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Administrative Rules for Renewable Fuel Standard, implementing Portland City Code Chapter 16.60 (Motor Vehicle Fuels) ENN-6.02

TABLE OF CONTENTS

1. Purpose and Scope. 2
2. Authority. 2
3. Definitions. 3
4. Minimum Biofuel Content Requirements. 7
5. Carbon Intensity Standard Requirements. 7
6. Carbon Intensity Standard Compliance Requirements. 8
7. Product Transfer Document Content Requirements. 15
8. Testing and Inspections. 16
9. Record Keeping Requirements. 18
10. Enforcement. 18
11. Attachments. 20
12. History. 20

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1. Purpose and Scope

A. The purpose of Chapter 16.60 is to promote the use of biofuels, stimulate further development of low-carbon biofuels, and provide consumer and environmental protection in this growing industry (Ordinance Nos. 180313; 180671; 189820; 191100).

The purpose of these rules is to provide further detail on the requirements of Chapter 16.60.

B. These rules apply to fuel for on-road motor vehicles. Fuels used for the following purposes are not covered by these rules:

1. Railroad locomotives, watercraft, aircraft, and emergency equipment;
2. Dyed diesel for off-road vehicles;
3. Dyed diesel for furnaces, boilers, generators; and
4. Propane and liquefied natural gas for vehicles.

C. These rules do not apply to fuel sold in the City for subsequent delivery outside the City limits.

D. Until July 1, 2030, these rules do not apply to any retailer offering a renewable diesel blend of 99 percent if such retailer, as of January 1, 2023, has: (1) a minimum of 120,000 gallons of onsite storage; and (2) a minimum of nine truck fueling lanes. Such retailer may also offer, on the same site or a contiguous site, diesel fuel that does not contain biofuels.

E. These rules do not apply to any fuel used for vehicle test operations.

F. Neither Chapter 16.60 nor these rules apply to City-based vehicle manufacturing operations until July 15, 2030. On and after July 15, 2030, all City-based vehicle manufacturing operations must meet the requirements of Chapter 16.60 and these rules.

G. These rules do not limit the production, sale or use of fuel for flex-fueled vehicles using up to 85 percent ethanol blends.

2. Authority

Portland City Code (PCC) Chapter 16.60 (Motor Vehicle Fuels) (Chapter 16.60) authorizes the City Administrator to administer and enforce Chapter 16.60, including the adoption, amendment and repeal of administrative rules. The Director may, upon request, issue written interpretations of how Chapter 16.60 and these rules apply in general or to specific circumstances.

3. Definitions

A. Titles, captions and section headings used in these rules are for the convenience of the reader and shall not be read to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of the rules. The following words and phrases whenever used in these rules shall be construed as defined in this Section unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases. Words and phrases used in these rules and not specifically defined shall be construed according to the context and approved usage of the language. Words used in the singular include the plural and the plural includes the singular. Words used in one tense include any other tenses as the context may require.

B. References to the Oregon Revised Statutes (ORS) or to the Oregon Administrative Rules (OAR) refer to the ORS or OAR in existence at the time these rules were adopted on August 23, 2024.

C. All terms defined in PCC Section 16.60.010 apply to these rules and, in addition, the following terms shall be defined as provided below:

1. “Absolute carbon intensity (CI) value” means, for the purposes of Chapter 16.60 and these rules, the value assigned by the Oregon Clean Fuels Program (CFP). Renewable fuels that meet the requirements of Chapter 16.60 must have a CFP fuel pathway at or below the CI standard. Fuel with an absolute CI value above the CI standard may not be used to meet the requirements of Chapter 16.60.

2. “Above the rack” means sales of transportation fuel at: pipeline origin points, pipeline batches in transit, barge loads in transit and at terminal tanks before the transportation fuel has been loaded into trucks or other means of distribution within the City.

3. "Accredited laboratory" means a laboratory that is currently accredited by an independent laboratory accrediting body for analyzing motor vehicle fuels using ASTM International test procedures and specifications.

4. "ASTM International" means the national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services and the promotion of related knowledge.

5. “Average CI value” means the weighted average of CI values from multiple CFP fuel pathways. The average CI value allows covered entities to use fuel from multiple fuel pathways to meet the requirements of Chapter 16.60 if the weighted average of different

renewable fuels are equal to or less than the CI standard over the compliance period.

6. “Below the rack” means the distribution or sale of clear or blended gasoline or diesel fuel products when the fuel is transferred from storage tanks at a bulk facility and offloaded from a fuel-loading rack for sale as a finished fuel product for use in motor vehicles.

