OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

Clean Version

DIVISION 253

OREGON CLEAN FUELS PROGRAM

340-253-0000

Overview

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

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

(3) Background. The 2009 Oregon Legislature adopted House Bill 2186 enacted as chapter 754 of Oregon Laws 2009. The law authorizes the Environmental Quality Commission to adopt low carbon fuel standards for gasoline, diesel fuel and fuels used as substitutes for gasoline or diesel fuel. Sections 6 to 9 of chapter 754, Oregon Laws 2009 is printed as a note following ORS 468A.270 in the 2011 Edition. The 2015 Oregon Legislature amended those provisions when it adopted Senate Bill 324 (chapter 4, Oregon Laws 2015), which was codified in ORS 468A.275. OAR division 253 of chapter 340 implements that law.

(4) Program Review. EQC expects DEQ to periodically review and assess the Oregon Clean Fuels Program and make recommendations to EQC for improvement. DEQ will conduct two periodic reviews between 2018 and 2025. Review and assessment may include:

(a) The program's progress towards meeting its targets;

(b) Adjustments to the compliance schedule, if needed;

(c) The costs and benefits that complying with Clean Fuels Program rules cause for regulated parties and credit generators;

(d) The costs and benefits that complying with Clean Fuels Program rules cause for Oregon fuel consumers and Oregon's economy;

(e) The rate of climate change and the costs of environmental and economic damage due to climate change;

(f) The current and projected availability of clean fuels;

(g) The progress and adoption rates of clean fuels, clean fuel infrastructure and clean fuel vehicles;

(h) Identifying hurdles or barriers to implementing the Clean Fuels Program (e.g., permitting issues, infrastructure adequacy, research funds) and recommendations for addressing such hurdles or barriers;

(i) The mechanisms to provide exemptions and deferrals necessary to mitigate the cost of complying with the program;

(j) The methods to quantify lifecycle direct and indirect emissions from transportation fuels including land use change and other indirect effects;

(k) The latest information on low carbon fuel policies and related legal issues;

(l) The status of federal, state and regional programs that address the carbon content of transportation fuel; and

(m) Whether there are the necessary resources to implement the program.

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

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0040

Definitions

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

(1) "Above the rack" means sales of transportation fuel at pipeline origin points, pipeline batches 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" means a person who is not a regulated party and who voluntarily 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, including reporting on behalf of other credit generators, and to trade credits. A credit generator may also serve as an aggregator for other credit generators.

(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 Fuels Registration System" or "AFRS" means the portion of the CFP Online System where fuel producers can register their production facilities and submit physical pathway demonstrations.

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

(7) "B5" means diesel fuel containing 5 percent biodiesel.

(8) "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 that would not otherwise be generated.

(9) "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.

(10) "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.

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

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

(13) "Biodiesel" means a transportation fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, designated as B100 and complying with ASTM D6751.

(14) "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.

(15) “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.

(16) “Biomethane” means refined biogas 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.

(17) “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.

(18) “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.

(19) “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 and the contact information for an employee.

(20) “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).

(21) “Carryback credits” means a credit that a regulated party acquires between January 1st and March 31st to meet its compliance obligation for the prior compliance period and that was generated during or before the prior compliance period. Credits generated between January 1st and March 31st may not be used as carryback credits to meet a regulated party’s compliance obligation for the prior compliance period.

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

(23) "CFP Online System reporting deadlines" means the quarterly and annual reporting dates in OAR 340-253-0630 and in 340-253-0650.

(24) "Clean fuel" means a transportation fuel whose carbon intensity is lower than the applicable clean fuel standard for gasoline and gasoline substitutes listed in Table 1 under OAR 340-253-8010 or for diesel and diesel substitutes listed in Table 2 under OAR 340-253-8020.

(25) "Clean 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 for diesel fuel and diesel substitutes.

(26) "Clear gasoline" means gasoline derived from crude oil that has not been blended with a renewable fuel.

(27) "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) "Compliance period" means the period of time within which regulated parties must demonstrate compliance under OAR 340-253-0100. The initial compliance period is for two calendar years, 2016 and 2017, and subsequent compliance periods are each for single calendar year.

(29) "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.

(30) "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, dispensed for use in Oregon, such that one credit is equal to one metric ton of carbon dioxide equivalent.

(31) "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.

(32) "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.

(33) "Crude oil" means any naturally occurring flammable mixture of hydrocarbons found in geologic formations.

(34) "Deficit" means a unit of measure generated when a fuel with a carbon intensity that is more than the applicable low carbon 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.

(35) “Ethanol" also known as "Denatured Fuel 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.

(36) "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 D975-15b, “Standard Specification for Diesel Fuel Oils” or;

(b) A light middle distillate or middle distillate fuel blended with at least 6 and not more than 20 volume percent biodiesel suitable for compression ignition engines conforming to the specifications of ASTMD7467-15b, “Standard Specifications for Diesel Fuel Oil, Biodiesel Blend (B6-B20).”

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

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

(39) “Energy economy ratio” or “EER” means the dimensionless value that represents the efficiency of a fuel as used in a powertrain as compared to a reference fuel, as listed in Table 7 under OAR 340-253-8070 for gasoline and gasoline substitutes and in Table 8 under 340-253-8080 for diesel fuel and diesel substitutes. For fixed guideway applications, the EER is calculated in terms of megajoules per passenger mile.

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

(41) “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. Fuel exported from Oregon does not carry any obligation except for recordkeeping under OAR 340-253-0600.

(42) “Finished fuel” means a transportation fuel used directly in a motor vehicle without requiring additional chemical or physical processing.

(43) “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.

(44) "Fossil" means any naturally-occurring flammable mixture of hydrocarbons found in geologic formations such as rock or strata.

(45) "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.

(46) "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.

(47) "Fuel 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.

(48) "Gasoline" means a spark ignition engine fuel conforming to the specifications of ASTM D4814-15a, "Standard Specification for Automotive Spark-Ignition Fuel."

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

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

(51) "Hybrid electric vehicle" or "HEV" means any vehicle that can draw propulsion energy from both of the following on-vehicle sources of stored energy:

(a) A consumable fuel and

(b) An energy storage device such as a battery, capacitor or flywheel.

(52) "Illegitimate credits" means credits that were not generated in compliance with this division.

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

(54) "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.

(55) "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 9 of OAR 340-253-8090.

(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 CARB.

(56) "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.

(57) "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.

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

(59) "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.

(60) "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.

(61) "Liquefied natural gas" or "LNG" means natural gas that has been liquefied.

(62) “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.

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

(64) “Motor vehicle” means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is propelled by internal combustion engine or motor.

(65) "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.

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

(67) “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 Oregon. The most current version is OR-GREET 2.0. DEQ will make available a copy of OR-GREET 2.0 on its website.

(68) “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.

(69) “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.

(70) “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.

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

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

(73) “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.

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

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

(76) “Renewable hydrocarbon diesel” or “renewable diesel”, means a hydrocarbon oil conforming to the specifications of ASTM D975, “Standard Specification for Diesel Fuel Oils” produced from renewable resources.

(77)"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.

(77) “Renewable gasoline” means a spark ignition engine fuel conforming to the specifications of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel” produced from renewable resources.

(78) “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.

