OFFICE OF THE SECRETARY OF STATE
LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

STATUTORY MINOR CORRECTION

FILED
12/05/2023 2:35 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

DEQ 24-2023
CHAPTER 340
DEPARTMENT OF ENVIRONMENTAL QUALITY

FILING CAPTION: Statutory Minor Correction 340-090-0700

CONTACT: Emil Hnidey
503-568-0376
emil.hnidey@deq.oregon.gov

700 NE Multnomah St.
Suite 600
Portland,OR 97232

Filed By:
Emil Hnidey
Rules Coordinator

AGENCY ATTESTS THE FOLLOWING CHANGES HAVE BEEN MADE, ACCORDING TO ORS 183.335(7):

Correcting statutory or rule references

AMEND: 340-090-0700

RULE TITLE: Market Share

RULE SUMMARY: 340-090-0700(1)(e) is labeled 340-090-0700(1)(c). Changing the second instance of (c) in (1) to (e).

RULE TEXT:

Market share as used in ORS 459A.860 to 968 and related rules is a producer's percentage of all covered products sold in or into this state, as calculated in accordance with this rule.

(1) Methods for Calculating Market Share. Market share will be calculated as follows:

(a) Market share will be denominated by the percentage of weight (mass) of covered product measured in kilograms.

(b) A producer's market share will be calculated by dividing the weight of all covered products reported as sold or distributed by the producer in or into Oregon in a particular program year by the total weight of all covered products reported as sold or distributed by all producers in or into Oregon in that year. The sum of market shares across all producers must equal 1.0000.

(c) A producer responsibility organization's market share will be calculated by dividing the summed weight of all covered products reported as sold or distributed by all of the producer responsibility organization's member producers in or into Oregon in a particular program year by the total weight of all covered products reported as sold or distributed by all producers in or into Oregon in that year. The sum of market shares across all producer responsibility organizations must equal 1.0000.

(d) A producer must on an annual basis submit market data establishing the weight of covered products sold or distributed in or into Oregon to the producer responsibility organization to which it belongs. Producers must submit a description of their methodology for calculating covered product weight to the producer responsibility organization along with the data. Methodology used must be in accordance with applicable best practices. If estimated market data is submitted by a producer and better market data becomes available that demonstrates the estimates were not accurate, the producer must report corrections to the estimated data to the producer responsibility organization before the next annual reporting deadline.

(e) When submitting market data to DEQ in an annual report, a producer responsibility organization will submit the methodological justifications along with the corresponding data.

(2) Purpose of and Method for Calculating Modified Market Share. If DEQ approves more than one producer responsibility organization plan pursuant to ORS 459A.878, financial obligations of implementation of provisions ORS 459A.860 to 459A.975, including the costs of implementing assigned coordination tasks prior to the program start date per OAR 340-090-0680(1)(c), will be allocated among the producer responsibility organizations by modified market share, as provided by this section.

(a) Modified market share will be denominated in percentage of financial burden measured in US dollars.

(b) A producer responsibility organization's modified market share will be calculated as follows:

(A) The material-specific unit factor, described in subsection c of this section, is multiplied by the total weight of covered products of each material reported as sold or distributed in or into Oregon by each member producer;

(B) The results of paragraph A for each material and each member producer of the producer responsibility organizations are summed;

(C) the weight of all covered product of each material reported as sold or distributed in or into Oregon in a given year is multiplied by the material-specific unit factors and the result for each material are summed;

(D) The result of paragraph B is divided by the result of paragraph C.

(E) The result of paragraph D is a producer responsibility organization's modified market share. The sum of modified market shares across all producer responsibility organizations must equal 1.0000.

(c) The method and process for calculating material-specific unit factors for individual materials shall be included in any coordination plan approved by DEQ pursuant to OAR 340-090-0680. During the period of interim coordination pursuant to OAR 340-090-0680(1), DEQ will contract with an independent organization to develop and update as necessary an index of material-specific unit factors.

(3) Interim Reporting of Market Share. By August 1, 2025, a producer responsibility organization must report information that will be used to calculate "interim market share" and "interim modified market share" for the 2025 program year to DEQ. Interim market share is estimated market share for July 1 - December 31, 2025, calculated from estimates of the weight of covered product sold into Oregon by each member producer, organized by type of material. Interim modified market share is estimated modified market share for July 1 - December 31, 2025, calculated from these same producer estimates. Pursuant to ORS 459A.869(12), a producer responsibility organization's minimum interim market share is 10%.

(4) Preliminary and Final Reporting of Market Share. By July 1 of each program year, a producer responsibility organization must report information that will be used to calculate "preliminary market share" and "preliminary modified market share" for the previous program year to DEQ. By June 30th of the following program year, a producer responsibility organization must report corrections to estimated data for the second previous program year to DEQ that will be used to calculate "final market share" and "final modified market share."

STATUTORY/OTHER AUTHORITY: ORS 459A.975, 468.020

STATUTES/OTHER IMPLEMENTED: ORS 459A.860 - 459A.975