7. “Book and claim” means a compliance mechanism for covered entities to comply with the biofuel CI requirements in PCC Section 16.60.025. Book and claim is an accounting approach that decouples environmental attributes, in this case CI value, from the physical product, thus allowing environmental attributes to be tracked and reported separately for the purposes of compliance. Book and claim allows covered entities to demonstrate that the entities have imported into Oregon or purchased a sufficient volume of renewable diesel, biodiesel, or a blend thereof that is compliant with the CI standard. This satisfies the proportion of fuel products sold in the City, regardless of where in Oregon the compliant fuel product is sold. Book and claim, in this context, does not allow for the banking, trading or other marketable mechanism to exchange environmental attributes.

8. “Book and claim agreement” means an agreement that satisfies the requirement for a reporting guarantee from a fuel importer or position holder for book and claim compliance. Book and claim agreements may be used interchangeably with a book and claim letter at the discretion of the reporting entity, i.e. the fuel importer or position holder. Book and claim agreements may be either a non-legally binding written agreement or a contract.

9. “Book and claim letter” means a letter that satisfies the requirement for a reporting guarantee from a fuel importer or position holder for book and claim compliance. Book and claim letters may be used interchangeably with a book and claim agreement at the discretion of the reporting entity, i.e. the fuel importer or position holder.

10. "Bulk facility" means a facility – including pipeline terminals, refinery terminals, rail and barge terminals, and associated underground and above-ground tanks connected or separate – from which motor vehicle fuels are withdrawn from bulk for ultimate delivery to retail, wholesale or nonretail facilities or into a cargo tank or barge used to transport products used to comply with Chapter 16.60 or these rules. Bulk facilities are sometimes referred to within the industry as fuel terminals.

11. “City” means the City of Portland.

12. “City Administrator” means the City Administrator of the City, or the City Administrator’s designee.

13. "Compliance period” means over the course of the calendar year or as defined by the City Administrator.

14. “Covered entity” means any entity regulated by Chapter 16.60. This includes but is not limited to fuel distributors, resellers, retailers, nonretail dealers, and wholesale purchaser-consumers who own finished fuel products below the rack for sale in the City or who transport a finished fuel product into the City. Chapter 16.60 regulates the sale of motor vehicle fuel to end users and may therefore implicate other entities engaged in the sale of motor vehicle fuels.

15. "Director" means the Director of the Bureau of Planning and Sustainability (BPS) or the Director’s designee.

16. “Emergency equipment” means a vehicle that is equipped with lights and sirens and that is: (1) operated by public police, fire or airport security agencies; or (2) designated as an emergency vehicle by a federal agency.

17. "End user” means the person consuming fuel for the purpose of operating motor vehicles on public roadways.

18. “Export” means to transport fuel purchased in Oregon from locations within Oregon to locations outside Oregon by any means of transport, other than in the fuel tank of a vehicle for the purpose of propelling the vehicle.

19. “Fuel pathway” means a detailed description of all stages of fuel production and use for any transportation fuel, including feedstock generation or extraction, production, distribution and combustion of the fuel by the end user. The fuel pathway is used to calculate the lifecycle CI value of each transportation fuel.

20. “Fuel pathway code (FPC)” means the identifier used by Oregon Department of Environmental Quality (DEQ) in the Oregon Fuels Reporting System that applies to a specific fuel pathway as approved or issued under OAR 340-253-0400 through 0470.

21. “Fuel pathway holder” means the entity that has applied for and received a FPC from DEQ, or who has a FPC from the California Air Resources Board that has been approved for use in Oregon by DEQ.

22. “Fuel vendor” is any retail dealer, nonretail dealer or wholesale purchaser consumer located in the City selling or dispensing fuel to an end user.

23. “Import” means bringing a fuel product into Oregon from outside Oregon for sale in Oregon.

24. “Fuel importer” means any person who brings a fuel product into Oregon from outside Oregon for sale in Oregon, including any person owning fuel from locations outside Oregon at the time fuel is brought into Oregon for use in Oregon, by any means of transport, other than fuel brought into Oregon in the fuel tank of a vehicle used to propel the vehicle.

25. “Marketer” means any person in the business of distributing or reselling fuel to a fuel vendor, including wholesale dealers and fuel distributors.

26. “Person” means a natural person, joint venture, joint-stock company, partnership, association, club, company, corporation, business trust, organization, and the manager, lessee, agent, servant, officer, or employee of any of them.

27. “Portland City Code (PCC)” means ordinances adopted by the City Council, as codified by the City Auditor.

28. “City-based vehicle manufacturing operations” means the operation of a manufacturing facility located within the City that produces complete or finished motor vehicles. It does not include the manufacture of vehicle components or parts.

29. “Position holder” means any person that has an ownership interest in a specific amount of fuel in the inventory of a bulk facility. This does not include inventory held outside of a terminal, retail establishment or other fuel suppliers not holding inventory at a bulk facility.

30. “Rack” means a loading rack designed to transfer fuel from storage tanks at a bulk facility into the compartments of a tank truck, rail car or any other means of fuel transport, other than fuel transported in the fuel tank of a vehicle used to propel the vehicle.

31. “Reporting entity” means a fuel importer or position holder taking responsibility for reporting quarterly and annual book and claim reports on behalf of one or more covered entities.