(79) “Tier 1 calculator” or “OR-GREET 2.0 Tier 1 calculator” means the tool used to calculate lifecycle emissions for common conventionally produced first-generation fuels (starch- and sugar-based ethanol, biodiesel, renewable diesel, CNG and LNG).

(80) “Tier 2 calculator” or “OR-GREET 2.0 Tier 2 calculator” means the tool used to calculate lifecycle emissions for next-generation fuels, including but not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first-generation fuels produced using innovative production processes.

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

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

(83) “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 for use in Oregon;

(b) "Purchased with obligation" means the transportation fuel was purchased with the compliance obligation passing to the purchaser;

(c) "Purchased without obligation" means the transportation fuel was purchased with the compliance obligation retained by the seller;

(d) "Sold with obligation" means the transportation fuel was sold with the compliance obligation passing to the purchaser;

(e) "Sold without obligation" means the transportation fuel was sold with the compliance obligation retained by the seller;

(f) "Export" means a transportation fuel was reported under the Clean Fuels Program but was later exported outside of Oregon;

(g) "Loss of inventory" means the fuel was produced in or imported into Oregon but was not used in Oregon due to volume loss such as through evaporation or due to different temperatures or pressurization;

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

(i) "Not used for transportation" means a transportation fuel was reported with compliance obligation under the Clean Fuels Program but was later not used for transportation purposes in Oregon or otherwise determined to be exempt under OAR 340-253-0250;

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

(k) "LPGV fueling" means the dispensing of liquefied petroleum gas at a fueling station designed for fueling liquefied petroleum gas vehicles; or

(l) "NGV fueling" means the dispensing of natural gas at a fueling station designed for fueling natural gas vehicles.

(84) "Transmix" means a mixture of refined products that forms at the interface between batches of dissimilar liquid products when transported through pipelines. This mixture is typically a combination of gasoline, diesel or jet fuel.

(85) "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.

(86) "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.

(87) "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;

(B) OAR chapter 603 division 027; or

(C) OAR chapter 340 division 340.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec.
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0060

Acronyms

The following acronyms apply to this division:

(1) "AFRS" means Alternative Fuels Registration System.

(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) "CFP" means the Clean Fuels Program established under OAR chapter 340, division 253.

(6) "CNG" means compressed natural gas.

(7) "CO2e" means carbon dioxide equivalents.

(8) “DEQ” means Oregon Department of Environmental Quality.

(9) “EER” means energy economy ratio.

(10) “EN” means a European Standard adopted by one of the three European Standardization Organizations.

(11) “EQC” means Oregon Environmental Quality Commission.

(12) “EV” means electric vehicle.

(13) “FEIN” means federal employer identification number.

(14) “FFV” means flex fuel vehicle.

(15) “FPC” means fuel pathway code.

(16) “gCO2e/MJ” means grams of carbon dioxide equivalent per megajoule of energy.

(17) “HDV” means heavy-duty vehicle.

(18) “HDV-CIE” means a heavy-duty vehicle compression ignition engine.

(19) “HDV-SIE” means a heavy-duty vehicle spark ignition engine.

(20) “L-CNG” means liquefied-compressed natural gas.

(21) “LDV” means light-duty vehicle.

(22) “LNG” means liquefied natural gas.

(23) “LPG” means liquefied petroleum gas.

(24) “LPGV” means liquefied petroleum gas vehicle.

(25) “MDV” means medium-duty vehicle.

(26) “mmBtu” means million British Thermal Units.

(27) “NGV” means natural gas vehicle.

(28) “PHEV” means partial hybrid electric vehicle.

(29) “PTD” means product transfer document.

(30) “REC” means Renewable Energy Certificate.

(31) "RFS" means the Renewable Fuel Standard implemented by the US Environmental Protection Agency.

(32) "scf" means standard cubic foot.

(33) "ULSD" means ultra low sulfur diesel.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0100

Oregon Clean Fuels Program Applicability and Requirements

(1) Regulated parties. All persons that produce in Oregon, or import into Oregon, any regulated fuel must comply with the rules in this division. The regulated parties for regulated fuels are designated under OAR 340-253-0310.

(a) Regulated parties must comply with sections (4) through (8) below; except that:

(b) Small importers of finished fuels are exempt from sections (6) and (7) below.

(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; and

(C) OAR 340-253-0340 for hydrogen fuel or a hydrogen blend.

(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) below.

(3) Aggregator.

(a) Aggregators must comply with this section and sections (4), (5), (7), and (8) below.

(b) Aggregators may hold and trade credits. An aggregator may generate credits, facilitate credit generation, and trade if a regulated party or a credit generator has authorized an aggregator to act on its behalf by submitting an Aggregator Designation Form. A credit generator already registered with the program may also serve as an aggregator for other credit generators.

(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 to DEQ under OAR 340-253-0500 for each fuel type before it may generate credits for fuel produced, imported, 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 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, before facilitating reporting, credit generation, or trading on behalf of a regulated party, credit generator, or aggregator. Any violations of this division by the aggregator may result in enforcement against both the aggregator and the party it was acting 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. Regulated parties 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 they have 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 establishes the Oregon Clean Fuel Standard for Diesel and Diesel Substitutes.

(7) Quarterly progress report. Unless exempt under subsection (1)(b), regulated parties, credit generators, and aggregators must submit quarterly progress reports under OAR 340-253-0630.

(8) Annual compliance report. Regulated parties, credit generators, and aggregators must submit annual compliance reports under OAR 340-253-0650. Regulated parties must submit an annual compliance report for 2016 notwithstanding that the initial two-year compliance period is for 2016 and 2017.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0200

Regulated and Clean Fuels

(1) Applicability. Producers and importers of transportation fuels listed in this rule, unless exempt under OAR 340-253-0250, are subject to division 253.

(2) Regulated fuels. Regulated fuels means:

(a) Gasoline;

(b) Diesel;

(c) Ethanol;

(d) Biodiesel;

(e) Renewable hydrocarbon diesel;

(f) Any blends of the above fuels; and

(g) Any other liquid or non-liquid transportation fuel not listed in section (3) or exempted under OAR 340-253-0250.

(3) Clean fuels. Clean fuels means a transportation fuel with a carbon intensity lower than the clean fuel standard for gasoline and their substitutes listed in Table 1 under OAR 340-253-8010 or diesel fuel and their substitutes listed in Table 2 under OAR 340-253-8020, as applicable, for that calendar year, such as:

(a) Bio-CNG;

(b) Bio-L-CNG;

(c) Bio-LNG;

(d) Electricity;

(e) Fossil CNG;

(f) Fossil L-CNG;

(g) Fossil LNG;

(h) Hydrogen or a hydrogen blend; and

(i) LPG.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0250

Exemptions

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

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

(b) Small volume fuel producer. A transportation fuel supplied for use in Oregon if the producer documents that:

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

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

(C) The producer is a research, development or demonstration facility defined under OAR 330-090-0100.

(2) Exempt fuel uses.

(a) Transportation fuels supplied for use in any of the following motor vehicles are exempt from the definition of regulated fuels under OAR 340-253-0200:

(A) Aircraft;

(B) Racing activity vehicles defined in ORS 801.404;

(C) Military tactical vehicles and tactical support equipment;

(D) Locomotives;

(E) Watercraft;

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

(G) Farm tractors defined in ORS 801.265;

(H) Implements of husbandry defined in ORS 801.310;

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

(J) Motor vehicles that are not designed primarily to transport persons or property, that are operated on highways only incidentally and that are used primarily for construction work.

