part of the verification process and except for accounting software systems;

(iii) Verification services that are not provided in accordance with, or equivalent to, the requirements of this division, unless the systems and data reviewed during those services, as well as the result of those services, will not be part of the verification process;

(iv) Reporting under OAR chapter 340, division 253 or OAR chapter 340, division 215, or uploading data for DEQ, on behalf of the responsible entity;

(v) Bookkeeping and other non-attest services related to accounting records or financial statements, excluding services and results of those services that will not be part of the verification process;

(vi) Directly managing any health, environment, or safety functions for the responsible entity;

(vii) Appraisal services of carbon or greenhouse gas liabilities or assets;

(viii) Brokering in, advising on, or assisting in any way in carbon or greenhouse gas-related markets;

(ix) Appraisal and valuation services, both tangible and intangible;

(x) Any actuarially oriented advisory service involving the determination of amounts recorded in financial statements and related accounts;

(xi) Any internal audit service that has been outsourced by the responsible entity that relates to its internal accounting controls, financial systems, or financial statements, unless the result of those services will not be part of the verification process;

(xii) Fairness opinions and contribution-in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the resulting services will not be part of the verification process;

(xiii) Acting as a broker-dealer (registered or unregistered), promoter or underwriter on behalf of the responsible entity;

(xiv) Any legal services; or

(xv) Expert services to the responsible entity, a trade or membership group to which the responsible entity belongs, or a legal representative for the purpose of advocating the responsible entity 's interests in litigation or in a regulatory or administrative proceeding or investigation.

(B) Additional high conflict of interest services provided to a responsible entity subject to OAR chapter 340, division 253:

(i) Designing, developing, implementing, reviewing, or maintaining an information or data management system for data submitted under OAR chapter 340, division 253 or OAR chapter 340, division 215 unless the review was part of providing independent quality assurance audit services, attestation engagement services, providing verification services according to the U.S. EPA RFS or the EU RED, or third-party engineering reports according to the U.S. EPA RFS;

(ii) Developing CI or fuel transaction data or other greenhouse gas related engineering analysis that includes facility-specific information;

(iii) Designing, developing, implementing, conducting an internal audit, consulting, or maintaining a project to receive CFP project-based credits;

(iv) Preparing or producing CFP fuel pathway application or CFP reporting manuals, handbooks, or procedures specifically for the responsible entity;

(v) Owning, buying, selling, trading, or retiring CFP credits, RINs, or credits in any carbon market; or

(vi) Dealing in or being a promoter of credits on behalf of the responsible entity;

(C) Additional high conflict of interest services provided to a responsible entity subject to OAR chapter 340, division 215:

(i) Designing, developing, implementing, reviewing, or maintaining an inventory or information or data management system for facility air emissions, or, where applicable, electricity or fuel transactions, unless the review was part of providing greenhouse gas verification services;

(ii) Developing greenhouse gas emissions factors or other greenhouse gas-related engineering analysis, including developing or reviewing a greenhouse gas analysis for air quality permitting or land use review that includes facility specific information; or

(iii) Preparing or producing greenhouse gas-related manuals, handbooks, or procedures specifically for the responsible entity.

(c) Any member of the verification body or verification team has provided verification services for the responsible entity except within the time periods in which the responsible entity is allowed to use the same verification body or team members as specified under OAR 340-272-0100(5); or

(d) Any member of the verification body provides any type of monetary or non-monetary incentive to a responsible entity to secure a verification contract, influence verification documentation, or verification findings.

(3) Low conflict of interest. The potential for a conflict of interest will be deemed to be low where:

(a) No potential for a high conflict of interest is found according to section (2);

(b) No potential for a medium conflict of interest is found according to section (4); and

(c) Verification services are provided within the allowable period under OAR 340-272-0100(5).

(4) Medium conflict of interest. The potential for a conflict of interest will be deemed to be medium where:

(a) There are any instances of personal or familial relationships between the members of the verification body and management or staff of the responsible entity; or

(b) A member of the verification team provided insignificant services to the facility within the pervious five years, but are not services that result in a potential for a high conflict of interest according to section (2).

(5) Conflict of interest mitigation plan and submittal requirements for responsible entity. If a medium potential for conflict of interest is identified and the responsible entity intends to engage the verification body for verification, the responsible entity must coordinate with the verification body with which it has engaged to perform verification to submit a plan to DEQ to avoid, neutralize, or mitigate the potential conflict of interest situation, in addition to the evaluation submittal requirements specified under section (6). At a minimum, the conflict of interest mitigation plan must include:

(a) A demonstration that any individuals with potential conflicts have been removed and insulated from working on or discussing the project;

(b) An explanation of any changes to the organizational structure or verification body to remove the potential conflict of interest. A demonstration that any unit with potential conflicts has been divested or moved into an independent entity or any subcontractor with potential conflicts has been removed; and

(c) Any other circumstance that specifically addresses other sources for potential conflict of interest.