32. "Retail dealer" means any person who owns, leases, operates, controls or supervises an establishment located within the City at which motor vehicle fuel is sold or offered for sale to the public.

33. “Retained fuel” means fuel with an unknown CI value that a nonretail fuel dealer or distributor places in a below-the-rack, commingled storage tank to empty fuel trucks holding excess inventory after making deliveries outside of the City.

34. "Reporting period” means a period of three calendar months ending on March 31, June 30, September 30 or December 31, or as defined by the City Administrator.

35. “Source information” means documentation used to demonstrate compliance with Chapter 16.60 through compliance reporting. Source information includes original documents and reports that contain clear and accurate information used to generate compliance reports. Source information does not include duplicate or copied documents that may lack the necessary substantive content to demonstrate compliance.

36. "Wholesale dealer" means any person who sells fuel if the seller knows or has reason to believe that the buyer intends to resell the fuel in the

same or an altered form to a retail dealer, nonretail dealer or another wholesale dealer.

4. Minimum Biofuel Content Requirements

A. **Biodiesel and renewable diesel requirements**. *See* PCC Subsection 16.60.020.A.

B. **Ethanol requirements.** *See* PCC Subsection 16.60.020.B

C. Fuel retailers are required to conspicuously place signage denoting the type of biofuel mixture available for sale by the fuel retailer in accordance with the labeling specifications established by the Federal Trade Commission (16 CFR 306 (Automotive Fuel Ratings, Certification and Posting)) or the Oregon Department of Agriculture.

D. Minimum biofuel content requirements cannot be averaged. Retailers may sell biofuel blends that are higher than those required by PCC Section 16.60.020. Enforcement is based on whether actual biofuel blends sold to end users meet the minimum biofuel content requirements.

E. PCC Subsection 16.60.020 – which limits the distribution of fuel below the minimum biofuel content requirements – is intended to apply to finished fuel products intended for sale. Accordingly, distribution of petroleum diesel, B5, B10 or other biofuel blends below the minimum biofuel content requirements may be distributed in the City when the blends are intended for sale outside the City or when the blends are intended for further blending to comply with PCC Subsection 16.60.020.

5. Carbon Intensity (CI) Standard Requirements

A. **CI Requirements.** *See* PCC Section 16.60.025.

B. Fuel CI values are based on DEQ certified values, including temporary CI values and those established by other states, with modifications as needed for certification by DEQ for use in Oregon.

1. Effective May 15, 2026, covered entities with DEQ certified values generated with OR-GREET Model 4.0 may add an additional 6g CO_2e/MJ to the carbon intensity requirements in PCC Subsection 16.60.025.A.

C. CI values are documented using the DEQ Clean Fuels Program FPC.

D. Biofuel purchases made without Oregon CFP obligation transfer may be

assigned a substitute CI value. Substitute CI values are not accepted for compliance with PCC Section 16.60.025. Purchases of fuel without Oregon CFP obligation transfer will be handled as follows:

1. If the actual CI value is unknown by the entity who purchases the fuel, the fuel will be excluded from program compliance; or
2. If the actual CI value is known by the regulated entity who purchases the fuel, the fuel may be included in the compliance calculations; and
3. If the purchased volume is later sold above the rack or exported, this purchased volume would also be excluded from these total reported volumes.

E. An entity's business decision to use retained fuel in their operations is voluntary. However, retained fuel must be excluded from compliance with Chapter 16.60 and these administrative rules because the CI value of the fuel is unknown. Retained fuel volumes must be reported directly to BPS on an annual basis, by the Q4 book and claim reporting deadline, using a form available on the RFS program website. Retained fuel volumes should not be reported to book and claim or delivered fuel summary reporting entities, such as suppliers, position holders, or fuel importers. Reporting entities are not obligated to report on retained fuel volumes in their compliance reporting through book and claim or delivered fuel summary. BPS will use the reported retained fuel volumes to reconcile with other compliance reporting. The volume of retained fuel excluded from compliance may not account for more than 5 percent of the entity's total diesel volume during the compliance period.

6. <u>CI Standard Compliance Requirements</u>

A. **CI value options.** Covered entities must comply with the CI standard through use of either absolute CI value, an average CI value or CI value for comingled storage tanks.

1. Absolute CI value. Allows for product transfer document compliance, *see* 6.C.2.

2. Average CI value. Requires book and claim or delivered fuel summary compliance, *see* 6.C.1 and 3.

3. CI values for comingled storage. Allowed for product transfer document or delivered fuel summary compliance. When the FPC for all products in comingled storage are known, covered entities may mass balance transfers out of that commingled storage by FPC based on the gallons input into storage in the current or prior quarter. Mass balance accounting may only be used for commingled storage when fuels were put into a tank two or more quarters prior, if the covered entity demonstrates to BPS that the tank has not fully turned over by the time the products are offloaded for sale or transfer. In these cases, covered entities can use FPCs derived through mass balance accounting to be used for compliance with Chapter 16.60. Covered entities using a comingled CI value must maintain source information showing the

contents by volume, date, and FPC for all fuels added to the comingled tank, in accordance with recordkeeping requirements in Section 9.