(b) To be exempt, the regulated party must document that the fuel was supplied for use in a motor vehicle listed in subsection (2)(a). The method of documentation is subject to approval by DEQ. The documentation must:

(A) Establish that the fuel was sold through a dedicated source to use in one of the specified motor vehicles; or

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

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

Designation of Regulated and Opt-in Parties

340-253-0310

Regulated Parties: Gasoline, Diesel Fuel, Ethanol, Biodiesel, Renewable Hydrocarbon Diesel, and Blends Thereof

(1) Regulated party. The regulated party is the producer or importer of the regulated fuel.

(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, an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, or is not an importer. The notification does not have to be in writing.

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

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

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

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

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

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

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

(C) The transferor is no longer the regulated party 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 is not the regulated party.

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

(A) The transferor remains the regulated party who:

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

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

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

(C) The recipient is not the regulated party.

(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 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.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0320

Credit Generators: Compressed Natural Gas, Liquefied Natural Gas, Liquefied Compressed Natural Gas, and Liquefied Petroleum Gas

(1) Applicability. This rule applies to providers of compressed natural gas, liquefied natural gas, liquefied compressed natural gas, and liquefied petroleum gas for use as a transportation fuel in Oregon.

(2) Compressed natural gas. For CNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil CNG. For fuel that is solely fossil CNG, the person that is eligible to generate credits is the owner of the compressor at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based CNG. For fuel that is solely bio-based CNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil CNG and bio-based CNG. For fuel that is a blend of fossil CNG and bio-based CNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of fossil CNG and bio-based CNG in the blend.

(3) Liquefied natural gas. For LNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil LNG. For fuel that is solely fossil LNG, the person that is eligible to generate credits is the owner of the fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based LNG. For fuel that is solely bio-based LNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil LNG and bio-based LNG. For fuel that is a blend of fossil LNG and bio-based LNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of fossil LNG and bio-based LNG in the blend.

(4) Liquefied compressed natural gas. For L-CNG used as a transportation fuel, subsections (a) through (c) determine the person who is eligible to generate credits.

(a) Fossil L-CNG. For fuel that is solely fossil L-CNG, the person that is eligible to generate credits is the owner of the compressor at the facility where the fuel is dispensed for use in a motor vehicle.

(b) Bio-based L-CNG. For fuel that is solely bio-based L-CNG, the person that is eligible to generate credits is the producer or importer of the fuel.

(c) Blend of fossil L-CNG and bio-based L-CNG. For fuel that is a blend of fossil L-CNG and bio-based L-CNG, the generated credits will be split between the persons eligible to generate credits under subsections (a) and (b) to give each credits based on the actual amount of fossil L-CNG and bio-based L-CNG in the blend.

(5) Liquefied petroleum gas. For propane used as a transportation fuel, the person that is eligible to generate credits is the owner of the fueling equipment at the facility where the liquefied petroleum gas is dispensed for use in a motor vehicle.

(6) Responsibilities to generate credits. Any person specified in sections (2) through (5) may generate clean fuel credits by complying 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.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0330

Credit Generators: Electricity

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

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

(a) Electric Utility. In order to generate credits for the following year, an electric utility must notify DEQ by October 1 of the current year whether it will generate credits or will designate an aggregator to act on their behalf. The utility or its aggregator must have an active registration approved by DEQ under OAR 340-253-0500. Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to DEQ.

(b) Backstop Aggregator. If an electric utility does not register or designate an aggregator described in subsection (a), then a backstop aggregator is eligible to claim

any credits that the utility could have generated for the following year, as described in section (6).

(3) For non-residential charging. For electricity used to charge a motor vehicle in non-residential settings, such as at publicly available charging stations, for a fleet, at a workplace, or at multi-family housing sites, the owner or service provider of the electric-charging equipment may generate the credits. The owner or the service provider must have an active registration approved by DEQ under OAR 340-253-0500.

(4) Public Transit. For electricity used to power fixed guideway vehicles including light rail systems, streetcars, and aerial trams, or transit buses, a transit agency may generate the credits. A transit agency must have an active registration approved by DEQ under OAR 340-253-0500. A transit agency may also designate an aggregator to act on its behalf.

(5) Responsibilities to generate credits. Any person specified under sections (2), (3),or (4) may generate clean fuel credits by complying 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.

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

(a) An organization that meets the criteria to be a backstop aggregator under subsection (b) must submit an application by March 15, 2018 to be selected to be the backstop aggregator for 2018 and beyond.

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

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

(B) Be subject to annual independent financial audits.

(c) The application to be selected to be a backstop aggregator must include the following information:

(A) A general description of how the organization plans to participate in the CFP with special emphasis on how it would use the revenue from credit sales to promote transportation electrification statewide or in the service territories of the utilities for which it is the backstop aggregator. At a minimum that plan must include:

(i) The history of the organization;

(ii) How participation in the program fits into its existing activities and mission;

(iii) The qualifications of its existing staff to implement the plan;

(iv) Its plan for spending revenue from the credit sales in the utility service territories for which it is aggregating credits, which may include incentive programs for purchasing electric vehicles or categories of generic projects such as the installation of public chargers;

(v) How it plans to segregate any funds from credit sales from other monies controlled by the organization, the controls it would place on those funds, and what it believes its cost of administering its proposed plan would be.

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

(d) DEQ will evaluate any applicants based on the applications submitted and recommend a qualified organization to the EQC by May 31, 2018. DEQ reserves the right to not select any of the applicants and conduct another selection process at a later date.

(e) Once selected as a backstop aggregator, DEQ and the organization will enter into a memorandum of understanding regarding its participation in the program. Once that memorandum of understanding is agreed to, the organization must:

(A) Prior to receiving credits for the first time, place into its bylaws the portions of its plan described under (c)(A)(iv) and (v);

(B) Submit annual reports on its activity under the CFP, which must include detailed information on its activities and value provided to the specific utility service territories from which it is aggregating credits;

(C) Annually have an independent financial audit performed and submit the results of that audit to DEQ; and

(D) Maintain records as required in OAR 340-253-0600 and provide upon request by DEQ any records relating to its participation in the program, its transportation electrification programs, or its financial records.

(f) If DEQ determines that a backstop aggregator is in violation of the rules of the program or its specific requirements as above, DEQ may de-select that aggregator and hold a new selection process under the same criteria as in (b), (c), and (d).

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3

Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0340

Credit Generators: Hydrogen Fuel or a Hydrogen Blend

(1) Applicability. This rule applies to providers of hydrogen fuel and a hydrogen blend for use as a transportation fuel in Oregon.

(2) Credit generation. For a hydrogen fuel or a hydrogen blend, the person who owns the finished hydrogen fuel where the fuel is dispensed for use into a motor vehicle is eligible to generate credits.

(3) Responsibilities to generate credits. Any person specified in section (2) may generate clean fuel credits by complying 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.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0400

Carbon Intensities

(1) OR-GREET. Fuel producers, which may also be registered as regulated parties, credit generators, or aggregators, must calculate all carbon intensities for fuels using OR-GREET 2.0 or a model approved by DEQ. If a party wishes to use a 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) The statewide mix of electricity used in Oregon;

(d) Fuel economy standards and energy economy ratios;

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

(f) Methods to calculate lifecycle greenhouse gas emissions;

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

(h) 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 and -8040 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;

(E) LPG; and

(F) Electricity, unless an electricity provider meets the conditions under subsection (b).

