

Implementation of the Clean Fuels Program Expansion 2022 Rulemaking

January 2023 Program Update

This document summarizes and highlights many of the changes to the Clean Fuels Program resulting from the CFP Expansion 2022 rulemaking that was approved by the Environmental Quality Commission at their September 2022 meeting. This rulemaking addressed a range of topics, including the expansion of the targets, updates to enforcements provisions, and a significant amount of updating and adding details to rules based on DEQ's experience implementing the program. The full set of rules, including the rule amendments from this rulemaking, can be found on the [Secretary of State's website](#).

Expansion of the targets

The targets for the Clean Fuels Program have been expanded as follows:

Year	Standard for Gasoline (gCO ₂ e/MJ)	Standard for Diesel (gCO ₂ e/MJ)	Percent Reduction
2023	91.68	92.32	6.50
2024	90.21	90.84	8.00
2025	88.25	88.87	10.00
2026	86.29	86.89	12.00
2027	84.33	84.92	14.00
2028	82.37	82.94	16.00
2029	80.41	80.97	18.00
2030	78.45	78.99	20.00
2031	75.11	75.63	23.40
2032	71.78	72.28	26.80
2033	68.45	68.92	30.20
2034	65.11	65.56	33.60
2035 & beyond	61.78	62.21	37.00

Additional fossil fuels will become regulated fuels

Fossil natural gas and liquified petroleum gases will become regulated fuels as their carbon intensity exceeds the clean fuel standards. The following fuels become regulated fuels in the year listed:

- Fossil liquefied to compressed natural gas in 2022
- Fossil liquified natural gas in 2022
- Fossil compressed natural gas in 2026
- Fossil liquified petroleum gas in 2029

The regulated parties for these fuels are identified in OAR 340-253-0310.

Product transfer documents

Under OAR 340-253-0600, PTDs must now contain a destination (state) for the fuel. If the fuel destination is not known or the transfer is not changing the location of the fuel, this should be noted in the PTD.



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Fuel supply equipment registrations

Under OAR 340-253-0100(3)(b), FSE registrations must be submitted in the first 45 days of the quarter for the FSE to be eligible to be registered and used during that quarter for reporting. If submitted later than that in the quarter, the FSE registration will not be reviewed until the next quarter.

Under OAR 340-253-0500, several new pieces of information and supporting documentation must be provided to register FSE. See the separate document titled “Changes to Fuel Supply Equipment Registration” for more detail and a timeline for how DEQ will be processing both new and existing FSE registration applications. The FSE Registration Form and FSE Detail Sheet have also been updated to reflect the new requirements.

Aggregator designation

Under OAR 340-253-0100, all credit generators can designate an aggregator. The specific aggregator language in the OAR 340-253-0300 credit generators series has been removed for clarity.

Documenting exempt fuel use

Under OAR 340-253-0250(2)(b), regulated parties must maintain, and provide on request, proof that demonstrates fuel going to an exempt vehicle or use in order to claim that volume of fuel as exempt. That proof can take the form of:

- Individual receipts or invoices for each fuel sale claimed as exempt that list the specific customer and exempt vehicle type
- If the fuel is sold through a dedicated tank for a single customer, electronic or paper records that document that the customer’s vehicle(s) being fueled are in an exempt category and that the tank is not used to fuel any other vehicles
- Other comparable documentation approved in writing by DEQ prior to exemptions being claimed. The documentation must:
 - Establish that the fuel was sold through a dedicated source to use in a type of vehicle specified in subsection (a); or
 - Be on a fuel transaction basis if the fuel is not sold through a dedicated source.

The first two options were in the existing rules; this rulemaking adds the third option for parties to request DEQ review and approval of a comparable form of documentation.

Change of ownership, control, or bankruptcy provisions

Under OAR 340-253-0100(10), (11), and (13), there are now clear requirements for a registered party that has a change of ownership, control, or bankruptcy.

Moving from a large to a small importer of finished fuels

Changing a regulated party’s status from a large to a small importer of finished fuels requires at least one year of submitted reporting showing that the company is below 500,000 gallons for the year. Then, the following year, the entity can change its status to a small importer.

Documentation for credit transactions

Under the existing OAR 340-253-0600(3), registered parties must retain the contract or any similar agreement and supporting documentation under which credits are being transferred and requires those documents be made available to DEQ upon request. This rulemaking updates the required documentation for the credit transfer form to better enable the Department’s market monitoring.



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Reporting of B99/R99

Under OAR 340-253-0640, B99/R99 must be reported as 99 percent biodiesel or renewable diesel and 1 percent petroleum diesel if the precise blend percentage is not known. If the precise actual percentages are known, that fuel should be reported according to those percentages; it must not be reported as B100/R100.

New transactions in OFRS

- “Position holder sale” has been changed to “Position holder sale without obligation”.
- Add “Position holder sale with obligation” as a quarterly report transaction type so that obligation can be passed below the rack with one transaction when it is sold with the obligation. Obligation can only be passed to an Oregon producer/out-of-state producer and importer of blendstocks through the rack.
- Add “Import within of the bulk system of production for import gallons” and “Import outside of the bulk system of production for import gallons” so that these transactions can be reported correctly to CFP and GHG RP.

Establish a process to add new transaction types in OFRS

New transaction types can be added to OFRS through a new administrative process assuming that:

- New transactions created would not be able to generate credits/deficits and do not create a new requirement to report, but only a change in the way reporting is done.
- The process would include a proposal from DEQ of the transaction type with a thorough description of how the transaction would work in the system and what action or actions they would be used to report. That proposal would be subject to a 30-day comment period to ensure that stakeholders can weigh in on the creation of new transaction types.