4. Determination and designation of absolute or average CI value. Covered entities may determine the appropriate approach given their business practices. The approach must be documented and attested by covered entities for each compliance period when the approach is selected, as described under 6.D below.

B. **CI standard compliance options.** Covered entities have three CI standard compliance options available over the course of the compliance period, one calendar year.

1. **Book and claim.** Book and claim only applies to compliance with PCC Section 16.60.025 (Carbon Intensity Standard). Covered entities are required to meet the blend requirements of PCC Section 16.60.020 without averaging or the option for book and claim compliance. There is no banking of credits or allowances, no credit generation, or any other marketable allowances associated with this compliance option.

   Book and claim compliance requires covered entities to have a fuel importer or position holder who accepts responsibility for compliance reporting for each compliance period. Fuel importers and position holders may take responsibility for complying with the requirements on behalf of fuel retailers, resellers, distributors, or wholesale purchase consumers. To use this compliance option, fuel importers and position holders must demonstrate that on average they have imported into Oregon or purchased a sufficient volume of renewable diesel, biodiesel or a blend thereof that is compliant with the CI standard to satisfy the proportion of renewable fuel sold in the City, regardless of where in Oregon the compliant fuel is sold.

2. **Product transfer document.** Product transfer documents (PTDs) memorialize the transfer of fuel ownership from one entity to the next. DEQ requires the CFP FPC to be included on PTDs above the rack or for exports (see OAR 340-253-0600). Covered entities selecting this compliance option must include a FPC on at least one PTD through sale to the fuel retailer or wholesale purchase consumer. Under this compliance option, fuel distributors, resellers, retailers, nonretail dealers, or wholesale purchase consumers will need to obtain and maintain the FPC, originating from the fuel pathway holder, on at least one PTD associated with each fuel delivery. Fuel retailers and wholesale purchase consumers will need to keep the PTD's with an FPC as required by Section 9 of these rules. No reporting is required.

   Wholesale purchase-consumers, in lieu of documenting the FPC on PTD, may submit a contract with their fuel supplier if the contract's terms mandate that delivered products meet the requirements of Chapter 16.60. Contracts must be submitted to BPS when compliance options are selected and when contracts have been updated by the

signed parties, *see* 6.D below.

3. **Delivered fuel summary.** Covered entities may maintain a quarterly summary report of the FPC associated with each fuel delivery in lieu of maintaining the FPC on a PTD from each delivery. Covered entities may average the CI over the compliance period, like book and claim compliance. *See* 6.E.3 below.

C. Registration and compliance options selection. All covered entities must register and select a CI standard compliance option for each compliance period in the BPS RFS Compliance Database, found on the RFS program website.

1. BPS will use registration information to communicate with covered entities via email to manage compliance with the CI standard. BPS will give covered entities access to a list of registered entities to facilitate coordination required to comply with the CI standard.

2. If a covered entity has a change in ownership, the entity must update its registration within one month from the change in ownership. Any new covered entities must register with BPS before distributing or selling fuel in the City.

3. Covered entities must select a compliance option before the beginning of the compliance period. Compliance option selections will be made through a form available on the BPS RFS Compliance Database.

4. BPS will notify covered entities by October 31 of each year with the option to select or change a compliance option. To receive notification, covered entities must be registered in the BPS RFS Compliance Database.

5. Compliance option selection may be changed at any time during the compliance period, up to and including December 31st, after consulting with BPS. If a covered entity decides to change its compliance option during the compliance period, it is responsible for compliance under the new option for the full compliance period.

6. If a covered entity does not select a compliance option for a given year, enforcement will be based on the most recent compliance option selected for prior compliance periods.

7. Selection of the book and claim compliance option requires designation of a fuel importer or position holder that will accept responsibility for each of the four reporting periods within the associated annual compliance period.

8. The position holder may report the fuel CI value and other biofuel attributes under book and claim compliance when an agreement is made with the fuel importer to ensure those volumes are not reported by both entities to the City of Portland.

9. Fuel importers and position holders will provide their customers with a book and claim reporting guarantee in the form of a book and claim letter. The book and claim letter must provide that the fuel importer or position holder accepts responsibility for book and claim reporting in compliance with Chapter 16.60 and these rules on behalf of one or more covered entities.

10. Alternatively, covered entities may choose to use a book and claim agreement to satisfy the requirement for a book and claim letter. It is up to the discretion of the fuel importer or position holder whether to use a book and claim letter or agreement. Book and claim agreements must meet the same requirements as the book and claim letter. Under no circumstances will a covered entity's choice to use a letter or a non-legally binding agreement be an excuse for non-compliance with any provision in this Chapter.