(b) For electricity, credit generators or aggregators may use a carbon intensity different from the statewide average if the electricity provider:

(A) Has applied for an individual carbon intensity under OAR 340-253-0470(1)(b); or

(B) 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.

(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, adjusted for indirect land use change and approved by DEQ as being consistent with OR-GREET 2.0; or

(b) Matches the description of a fuel pathway listed in Table 3 or 4 under OAR 340-253-8030 or -8040.

(5) Primary alternative fuel pathway classifications. If it is not possible to identify an applicable carbon intensity under either section (3) or (4), then the regulated party, credit generator, or aggregator has the option to develop a primary alternative fuel pathway. Fuel pathways shall fall into one of two tiers:

(a) Tier 1. Conventionally-produced alternative fuels of a type that has been in full commercial production for at least three years; produced using grid electricity, natural gas and/or coal for process energy; and do not employ innovative production methods. 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 landfill gas.

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

(A) Cellulosic alcohols;

(B) Biomethane from sources other than landfill gas;

(C) Hydrogen;

(D) Renewable hydrocarbons other than renewable diesel produced from conventional feedstocks;

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

(F) Tier 1 fuels using innovative methods.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0450

Obtaining a Carbon Intensity

(1) Out-of-state producers that are not a regulated party, credit generator, or aggregator can apply to obtain a carbon intensity by following the approval process to use a carbon intensity listed in OAR 340-253-0500(3).

(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 2.0 calculator, and the OR-GREET 2.0 equivalent with the fuel transportation and distribution cells modified for that fuel's path to Oregon;

(c) The CARB review report for the approved fuel pathway; and

(d) Any other supporting materials relating to the pathway, as requested by DEQ.

(e) If the applicant is seeking to use a provisional pathway approved by CARB, then the applicant must submit the ongoing documentation required by CARB and as required in section (6). The applicant must provide DEQ within seven days:

(A) Any additional documentation being submitted to CARB; and

(B) A notification of any changes to the status of their 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 URL.

(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) 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 using either the Tier 1 or Tier 2 calculator.

(4) In addition to the items in section (3), applicants seeking to obtain a carbon intensity using the Tier 1 calculator must submit the following:

(a) The Tier 1 calculator with the "T1 Calculator" tab completed;

(b) A summary of 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 previous two years; and

(c) RFS third party engineering report, if available.

(5) In addition to the items in section (3), applicants seeking to obtain a carbon intensity using the Tier 2 calculator must submit the following:

(a) A summary of 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 previous two years;

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

(c) A copy of the Tier 2 spreadsheet;

(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. Applicants may seek a provisional carbon intensity for a fuel production facility that has been in full commercial production for at least 90 days but less than two full years.

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

(b) After DEQ approves the provisional carbon intensity, the applicants shall submit copies of receipts for all energy purchases each calendar quarter until two full calendar years of commercial production receipts are submitted. Based on timely reports, the applicant may generate provisional credits. At any time during the two year period, DEQ may revise as appropriate the operational carbon intensity based on the receipts submitted.

(c) If, after a plant has been in full commercial production for more than two years, 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.

(d) 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 provisional carbon intensity reduction to reflect operational data. In support of such a petition, the applicant must submit a revised application packet that fully documents the requested reduction.

(7) Additional requirements for applicants employing co-processing at a petroleum refinery. Applicants employing co-processing of biogenic feedstocks at a petroleum refinery must submit a Tier 2 calculator and all information required under sections (3) and (5).

(a) For renewable diesel or renewable gasoline, the applicant must also submit:

(A) The planned proportion or 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 of the biogenic feedstocks.

(b) The attribution methodology will be subject to separate verification and approval by DEQ, and may be modified at DEQ's discretion based on ongoing quarterly reporting of production data at the applicant's refinery. DEQ may also require the applicant to use a different methodology if DEQ concludes that the alternative more accurately calculates the carbon-intensity of renewable fuels produced at the facility or is necessary for maintaining consistent accounting of the renewable products across different jurisdictions.

(c) In approving the fuel pathway codes, DEQ will specify the conditions regarding the quantities of biogenic feedstocks and the amount of energy and hydrogen used to establish the pathway. In accordance with section (6), the pathway codes may be adjusted after two years of documentation.

(8) Temporary Fuel Pathway Codes for Fuels with Indeterminate Carbon Intensities. A regulated party or credit generator that has purchased a fuel but is unable to determine its carbon intensity or the fuel has an indeterminate carbon intensity must petition DEQ for permission to use a temporary fuel pathway code found in Table 9 of OAR 340-253-8090 for reporting purposes. The petition must 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.

(a) To be assigned a temporary fuel pathway code the regulated party or credit generator must show that:

(A) The production facility cannot be identified; or

(B) The production facility is known but there is no approved fuel pathway code application.

(b) Once DEQ grants a regulated party or credit generator permission to use a temporary fuel pathway code, credits and deficits may be generated subject to the quarterly reporting provisions in OAR 340-253-0xxx.

(c) Approval to use a temporary fuel pathway code may only be given for one or two calendar quarters. If granted, it will apply for the calendar quarter for which it was petitioned for and, if allowed, the following calendar quarter.

(9) Approval process to use carbon intensities.

(a) For applications proposing to use CARB-approved fuel pathways, DEQ will confirm that CARB approved the proposed fuel pathway and that it is consistent with OR-GREET 2.0.

(A) DEQ will review the materials submitted under subsection (2)(a) and determine whether to approve the application. As part of DEQ's approval of the application, it will adjust the carbon intensity to account for the different fuel transportation and distribution distances and modes and applicable indirect land use change values.

(B) If the applicant is seeking to use a provisional pathway that has been approved by CARB the applicant must submit the materials required in subsection (2)(a) and DEQ will evaluate them for completeness and accuracy.

(c) For applications proposing to use the Tier 1 calculator, DEQ will confirm that the Tier 1 calculator and the supporting documentation are accurate.

(d) For applications proposing to use the Tier 2 calculator, DEQ will review the proposed carbon intensity as follows:

(A) DEQ will determine whether the requirements for approval have been met according to the following criteria:

(i) Replication of the Tier 2 calculator outputs, using the modifications contained in the application;

(ii) Verification of the energy consumption inputs; and

(iii) Evaluation of the validity of the remaining inputs.

(B) Once DEQ has approved the carbon intensity, DEQ will notify the applicant of its determination.

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

(e) For applications of a utility-specific electricity carbon intensity calculated under OAR 340-253-0470(2), DEQ may use data reported by the applicant under OAR chapter 340, division 215 to calculate a utility-specific carbon intensity.

(A) Once DEQ has calculated a utility-specific carbon intensity, DEQ will provide its draft carbon intensity to the utility for review.

(i) If the utility objects to the draft carbon intensity, it must provide DEQ with an explanation of why it believes the draft carbon intensity is in error within seven days of receipt of the draft carbon intensity. If a revised carbon intensity cannot be agreed to

within 30 days, the utility may choose to accept the original draft carbon intensity or to use the statewide electricity mix carbon intensity for that year.

(ii) If the utility concurs with the calculation in writing or fails to submit a timely objection to the calculation, then the draft carbon intensity is made final.