(6) Conflict of interest evaluation submittal requirements for responsible entities. A responsible entity must submit to DEQ a conflict of interest evaluation that includes the following:

(a) Identification of whether the potential for conflict of interest is high, low, or medium based on factors specified under sections (2) through (4);

(b) Identification of whether the verification body, related entities, or any member of the verification team has previously provided verification services for the responsible entity or related entities and, if so, include a description and years of service;

(c) Identification of whether any member of the verification team, verification body, or

related entity has engaged in services of any nature with the responsible entity or related entities either within or outside Oregon during the previous five years. If services other than DEQ verification under this division have previously been provided, the following information must also be submitted:

(A) The nature and location of the work performed for the responsible entity or related entity and whether the work is similar to the type of work to be performed during verification, such as emissions inventory, auditing, energy efficiency, renewable energy, or other work with implications for the responsible entity's greenhouse gas emissions;

(B) The nature of past, present, or future relationships of any member of the verification team, verification body, or related entities with the responsible entity or related entities including:

(i) Instances when any member of the verification team, verification body, or related entities has performed or intends to perform work for the responsible entity or related entities;

(ii) Identification of whether work is currently being performed for the responsible entity or related entities, and if so, the nature of the work;

(iii) How much work was performed for the responsible entity or related entities in the last five years, in dollars;

(iv) Whether any member of the verification team, verification body, or related entities has contracts or other arrangements to perform work for the responsible entity or a related entity; and

(v) How much work related to greenhouse gases the verification team has performed for the responsible entity or related entities in the last five years, in dollars; and

(C) Explanation of how the amount and nature of work previously performed is such that any member of the verification team's credibility and lack of bias should not be under question;

(d) A list of names of the staff that would provide verification services for the responsible entity, and a description of any instances of personal or family relationships with management or employees of the responsible entity that potentially represent a conflict of interest;

(e) Identification of any other circumstances known to the responsible entity or verification body that could result in a conflict of interest; and

(f) A written attestation submitted to DEQ as follows:

"I certify under penalty of perjury under the laws of the State of Oregon that to the best of my knowledge and belief, the information provided in the conflict of interest evaluation submittal is true, accurate, and complete."

(7) Conflict of interest determinations.

(a) DEQ will review the conflict of interest evaluation and conflict of interest mitigation plan, if applicable, submitted by the responsible entity and will notify the responsible entity in writing whether the verification body is authorized to proceed with verification services.

(b) If DEQ determines the verification body or any member of the verification team meets the criteria for a high conflict of interest, verification services may not proceed.

(c) If DEQ determines that there is a low potential conflict of interest, verification services may proceed.

(d) If DEQ determines that the verification body and verification team have a medium potential for a conflict of interest, DEQ will evaluate the conflict of interest mitigation plan submitted, and may request additional information from the applicant to complete the determination. In determining whether verification services may proceed, DEQ may consider factors including, but not limited to, the nature of previous work performed, the current and past relationships between the verification body, related entities, and its subcontractors with the responsible entity and related entities, and the cost of the verification services to be provided. If DEQ determines that these factors when considered in combination demonstrate an acceptable level of potential conflict of interest, DEQ will authorize the verification body to proceed with verification services.

(8) Monitoring conflict of interest situations.

(a) After commencement of verification services, both the verification body and the responsible entity must each monitor and immediately make full disclosure in writing to DEQ regarding any potential for a conflict of interest situation that arises. This disclosure must include a description of actions that the verification body and the responsible entity have taken or propose to take to avoid, neutralize, or mitigate the potential for a conflict of interest.

(b) The responsible entity and verification body must continue to monitor arrangements or relationships that may be present for a period of one year after the completion of verification services. During that period, within 30 days of the verification body or any verification team member entering into any contract with the responsible entity or related entity for which the body has provided verification services, the responsible entity must notify DEQ of the contract and the nature of the work to be performed. DEQ will determine whether the relationship constitutes a conflict and, if it does, whether the responsible entity must re-verify its reports or fuel pathway applications, and if modification, suspension, or revocation of DEQ approval of the verification body or any verification team member is warranted.

(c) Both the verification body and the responsible entity must notify DEQ, within 30 days, of any emerging conflicts of interest during the time verification services are being provided and one year after verification services are completed.

(A) If DEQ determines that a disclosed emerging potential conflict is medium risk and this risk can be mitigated, the verification body may continue to provide verification services to the responsible entity and will not be subject to suspension or revocation of DEQ approval.

(B) If DEQ determines that a disclosed emerging potential conflict is medium or high risk and this risk cannot be mitigated, the verification body may not continue to provide verification services to the responsible entity , and may be subject to suspension or revocation of approval.

(d) The verification body must report to DEQ any changes in its organizational structure, including mergers, acquisitions, or divestitures, for one year after completion of verification services.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277, & 468A.280
Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277, & 468A.280