11. Book and claim letters or agreements must be signed and provided by the reporting entity to their covered customers. Covered entities who opt to comply through book and claim are required to submit a copy of the book and claim letter or agreement provided by the fuel importer, position holder or other covered entities who accept responsibility for quarterly and annual compliance reporting to the BPS RFS Compliance Database.

12. Fuel importers and position holders using a book and claim written agreement, rather than a letter, may execute multiple book and claim agreements that are linked together in a sequence or chain, with each subsequent agreement dependent on the terms of the previous one, such that all parties are connected through a common agreement for the fuel importer or position holder to accept responsibility for book and claim compliance reporting on behalf of all other parties.

13. Book and claim letters and agreements executed after the effective date of these rules must include:

    a) An acknowledgement by the signed entity that they are accepting responsibility for compliance reporting on behalf of the letter's recipient.

    b) A commitment by the reporting entity to submit true, accurate and timely compliance reports to BPS, as required by Section 6.E.1 of these rules.

    c) A clear explanation of how the reporting entity will manage audits and any issues of non-compliance.

    d) A contact (including full name and contact information) for the reporting entity who is authorized to respond to compliance and reporting issues on behalf of the letter's recipient.

    e) Physical site addresses covered by the letter where motor vehicle

fuels are stored, transferred or sold. Time period the letter covers to guarantee compliance reporting.

f) A signature from an individual from the reporting entity who is authorized to represent commitments made by their company.

14. Any existing book and claim agreements that were executed prior to the effective date of these rules do not need to be amended or re-executed until the agreement has expired, at which time new or amended book and claim agreements must meet the requirements of this Chapter.

D. Compliance option reporting requirements.

1. **Book and claim reporting.** Designated fuel importers and position holders who use book and claim compliance must report to the City each reporting period and attest to the accuracy of reported data. Reports and attestations will be submitted through a web form provided on the website.

a) Fuel importers and position holders must report and attest:

(i) The total volume of petroleum diesel fuel imported to Oregon;
(ii) The total volume of renewable diesel fuel imported to Oregon;
(iii) The total volume of biodiesel fuel imported to Oregon;
(iv) The total volume of petroleum diesel fuel purchased in Oregon;
(v) The total volume of renewable diesel fuel purchased in Oregon;
(vi) The total volume of biodiesel fuel purchased in Oregon;
(vii) The total volume of petroleum diesel fuel sold above the rack in Oregon;
(viii) The total volume of renewable diesel fuel sold above the rack in Oregon;
(ix) The total volume of biodiesel fuel sold above the rack in Oregon;
(x) The total volume of petroleum diesel fuel exported from Oregon;
(xi) The total volume of renewable diesel fuel exported from Oregon;
(xii) The total volume of biodiesel fuel exported from Oregon;
(xiii) Percent of diesel fuel sold in the City;
(xiv) Percent of minimum biofuel content required by Chapter 16.60; and
(xv) Book and claim compliance volume.

b) **Book and claim volume (BCV) calculation.** BCV is the qualifying volume of fuel that must comply with PCC Section 16.60.025. Fuel

importers and position holders will report to the City using the BCV calculation.

Book and claim reports and source information must demonstrate that a sufficient volume of fuel at or below 40g CO2e/MJ was imported or purchased in Oregon to meet the BCV. Covered entities using book and claim compliance are required to maintain source information verifying the values reported in the BCV calculation. Source information must be maintained in accordance with the recording keeping requirements in Section 9.

BCV is calculated using the following formula:

BCV = TDV X Percentage of diesel fuel sold in the City X Percentage of biofuel required

After determining BCV for a compliance year and demonstrating that a sufficient volume of fuel compliant with PCC Section 16.60.025 was imported and/or purchased above the rack during said compliance year, any volume of fuel compliant with PCC Section 16.60.025 imported or purchased above the rack that exceeds that year's BCV may be used in subsequent years to demonstrate that a sufficient volume of fuel at or below 40g CO2e/MJ was imported or purchased in Oregon to meet the BCV.

Any such excess volume of compliant fuel carried over from prior years can be used to demonstrate BCV compliance for only one future compliance year, i.e., excess compliant volumes cannot be used to demonstrate compliance in multiple subsequent years. Excess compliant volumes carried over from prior years are only applicable to one entity's compliance and are in no way transferable.

Covered entities choosing to carryover complaint fuel from prior years must report those volumes through the book and claim annual reporting form in the BPS RFS Compliance Database. If there are excess volumes available that may be carried over, those volumes must be noted in the annual book and claim compliance report for the current compliance period. When excess volumes are carried over in the subsequent compliance period, they must again be noted in the following annual book and claim compliance report.

c) **Total Diesel Volume (TDV) Calculation.** TDV is the Total Diesel Volume and is calculated by summing the total volumes of petroleum diesel, renewable diesel and biodiesel imported into Oregon and purchased above the rack, rounded to the nearest whole number. The TDV must not include the volume of petroleum diesel, renewable diesel or biodiesel exported from Oregon or imported then sold to an unaffiliated position holder above the rack.