(f) DEQ may impose additional conditions in its approval of an application that the fuel producer must comply with in order for the approved fuel pathway code to remain valid and active. Conditions may include special limitations, recordkeeping, and reporting requirements, or operational conditions that DEQ determines should apply to assure the ongoing validity of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked.

(g) The producer of any fuel that has received a carbon intensity under sections (2) through (7) must register with the AFRS under OAR 340-253-0500(2) and provide proof of delivery to Oregon through a physical transport mode demonstration in the quarter in which the fuel is first reported in the CFP Online System.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0470

Carbon Intensity of Electricity

(1) 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.

(2) No later than December 31, DEQ will:

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

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

(b) Add the new fuel pathway codes to the CFP Online System.

(2) 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 determining the carbon-intensity of electricity over the most recent five full years and determining the average of the five values.

(3) Utility-specific carbon intensity. An electric utility may apply to obtain a utility-specific carbon intensity that reflects the average carbon intensity of electricity served in that utility district.

(a) The carbon intensity will be calculated by determining the carbon intensity of electricity over the most recent five full years and determining the average of the five values.

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

(4) For on-site generation of electricity using renewable generation systems such as solar or wind, the following conditions apply:

(a) The renewable generation system must be on-site or directly connected to the electric vehicle chargers.

(b) The fuel pathway codes in Tables 3 and 4 can only be claimed for the portion of the electricity dispensed from the charger that is generated from that dedicated renewable energy system.

(c) Any grid electricity dispensed from the charger must be reported separately under the statewide electricity mix or a utility-specific fuel pathway code as calculated under OAR 340-253-0470.

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

340-253-0500

Registration

(1) Registration information.

(a) To register as a regulated party, credit generator, or aggregator, the following information must be included in a registration application to DEQ:

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

(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; and

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

(b) After DEQ provides written approval of 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) If a regulated party no longer meets the applicability of the program under OAR 340-253-0100(1), then it must notify DEQ of such change.

(B) If a credit generator or aggregator wishes to voluntarily opt-out of the CFP, the credit generator or aggregator must provide a 90-day notice of intent to opt out of the CFP and a proposed effective date for the completion of the opt-out process.

(C) The regulated party, credit generator or aggregator must submit any outstanding quarterly progress reports and an annual compliance report. Any credits that remain shall be forfeited and the account in the CFP Online System shall be closed.

(D) Once DEQ determines that the above actions are complete, DEQ will notify the registrant in writing of the cancellation of its registration.

(2) Registering as an alternative fuel producer.

(a) To register as a fuel producer, the following information must be included in a registration application to DEQ:

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

(B) The company's EPA identification number under the Renewable Fuel Standard; and

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

(c) DEQ will review the registration application for completeness and validity, and may request additional information from the producer before approving a registration.

(d) Once a registration has been approved, the fuel producer may:

(i) Designate an administrator for their account in the AFRS portion of the CFP Online System.

(ii) Register its individual fuel production facilities in the AFRS.

(iii) Submit fuel pathway code applications through the AFRS for each of its facilities for DEQ approval.

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

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0600

Records

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

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

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

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

(d) Records related to each fuel transaction; and

(e) Records used for compliance or credit calculations.

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

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

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

(c) Transaction date;

(d) Fuel pathway code;

(e) Carbon intensity;

(f) Volume/amount;

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

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

(3) For transactions of clear and blended gasoline and diesel below the rack where the fuel is not destined for export, only the records described in subsections (2)(a), (b), (c), (f), and (g) are required to be retained.

(4) Documenting credit transactions. Regulated parties, credit generators, and aggregators must retain the following records related to all credit transactions for at least 5 years:

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

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

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

(4) 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.

(5) 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.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3

Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0620

CFP Online System

(1) Online reporting.

(a) Except as provided in subsection (b), 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 transact 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) Information exempt from disclosure. Pursuant to the provisions of 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, ORS 192.410 through 192.505, or other applicable Oregon law.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0630

Quarterly Progress Reports

(1) Quarterly progress 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 progress reports.

(a) Quarterly progress reports must contain the information specified in Table 5 under OAR 340-253-8050 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.

(3) Conditions of submitting a quarterly report. In order to submit a quarterly report, a registered party must confirm the following statement in writing:

"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, per OAR 340-253-1050(1)(a). Credits and deficit calculations are subject to the provisions of the 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."

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-0640

Specific Requirements for Reporting

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

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

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

(c) For CNG, L-CNG, and LNG, the carbon intensity as listed in Table 3 or 4 under OAR 340-253-8030 or -8040.

(d) For bio-CNG, bio-LNG, and bio-L-CNG, the carbon intensity as approved under OAR 340-253-0500 and the EPA production company identification number and facility identification number.

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

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

(b) The carbon intensity of the electricity for the current reporting year as determined by DEQ under OAR 340-253-0470 or as listed in Table 3 or 4 under OAR 340-253-8030 or 8040; and

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

(d) For each public transit agency, the amount of electricity dispensed to or consumed by vehicles used for public transportation (in kWh). 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 information required under OAR 340-253-0450(10)(b).

(b) If the registered party is not the producer, and the producer has not met its obligations under OAR 340-253-0450(10)(b), 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.

340-253-0650

Annual Compliance Reports

(1) Annual compliance reports.

(a) Except as providing 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 annual compliance reports using the EZ-Fuels Online Reporting Tool for Fuel Distributors under OAR chapter 340, division 215, in lieu of using the CFP Online System, not later than March 31 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 per 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 initiated during a compliance period 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.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: 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; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

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 (c). For the purposes of this section an approved carbon intensity refers both to carbon intensities approved by DEQ under 340-253-0450 and under 340-253-0400(4)(a).

(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. carbon intensity

(2) DEQ may modify or delete an approved carbon intensity and invalidate credits or deficits 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;

(d) Fuel transaction 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; and

(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) For the purposes of this section, "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 340-253-1050.

(3) Notice. Upon making an initial determination that a credit calculation (excepting provisional credits), deficit calculation, or an approved carbon intensity (excepting a provisional carbon intensity) may be subject to modification, deletion, recalculation, or invalidation under section (2) above, DEQ will notify all potentially affected parties, including those who hold credits or deficits generated based on the approved carbon intensity that may be invalidated, and may notify any linked program. The notice shall state the reason for the initial determination, and may be distributed over email or through the CFP Online System. Any party receiving the notice may submit, within 20 days, any information it wants DEQ to consider in its evaluation of the validity of the credit or deficit calculation or the carbon intensity. DEQ may request information or documentation from any party likely to have information or records relevant to the validity of a credit or deficit calculation, or an approved carbon intensity. Within 20 days of any such request, the regulated party, credit generator, or aggregator shall make records and personnel available to assist DEQ in determining the validity of the credit or deficit calculation, or an approved carbon intensity.

(4) Interim Account Suspension. When DEQ makes an initial determination under the previous section, it may immediately take steps to Suspend an account or an approved carbon intensity as needed in order to prevent the additional accrual of credits or deficits under the approved carbon intensity and to prevent the transfer of potentially invalid credits or deficits. Suspension of an account may include locking that account within the CFP Online system to prevent credit transactions or alterations to quarterly or annual reports. In cases where a discrete number of credits is being investigated for possible adjustment or invalidation, DEQ at its own discretion may choose to place an administrative hold on that number of credits in place of suspending the 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 whether, in DEQ's discretion and judgment, any of the bases for invalidation in section (2) exist, and notify affected parties and any linked program. 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. The affected regulated party, credit generator, or aggregator may contest DEQ's determination by providing to DEQ a written request for a hearing within 20 days of receipt of DEQ's determination. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR 340-011. Any suspension of accounts, carbon intensities, or holds on quarterly or annual reports put in place under section (3) will remain in place pending the outcome of the contested case for the regulated party, credit generator, or aggregator that requested the hearing and for any others whose accounts would be affected pending the outcome of the 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.