Renewable natural gas claims

Under the new OAR 340-253-0640(1)(d), all biomethane-based fuels reported in the Clean Fuels Program must ensure that no other claims are being made on that volume of biomethane or renewable natural gas as follows:

- If the biomethane-based volumes are being reported using a book-and-claim methodology, the registered party must submit records showing the retirement of Renewable Thermal Certificates (RTCs) representing the biomethane environmental attributes from that facility in M-RETS Renewable Thermal system or another approved and recognized tracking system with the quarterly report. The retirement records must show enough RTCs were retired to cover the volume of biomethane claimed as a fuel in the CFP and those certificates must be from the same biomethane production facility to which the fuel pathway code is assigned; and
- If biogas or biomethane is being used that is directly delivered to a vehicle and not injected into a pipeline, the registered party must provide an attestation when it files the quarterly report for the corresponding volume of biogas or biomethane claimed.
- Requires that renewable natural gas producers and fuel pathway holders have agreements in place to prevent the double-counting of biomethane.

Tier 1 simplified CI calculator for biodiesel and renewable diesel

The cell reference in the ‘BD Production’ tab biodiesel transport calculations, cells I178:I179, has been changed from ‘E’ to ‘C.’



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Tier 1 simplified CI calculator for biogas-to-electricity pathway

This rulemaking added a stand-alone Tier 1 simplified CI calculator for biogas to electricity pathways, based on the current simplified calculator for biomethane from anaerobic digestion of dairy and swine manure has been created and adopted in this rulemaking. This calculator was posted for review by DEQ and is now final.

Adding electric ground service equipment

This rulemaking added electric airport ground service equipment to the program, allowing the owner of the charging equipment to generate credits. The rules adopt a new EER value of 3.2 applicable for baggage tractors, belt loaders, and pushbacks that will generate credits against the gasoline standard.

Updated EER for electric ocean-going vessels

To qualify to use the eOGV EER, the vessel being supplied electricity by shore power equipment must be:

- greater than or equal to 400 feet in length overall
- weigh 10,000 gross tons or greater
- propelled by a marine compression-ignition engine with a displacement greater than or equal to 30 liters per cylinder.

Vessels that do not meet these criteria will be unable to generate credits beginning Jan. 1, 2023. Starting with first quarter 2023 reporting, entities must keep records in order to report fleet vessels to demonstrate that the vessels meet the eOGV EER category criteria defined above.

Post-verification additional credit generation

DEQ will annually issue additional credits to a fuel producer if all of the following apply:

- They are registered in the reporting tool by the completion of their verification in order for DEQ to issue the additional credits.
- Their fuel production facility has gone through third-party verification for their annual fuel pathway report, and they have received a positive or qualified positive verification statement.
- One or more of the non-provisional pathways in their annual fuel pathway report had volumes reported against it and the pathway's operational CI for the reporting year was at least one gram per megajoule lower than the certified CI used for reporting.
- The pathways being verified are non-provisional pathways, not temporary or provisional pathways.

Credits will only be issued to the fuel producer itself or the fuel pathway holder for that fuel production facility. The fuel producer would be able to distribute the credits to other parties if it so desires through the normal credit transfer process.

The fuel producer must be registered in the Reporting Tool part of the OFRS by the end of the second quarter, annually. The additional credits would be based on the verified operational CI and the obligated volume of fuel under that fuel pathway code in the prior and fully reported year only.



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Amend advance crediting provisions

Under OAR 340-253-1100, there are two additional parties that are now eligible to apply for advance credits:

- Owners of electric charging equipment that is part of a project that receives funds from the National Electric Vehicle Infrastructure (NEVI) formula program under the Bipartisan Infrastructure Law (Paragraph 2 of Title VIII of Division J of Public Law 117-58).
- Hydrogen fueling equipment provided that the planned source or sources of the hydrogen will achieve a CI rating of 117 gCO_{2e}/MJ or below.

In the case of hydrogen vehicles or fueling equipment, DEQ will require information on the CI(s) and supplier(s) of the hydrogen, including the contract(s) with their hydrogen supplier(s). If the applicant will be supplying their own hydrogen, then the applicant must submit its plans for the hydrogen production system or systems. DEQ will work with each applicant to define requirements for applying for a hydrogen fuel pathway.

Changes to some parties eligible to generate credits

There are several changes to who is eligible to generate credits:

- Under OAR 340-253-0330, for providers of electricity:
 - For non-residential electric charging, the owner of the charging equipment can generate credits. If the owner of the charging equipment is not registered, then the electric vehicle supply equipment network service provider may generate the credits.
 - For electric forklifts, the forklift owner may generate the credits. If the forklift is being operated by a person other than the owner, the owner may generate the credits if they have detailed data that enables them to accurately report the electricity used to operate the forklift. Otherwise, the operator of the forklift may generate the credits.
- Under OAR 340-253-0340(3), for hydrogen forklifts the forklift fleet operator may generate the credits.

For any of the cases above, the credit generator may designate another registered party to be their aggregator.

Updates to the enforcement provisions

Division 12, “Enforcement Procedure and Civil Penalties” has been updated to include several new violations and reclassifying some existing violations. Violations that are not classified specifically in Division 12 can be enforced as Class 2 violations.

Under OAR 340-253-0680, there is a new language that specifies that:

- each illegitimate credit generated constitutes a separate violation
- each deficit that a registered party does not retire a credit to demonstrate compliance with any of the clean fuel standards constitutes a separate

Alternative formats

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



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