TDV is calculated using the following formula:

TDV = (Total volume of petroleum diesel fuel imported to Oregon + total volume of renewable diesel fuel imported to Oregon + total volume of biodiesel fuel imported to Oregon + total volume of petroleum diesel fuel purchased in Oregon + total volume of renewable diesel fuel purchased in Oregon + total volume of biodiesel fuel purchased in Oregon) – (total volume of petroleum sold above the rack in Oregon + total volume of renewable diesel fuel sold above the rack in Oregon + total volume of biodiesel fuel sold above the rack in Oregon + total volume of petroleum diesel fuel exported from Oregon + total volume of renewable diesel fuel exported from Oregon + total volume of biodiesel fuel exported from Oregon)

Example:
30,000 gallons = 1,000,000 gallons x 20% x 15%.

In the example, the fuel importer and position holder reported 1,000,000 gallons of TDV. Of the TDV, 20% was sold in the City. In this period, 15% is the required minimum biofuel blend. Fuel importer or position holder would be required to demonstrate through source information that they imported or purchased in Oregon the BCV of at least 30,000 gallons of renewable fuel at a CI of 40 g CO2e/MJ or lower.

For compliance periods 2026 and 2030, where blend requirements change July 1, the following calculations will be used to average the minimum percent renewable blend requirement over the compliance period:

For 2026: (6 months x 15% + 6 months x 50%)/12 = 32.5% average minimum percent renewable for compliance period.
For 2030: (6 months x 50% + 6 months x 99%)/12 = 74.5% average minimum percent renewable for compliance period.

d) **Determining volume sold in the City.** Fuel importers and position holders are encouraged to work with resellers, distributors, nonretail dealers and retailers to track the volume of fuel delivered to retail stations or wholesale purchase consumers in the City. If fuel importers or position holders choose not to track fuel sold in the City, a deemed value will be used. The deemed value assumes the volume of diesel fuel sold in the City is comparable to that sold in the rest of Oregon on a per capita basis. The calculation required for the deemed value is based on the City's share of Oregon's population, using the population values that are certified by the Portland State University Population Research Center. Example: 15.1% in 2021 (City population 641,162 / Oregon population 4.246m). Deemed population values are not set through rulemaking. BPS will issue approved deemed population values on book and claim reporting forms annually, after population estimates have been certified.

e) **Reporting schedule**. Covered entities using the book and claim compliance pathway are required to submit reports for each reporting

period. Reports are due by 11:59 PM on the following schedule: July 5th for Q1, October 5th for Q2, January 15th for Q3 of the prior calendar year, and May 5th for Q4 of the prior calendar year. If the reporting deadline, listed above, falls on a weekend or National holiday, reports will be due by 11:59 PM on the following business day. Q4 book and claim reports will provide covered entities with the option to true-up or correct data reported from prior quarters within the same compliance period.

2. **PTD reporting.** Reporting of data is not required for those documenting the FPC on at least one PTD associated with each delivery or wholesale purchase-consumers who submit a contract with a fuel supplier with terms that meet the requirements of Chapter 16.60. Covered entities are required to attest annually that they are using this compliance option and will comply with these requirements. Attestations are due at the time the compliance option is selected and will be made through a form provided on the website, *see* 6.D.

3. **Delivered fuel summary reporting.** Covered entities may opt to maintain a quarterly summary report of all fuel delivered to their facility, rather than maintaining the FPC on PTDs. Quarterly summary reports must be maintained on site for inspection and must be completed on the same schedule as book and claim reporting, *see* 6.E.1.e. Covered entities must provide the location where the summary report will be held when selecting a compliance option, *see* 6.D. Source Information to support delivered fuel summary reports must be retained in accordance with the record keeping requirements in Section 9. Additionally, all summary reports must be uploaded to the BPS RFS Compliance Database once annually, by April 30th for the prior calendar year.

   Summary reports must include the retail location address, volume of diesel fuel delivered by date and the associated FPC used for compliance. BPS will provide a template for the summary reports, which is available on the RFS program website. There are two options that can be utilized to convey compliance under delivered fuel summary reporting:

   a) **CI averaging.** The summary report must include a calculation showing the weighted average of CI values by volume over the quarter. Final reports for the 4th quarter of the compliance period must demonstrate compliance with the CI standard over the year.

   b) **Equivalent volume at compliant CI.** The summary report must include a calculation showing the volume of biofuel that meets the CI standard delivered in the quarter. Final reports for the 4th quarter of the compliance period must demonstrate that over the calendar year the covered entity met or exceeded an equivalent volume of fuel meeting the requirements of PCC Section 16.60.025. For example, in 2024, if 1,000 gallons were delivered over the year, 15% would need to meet the CI standard, or 150 gallons of fuel with a CI at or below 40g CO2e/MJ. This increases to 50% in 2026 and 99% in 2030.