340-253-1000

Credit and Deficit Basics

(1) Carbon intensities.

(a) Except as provided in subsections (b) or (c), when calculating carbon intensities, regulated parties, credit generators, and aggregators must:

(A) Use a carbon intensity approved by DEQ under OAR 340-253-0500(3); and

(B) Express the carbon intensity to the same number of significant figures as shown in Table 3 or 4 under OAR 340-253-8030 or -8040.

(b) If a regulated party, credit generator, or aggregator has an approved provisional carbon intensity approved under OAR 340-253-0450(7), 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(9), 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.

(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 or for diesel fuel and diesel substitutes in Table 2 under 340-253-8020. 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. Deficits are generated when a valid and accurate quarterly report is submitted in the CFP Online System.

(c) Regulated parties, credit generators, and aggregators may retain credits indefinitely, retire them to meet a compliance obligation, or transfer them to another regulated party, credit generator, or aggregator.

(d) 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) Credit generation for residential charging of electric vehicles. For residential charging, the total electricity dispensed (in kWh) 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:

(A) The total number of BEVs and PHEVs in a utility's service territory based on Oregon Department of Motor Vehicles records; and

(B) An average amount of electricity consumed by BEVs and PHEVs at residential chargers, based on regional or national data.

(c) If DEQ determines after the issuance of residential EV 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 EV credits.

(d) A credit generator or aggregator may propose an alternative method, subject to the approval of DEQ.

(e) Credits generated under this subsection will be calculated by DEQ 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, except that the registered party eligible to generate credits for the 2018 year will generate credits for 2016 and 2017 residential EV charging.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1005

Credit Basics

(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 for use 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) Mandatory retirement of credits. When filing the annual report at the end of a compliance period, a regulated party that possesses credits must retire a sufficient number of credits such that:

(a) Enough credits are retired to completely meet the regulated party's compliance obligation for that compliance period, or

(b) If the total number of the regulated party's credits is less than the total number of the regulated party's deficits, the regulated party must retire all of its credits.

(3) Credit Retirement Hierarchy. The CFP Online System will use the following default hierarchy to retire credits for the purposes of meeting a compliance obligation:

(a) Credits acquired or generated in a previous compliance period 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;"

(c) Credits generated in an earlier quarter before credits generated in a later quarter.

(4) 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.

(5) 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.

(6) 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 by signing and dating the form using the CFP Online System.

(7) If the credit buyer and credit seller have not fulfilled the requirements of sections (5) and (6) within 20 days of reaching an agreement, the transaction will be voided. If a transaction has been voided, the credit buyer and credit seller may reinitiate the process to confirm the transaction, but the date of transfer that will be approved will in no event be earlier than ten days before the date that the credit seller initiates the online Credit Transfer Form.

(8) 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.

(9) 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 one or more credits to be generated 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 party still that generated the illegitimate credits still holds them in its account, DEQ will cancel those credits;

(B) If the 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 it may

be required by DEQ 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.

(10) Prohibited credit transfers.

(a) 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.

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 biodiesel blends (B6 through B20) that can comply with an oxidation stability induction period of not less than 20 hours as determined by the test method described in the European standard EN 15751;

(b) Credits may be generated only for B100 that can comply 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;

(c) Biodiesel blends and biodiesel that do not comply with subsections (a) or (b) 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) and (4), 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 fuel listed on the same invoice.

(4) Fuels that are exported from Oregon. Any fuel that is exported must be reported by regulated parties. Exported fuels will not incur compliance obligations or generate credits, unless the exporter has purchased the fuel without obligation. If the exporter has purchased the fuel without obligation in Oregon, then the export will incur credits or deficits as appropriate to balance out the deficits or credits detached from the fuel by the entity that initially sold the fuel without obligation inside of Oregon.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1020

Calculating Credits and Deficits

Regulated parties, credit generators, and aggregators must calculate credits or deficits for each fuel included under 340-253-1010 by:

(1) Using credit and deficit basics as directed in OAR 340-253-1000;

(2) 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;

(3) 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 or -8080, as applicable;

(4) 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 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, as applicable;

(5) 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);

(6) 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

(7) Determining under OAR 340-253-1000(5) whether credits or deficits are generated.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1030

Demonstrating Compliance

(1) Compliance demonstration. Each regulated party must meet its compliance obligation for the compliance period by demonstrating through submission of its annual compliance report that it possessed and has retired a number of credits from its account that is equal to its compliance obligation calculated under section (2).

(2) Calculation of compliance obligation. A regulated party's compliance obligation is the sum of deficits generated in the compliance period plus deficits carried over from the prior compliance period, represented in the following equation:

Compliance Obligation = Deficits Generated + Deficits Carried Over

(3) Calculation of credit balance.

(a) Definitions. For the purpose of this section:

(A) Deficits Generated are the total deficits generated by the regulated party for the current compliance period;

(B) Deficits Carried Over are the total deficits carried over by the regulated party from the previous compliance period;

(C) Credits Generated are the total credits generated by the regulated party in the current compliance period;

(D) Credits Acquired are the total credits acquired by the regulated party in the current compliance period from other regulated parties, credit generators, and aggregators, including carryback credits;

(E) Credits Carried Over are the total credits carried over by the regulated party from the previous compliance period;

(F) Credits Retired are the total credits retired by the regulated party within the CFP Online System for the current compliance period;

(G) Credits Sold are the total credits sold by, or otherwise transferred from, the regulated party in the current compliance period to other regulated parties, credit generators, and aggregators; and

(H) Credits on Hold are the total credits placed on hold due to enforcement or an administrative action. While on hold, these credits cannot be used for meeting the regulated party's compliance obligation.

(b) A regulated party's credit balance is calculated using the following equation:

Credit Balance = (Credits Gen + Credits Acquired + Credits Carried Over)

– (Credits Retired + Credits Sold + Credits on Hold)

(4) Small deficits. At the end of a compliance period, a regulated party that has a net deficit balance may carry forward a small deficit to the next compliance period without penalty. A small deficit exists if the amount of credits the regulated party needs to meet its compliance obligation is 5 percent or less than the total amount of deficits the regulated party generated for the compliance period.

(5) Extended credit acquisition period. A regulated party may acquire carryback credits between January 1st and March 31st to be used for meeting its compliance obligation for the prior compliance period. A regulated party must initiate all carryback credit transfers in the CFP Online System by March 31st and complete them by April 15th to be valid for meeting the compliance obligation for the prior compliance period.

(6) Extended compliance period for large importers of finished fuels. A large importer of finished fuels can choose to carry over deficits accrued in 2016 and 2017 to 2018 when compliance with the aggregate deficit balance must be met.