7. Product Transfer Document Content Requirements

An invoice, bill of lading, shipping paper or other documentation must accompany each fuel delivery in the City, referred to as a Product Transfer Document (PTD).

1. PTDs must include the type of renewable fuel, including biodiesel, renewable diesel, ethanol, or any blends of these fuels, and declare the volume percent of such renewable fuel.

2. PTDs must comply with OAR 603-027-0430 (1) (a) which includes identifying the quantity, the name of the product, the name and address of the seller and buyer, and the date and time of the sale.

3. Covered entities using product transfer document compliance must also ensure that FPCs are included on at least one PTD associated with each fuel delivery.

8. Testing and Inspections

A. Testing of motor vehicle fuel.

1. The Director may test motor vehicle fuel for the purpose of inspecting the motor vehicle fuel supply of any service station, business or other establishment that sells or offers for sale, or distributes, transports, hauls, delivers or stores motor vehicle fuel that is subsequently sold or offered for sale, for compliance with Chapter 16.60 and these rules.

2. The Director will have access during normal business hours to all places where motor vehicle fuel is sold to or by a retail dealer, non- retail dealer or wholesale dealer for the purpose of examination, inspection and investigation of the establishment's motor vehicle fuel supply, will collect or cause to be collected samples of the motor vehicle fuel and may test or analyze the samples for compliance with Chapter 16.60 and these rules. Testing of fuel samples will be determined in the Director’s sole discretion.

3. Before taking any enforcement action, the Director will cause motor vehicle fuel samples to be tested in accordance with standards, reproducibility limits and procedures that are, in the Director's judgment, consistent with ASTM standards and procedures.

4. The Director will notify the owner or person in charge of the facility of the sample collection as soon as is practicable after a sample is taken. At this time, the Director will also notify the owner or person in charge of the facility of the test methods that will be utilized for compliance purposes.

5. The volume of the sample taken for testing will be adequate for the tests to be performed and to allow for a portion of the sample to be retained for subsequent testing, if the need arises. A sample with a test result that is outside the test reproducibility limits, when compared to the applicable limits, will be properly stored to preserve the sample for at least 90 days.

B. Official sampling procedures.

1. The Director will obtain official samples of motor vehicle fuel for testing from:

   a) The same dispensing device used for sales to customers;

   b) Any bulk facility; or

   c) Any transporter of motor vehicle fuels.

2. The official sample will be obtained in accordance with ASTM standards for manual sampling or as determined by the Director.

3. Official sampling used for compliance will include split samples, with one sample given to the person in charge of the facility to verify compliance.

4. The Director when collecting any sample will provide their full name and contact information to the owner or person in charge of the facility and on the tag or label of each sample that is taken.

5. At the time the Director obtains samples, or requests to review copies of books, papers or records, the owner or operator may specify what, if any, information the owner or operator considers to be confidential business information or a trade secret. The Director will keep any information so specified (including the results of any test) in a separate file marked "confidential." The disclosure of such information is governed by the Oregon Public Records Law, ORS 192.410. Nothing in this rule shall be construed to limit the use of such information in any enforcement proceeding by the Director.

C. Inspections.

1. For all fuel importers, bulk facility operators, and marketers that are subject to the requirements of Chapter 16.60 and these rules, the Director may:

   a) Audit records for biofuels;

   b) Review certificates of analysis or other documentation for each production lot or batch of biofuel;

   c) Verify documentation of FPC;

   d) Review PTDs or other documentation identifying the percentage of biodiesel being blended;

   e) Take samples of fuel for testing; and,

   f) Verify renewable blend ratios of fuels sold.

2. For all fuel vendors and wholesale purchase consumers that are subject to the requirements of Chapter 16.60 and these rules, the Director may:

   a) Review PTDs or other documentation for deliveries of all motor vehicle fuels;

   b) Verify blend ratios of gasoline-ethanol and diesel-biodiesel/renewable diesel blends either through visual inspection of disperser labels, advertisements, review of PTDs or laboratory testing of fuel samples; and

   c) Take official samples for laboratory testing, by an accredited laboratory for analyzing motor fuels.

9. Record Keeping Requirements

A. Fuel vendor documentation. Fuel vendors, including resellers and operators of the retail, nonretail, and wholesale purchaser consumer dispensers must keep at the person's registered place of business all PTDs and source information for each product being sold and any reports required by these rules for 2 years. Source information for reports required by these rules must only be retained by the entity that originally generated the report.

B. Documentation of volume sold. Each operator of a bulk facility and each person who sells motor vehicle fuels to fuel vendors in the City must keep at the person's registered place of business complete and accurate records of any motor vehicle fuels sold, if sold or delivered in the City, including source information for every product and reports required by these rules for 2 years. Source information for reports required by these rules must only be retained by the entity that originally generated the report.