(7) Regulated parties who do not demonstrate compliance under section (1) and whose deficit is not small as defined in section (4) may demonstrate compliance through participation in the Credit Clearance Market under OAR 340-253-1040.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 8-2012, f. & cert. ef. 12-11-12; DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-1040

Credit Clearance Market

(1) If a regulated party did not retire sufficient credits to meet its compliance obligation under OAR 340-253-1030, exclusive of any deficits carried forward to the next compliance period under section (4), it must enter and purchase its pro-rata share of credits in the credit clearance market under section (5).

(a) The credit clearance market is separate from the normal year-round market opportunities for parties to engage in credit transactions.

(b) DEQ will consider a regulated party in compliance with OAR 340-243-1030 if it acquires its pro-rata obligation in the credit clearance market and retires that number of credits within 30 days of the end of the credit clearance market.

(2) The maximum price for the credit clearance market will be as follows:

(a) $250 per credit in 2018-2022;

(b) $200 per credit in 2023 and thereafter;

(c) DEQ shall adjust the amounts provided in subsections (a) and (b) shall be adjusted annually for inflation at the end of each January using the inflation rate as provided by the last twelve months of data from the US Bureau of Labor Statistics 'CPI-U, US City Average, All Items, Not Seasonally Adjusted, 12 Month Percent Change' series. The formula for that adjustment is as follows: maximum price = [Last year's maximum price] * (1 + [CPI-U]). DEQ will publish the new maximum price on its webpage each year .

(3) Acquisition of credits in the credit clearance market. The credit clearance market will operate from June 1 to July 31.

(a) Regulated parties subject to section (1) must acquire their pro-rata share of the credits in the credit clearance market.

(b) Credits acquired in the credit clearance market can only be used for the purposes of retiring them against their compliance obligation from the prior year.

(c) To qualify for compliance through the credit clearance market, the regulated party in question must have:

(A) Retired all credits in their possession; and

(B) Have an unmet compliance obligation for the prior year that has been reported to DEQ through submission of its annual report in the CFP Online System.

(3) Selling credits in the clearance market.

(a) On the first Monday in April, DEQ shall issue a call to all parties in the CFP Online System to pledge credits into the credit clearance market. Parties wanting to pledge credits into the credit clearance market will notify DEQ by April 30. DEQ will announce if a clearance market will occur by May 15.

(b) In order to participate in the credit clearance market, sellers must:

(A) Agree to sell their credits at or below the maximum price set out in section (2) for that year by July 31;

(B) Agree to withhold any pledged credits from sale in any transaction outside of the credit clearance market until the end of the credit clearance market on July 31, or if no clearance market is held in a given year, then on the date which DEQ announces it will not be held;

(C) Not reject an offer to purchase the credits at the maximum price for that year, unless the seller has already sold or agreed to sell those pledged credits to another regulated party participating in the credit clearance market.

(D) Agree to replace any credits that the seller pledges into the clearance market if those credits are later found to be invalid by DEQ.

(5) Operation of the credit clearance market. DEQ will inform each regulated party that failed to meet its annual compliance obligation under OAR 340-253-1030 of its pro-rata share of the credits pledged into the credit clearance market.

(a) Calculation of pro-rata shares.

(A) Each regulated party's pro-rata share of the credits pledged into the credit clearance market will be calculated by the following formula:

Regulated Party A's pro-rata share =

$$\left[\frac{A's\ total\ deficit}{All\ parties'total\ deficts}\right] x\ [the\ lesser\ of\ (pledged\ credits)\ or\ (total\ deficits)]$$

(i) Total deficit refers to the regulated party's total obligation for the prior compliance year that has not been met under OAR 340-253-1030;

(ii) All parties' total deficit refers to the sum of all of the unmet compliance obligations for regulated parties in the credit clearance market; and

(iii) Pledged credits refers to the sum of all credits pledged for sale into the credit clearance market.

(B) If there is at least one large importer of finished fuels participating in the credit clearance market, DEQ will determine the pro-rata share of the available credits in two phases.

(i) The first phase will begin with all of the credits pledged into the credit clearance market and the deficits from large importers of finished fuels.

(ii) The second phase will begin with the remainder of the pledged credits into the credit clearance market and the deficits from all other regulated parties.

(iii) The calculation for each phase will be done as in paragraph (A).

(b) On or before June 1, DEQ will post the name of each party that is participating in the credit clearance market.

(c) Following the close of the credit clearance market, each regulated party that purchased credits in the credit clearance market must submit an amended annual compliance report in the CFP Online System by August 31 which shows the acquisition and retirement of its pro-rata share of credits purchased in the credit clearance market, and any remaining deficits carried over.

(d) If a regulated party has unmet deficits after the credit clearance market, DEQ shall place the remaining unmet deficits into the regulated party's accumulated deficit account.

(6) Any remaining balance of a regulated party's obligation shall be put into their accumulated deficits account and for each year that they are not complied with subject to an annual increase of five percent following the submittal of the annual report.

(a) Each regulated party must provide credits to retire all deficits in the accumulated deficits account within five years of the end of the compliance period in which any such deficit occurred.

(b) Each regulated party may provide credits to retire unmet deficits during any subsequent annual report before the end of five years, so long as it has fully met its compliance obligation for that year and is not carrying forward deficits under OAR 340-253-1030(4).

(c) Each regulated party that has deficits in an accumulated deficit account cannot transfer or sell credits to another registered party.

OAR 340-253-1050

Public Disclosure

(1) List of DEQ-approved registered parties. DEQ will maintain a current list of DEQ-approved registered parties and will make that list publicly available on its website. The list will include, at a minimum, the name of the party and whether the registered party is an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, a producer, a credit generator, or an aggregator.

(2) Quarterly data summary. DEQ will publish at least quarterly:

(a) An aggregate data summary of credit and deficit generation for the most recent quarter and all prior quarters; and

(b) Information on the contribution of credit generation by different fuel types.

(3) Credit trading activity report. DEQ will publish at least monthly:

(a) A credit trading activity report that summarizes the aggregate credit transfer information for the:

(A) Most recent month,

(B) Previous three months,

(C) Previous three quarters, and

(D) Previous compliance periods; and

(b) Information on the credits transferred during the most recent month. That information will include, at a minimum, the total number of credits transferred, the number of transfers and the number of parties making transfers, and the volume-weighted average price of that month's transfers exclusive of transactions with a price of zero.

(c) DEQ will base its reports on the information submitted into the CFP Online System.

(d) DEQ reports under this section will present aggregated information on all fuel transacted within the state and will not disclose individual parties' transactions.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-2000

Emergency Action

(1) Determining whether to issue an emergency action. DEQ will issue an order declaring an emergency action, if DEQ determines:

(a) There is a shortage of fuel that is needed for regulated parties to comply with the clean fuel standard, due to:

(A) A natural disaster; or

(B) An unanticipated disruption in production or transportation of clean fuels used for compliance, except disruptions for routine maintenance of a fuel production facility or fuel transmission system; and

(b) The magnitude of the fuel supply shortage is greater than the equivalent of five percent of the total credits generated by all regulated parties and providers of clean fuels under OAR 340-253-1020 in the previous compliance period. To determine the magnitude of the shortage, DEQ will consider the following:

(A) The volume and carbon intensity of the fuel determined to be not available under subsection (1)(a);

(B) The estimated duration of the shortage;

(C) Whether one of the following options could mitigate compliance with the clean fuel standard:

(i) The same fuel from other sources is available;

(ii) Substitutes for the affected fuel and the carbon intensities of those substitutes are available; or

(iii) Banked clean fuel credits are available; and

(D) Any other information DEQ may need to determine the magnitude of the shortage.