C. Storage location. Covered entities may opt to store records in a central location in the Portland–Vancouver–Hillsboro Metropolitan Statistical Area if it is more efficient than storing records at the entity's registered place of business. Records, excluding PTDs, may also be stored electronically. BPS may request copies of electronic records from covered entities. Covered entities have 30 days to provide a copy of an electronic record to BPS. To maintain records in a central location or to store records electronically, covered entities must inform BPS when selecting a compliance option, *see* 6.D.

10. Enforcement

A. Violations.

1. The Director may determine that a violation of Chapter 16.60 or these rules has occurred. Upon making such a determination, the Director will send a written notice by certified mail to the covered entity identifying the violation and applicable penalty.

2. Covered entities will, upon receipt of a notice of violation, correct the violation and pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer within 10 days of receipt of the notice.

3. A determination issued pursuant to PCC Section 16.60.040.A may be appealed to the Code Hearings Officer, as provided for in PCC Chapter 22.10.

4. In determining the penalty to be assessed against any covered entity, the Director will consider the following criteria:

    a) The extent and nature of the person's involvement in the violation;

    b) The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;

    c) Whether the violation was repeated and continuous, or isolated and temporary;

    d) The magnitude and seriousness of the violation;

    e) The City's costs of investigating the violation and correcting or attempting to correct the violation;

    f) Whether any criminal charges have been issued against the person; and,

    g) Any other factors the Director deems to be relevant.

5. Fuel quality complaints. Upon receipt of a complaint of fuel quality or identification by the Director, the City will forward the complaint to the responsible Oregon regulatory agency.

B. Penalties. Violations of Chapter 16.60 and these rules may be punishable by fines, *see* PCC Section 16.60.050.

1. It is a separate offense each and every day during any portion of which any violation of any provision of Chapter 16.60 or these rules is committed or continued by such person and may be punished accordingly, with the exception of violations of PCC

Section 16.60.025.

2. Violations of PCC Section 16.60.025, regarding quarterly and annual reporting requirements for book and claim and delivered fuel summary compliance, will be determined based on the annual compliance period. Subsequent violations of PCC Section 16.60.025 may be assessed quarterly until the covered entity demonstrates compliance through quarterly and annual reporting.

3. If BPS determines that a covered entity has violated the requirements of Chapter 16.60 or these rules, fines will be assessed following the penalty schedule shown in Attachment A.

11. Attachments

A. Attachment 1: RFS Penalty Schedule.

12. History

A. Permanent administrative rules adopted by the Director of the Bureau of Development Services May 22, 2007, effective July 1, 2007.

B. Interim administrative rules adopted by the Director of the Bureau of Planning and Sustainability on February 2, 2024, effective May 15, 2024.

C. Permanent administrative rules adopted by the Director of the Bureau of Planning and Sustainability and effective on August 23, 2024.

Attachment 1: RFS Penalty Schedule

PCC Chapter 16.60 authorizes penalties for violations of this Chapter and these rules. Violations are punishable by fines up to $10,000 for the first violation and up to $15,000 for each subsequent violation. The following table shows the penalty schedule for each type of violation, including what year the first penalties may be assessed, dollar amounts, and frequency.

Violation Type	Earliest Year to Assess	First Penalty		Second Penalty	Subsequent Penalties
Unregistered Sites	2026	$1,000 per site		$1,000 per site	Fine increases to $10K on third violation. Fine increases to $15k for subsequent violations.
Registered Users Without Compliance Options.	2026	$5,000		$5,000	Fine increases to $10K on third violation. Fine increases to $15k for subsequent violations.
Non-compliance with Minimum Biofuel Content Requirements	2026	$10,000		$10,000	Fine increases to $15k for subsequent violations.
Failed Verification Review *at Gas Stations*	2026	PTD[1]	$1,000 per site	$1,000 per site	Fine increases to $10K on third violation. Fine increases to $15k for subsequent violations.
		DFS[2]	$3,000 quarterly	$6,000 quarterly	Fine increases to $15k on third violation. $1000/quarter.
	2027	BAC[3]	$5,000 annually	$5,000 annually	Fine increases to $15k on third violation.
Failed Verification Review *for other covered entities*.	2027	PTD DFS	$5,000	$5,000	Fine increases to $15k on third violation.
Failed Audit Review (onsite or electronic audit of source information).	2027	PTD DFS BAC	$10,000	$10,000	Fine increases to $15k on third violations
Failure to Submit Quarterly and Annual Reports.	2027	BAC DFS	$10,000	$15,000	Fine increases to $15K for third violation.
Failure to Submit Accurate Reports (with repeated errors).	2027	BAC DFS	$5,000	$10,000	Annual. Fine increases to $15K for third violation.

[1] "PTD" means Product Transfer Document Compliance
[2] "DFS" means Delivered Fuel Summary Compliance
[3] "BAC" means Book and Claim Compliance