(c) There is a disruption to the program or its credit market such that it will, or is, creating undue burdens on regulated parties and Oregon fuel consumers. In determining the magnitude of the disruption and its effects, DEQ will consider the following:

(A) The root cause and the likely duration of the disruption;

(B) The effect of the disruption on retail fuel prices;

(C) The effect on retail availability of transportation fuels; and

(D) The effect to the program of issuing the emergency action;

(2) Content of an emergency action.

(a) If DEQ determines under section (1)(a) that it must issue an emergency action, then DEQ will determine:

(A) The start date and end date of the emergency period, which may not exceed one year, but which may be renewed if DEQ makes a subsequent determination under section (1);

(B) If one or both of the gasoline and diesel fuel pools regulated by the Clean Fuels Program are subject to the emergency action; and

(C) Which of the following actions DEQ will put into effect during the emergency period:

(i) Allowing deficits to be carried over into future compliance periods, notwithstanding OAR 340-253-1030(4) through (6); or

(ii) Suspending deficit accrual.

(D) Credits will continue to accrue during the emergency period.

(b) If DEQ determines under section (1)(c) that it must issue an emergency action, then DEQ will determine:

(A) The start date and end date of the emergency period, which may not exceed one year, but which may be renewed if DEQ makes a subsequent determination under section (1);

(B) Which of the following methods DEQ has selected to put in place during the emergency period. DEQ may select one or more of the following:

(i) Suspend the ability to transfer credits, except as part of the operation of an annual or an emergency clearance market;

(ii) Allowing deficits to be carried over into future compliance periods, notwithstanding OAR 340-253-1030(4) through (6);

(iii) Suspend deficit accrual during the emergency deferral period; or

(iv) Call an emergency clearance market following the procedures under OAR 340-253-1040, except that;

(I) The agency will set and publicly notice new dates for the various steps in the emergency clearance market. At that time it may also set a new maximum credit price, so long as that price is below that year's maximum credit price in the normal clearance market, and include it in the notice;

(II) No regulated party is compelled to participate in the emergency clearance market as a buyer. Regulated parties wishing to participate and purchase credits in the emergency clearance market will indicate interest to participate in the clearance market and specify the number of credits they wish to purchase to the agency in writing by the same date sellers in the emergency clearance market must indicate their interest to sell a certain quantity of credits in the market. Credit generators and aggregators may only act as sellers in an emergency clearance market;

(III) DEQ may choose to waive the pro-rata calculations for buyers in the emergency clearance market;

(IV) DEQ may include in the posting of the list of buyers the number of credits buyers have indicated they are interested in purchasing; and

(V) If the emergency clearance market will conclude prior to the due date for the annual reports, then the provisions clearance market under 340-253-1040(1)(b) will not apply to a regulated party that has not required sufficient credits to meet its compliance obligation under OAR 340-253-1030 failure to meet its annual compliance obligation following the conclusion of the emergency clearance market.

(3) Issuing an emergency action. If DEQ issues an emergency action order, then DEQ must notify all registered parties and the order must contain at least the following information:

(a) DEQ's determination under section (1);

(b) The action's effective period as established under section (2);

(c) The fuel pool or pools affected by the action as established under section (2); and

(d) The method selected by DEQ to comply as established under section (2).

(4) Rescinding an emergency action before the end of the specified period. If DEQ determines that the root causes of a disruption under (1)(a) or (1)(c) no longer exist, it may issue a written notice that the emergency action is rescinded. The notice must specify the effective date of the rescission, which must be at least five business days after the date the notice is issued.

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-253-2100

Forecasted Fuel Supply Deferral

(1) DEQ forecast. DEQ will use available data under section (2) to develop a fuel supply forecast for the next calendar year that includes:

(a) The potential volumes of gasoline and diesel fuel substitutes and alternatives available to Oregon;

(b) The estimated total aggregate credits available;

(c) The estimated number of credits needed to meet the clean fuel standard based on forecasts of transportation fuel demand; and

(d) A comparison of the estimates under subsections (a) and (b) with (c) to indicate the availability of fuel needed for compliance.

(2) Available data. DEQ will consider available data to develop the forecast including:

(a) Past Oregon fuel consumption volumes and trends;

(b) Oregon and nationwide trends in alternative fuel use;

(c) Information on the number of alternative-fueled vehicles in Oregon and the trends in purchases for such vehicles;

(d) Banked clean fuel credits;

(e) Projected total transportation fuel consumption volumes in Oregon, including gasoline and diesel fuel;

(f) Planned projects in or near Oregon that will have an effect on the supply and distribution of clean fuel, such as electric vehicle charging or natural gas fueling stations;

(g) The status of existing and planned clean fuel production facilities nationwide;

(h) Applicable updates to the carbon intensities of fuels;

(i) Nationwide volumes for fuels required under the federal renewable fuel standard; and

(j) Any other information DEQ may need to develop the forecast.

(3) Determining whether to issue a forecasted deferral. If DEQ forecasts a shortfall in clean fuel credits under subsection (1)(d), and the shortfall is greater than the equivalent of five percent of the credits needed under (1)(c) to comply with the clean fuel standard, then DEQ will determine whether a forecasted deferral is needed by considering the following:

(a) Timing of fuel availability;

(b) Timing, duration and magnitude of the estimated clean fuel shortfall;

(c) Information in addition to material considered under section (2), on potential and current gasoline and diesel fuel substitutes and alternatives, including:

(A) Production nationwide;

(B) Use in Oregon; and

(C) Clean fuel infrastructure development in Oregon; and

(d) Any other information DEQ may need in its analysis.

(4) Content of a forecasted deferral. If DEQ determines under section (3) that it must issue a forecasted deferral, DEQ will determine:

(a) The start date and end date of the forecasted deferral period, which may not exceed one year except that DEQ may renew that period if DEQ makes a subsequent determination under section (3);

(b) The fuel deferred from complying with the clean fuel standard; and

(c) Which of the following methods DEQ will use to defer compliance with the clean fuel standard during the forecasted deferral period:

(A) Defer the requirement to comply with the clean fuel standard for up to one year, and allow credits to accrue during the deferral period; or

(B) Propose that EQC revise the Clean Fuels Program through a rulemaking to:

(i) Amend the clean fuel standard for that year;

(ii) Amend the clean fuel standard for that year and future years, and to extend the standards beyond 2025 to allow for less stringent annual reductions for an interim period while still reaching the same average carbon intensity at the end of the period; or

(iii) Otherwise amend the Clean Fuels Program to address the forecasted fuel supply shortage, such as by adopting a multi-year deferral or modification of the Clean Fuel Standards.

(5) Issuing a forecasted deferral. DEQ will issue a forecasted deferral order to the affected parties with the following information:

(a) DEQ's determination under section (3);

(b) The deferral period as established under section (4);

(c) The fuel deferred as established under section (4); and

(d) The method selected by DEQ to comply as established under section (4).

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

Stat. Auth.: ORS 468.020, 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Stats. Implemented: 2009 OL Ch. 754 Sec. 6 (2011 Edition) & 2015 OL Ch. 4 Sec. 3
Hist.: DEQ 3-2015, f. 1-8-15, cert. ef. 2-1-15; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16