

DEQ proposes to amend the staff report provided to the Environmental Quality Commission as follows:

1. DEQ references three rules for which there are no proposed rule amendments:

- 340-272-0350
- 340-272-0445
- 340-272-0500

These references should be omitted from the following pages:

- a. Pg. 16-18
 - b. Pg. 65
2. In addition, the Draft Rules – Edits Included section of the staff report contains duplicative rule language for rule OAR 340-272-0450 on page 355. DEQ proposes to remove the duplicated rule language as it has no substantive effect on the rulemaking.

The proposed changes are shown below.

1a. Page 16-18 in OAR Chapter 340, Division 272 table. Removing references to OAR 340-272-0350, 0445, 0500.

OAR Chapter 340, Division 272

Rule Number	Rule Title	Explanation
340-272-0020	Definitions	This rulemaking adds a new definition for subcontractor.
340-272-0100	General Requirements for Verification of Reports and Fuel Pathway Applications	This rulemaking proposes an amendment to clarify that the verification body may submit the conflict of interest assessment on behalf of the responsible entity.
340-272-0110	Requirements for Verification of CFP Reports and Fuel Pathway Applications Submitted under OAR Chapter 340, Division 253	This rulemaking proposes amendments clarifying Clean Fuel Program fuel transaction types subject to verification.

340-272-0120	Requirements for Verification of GHG Reporting Program Emissions Data Reports Submitted under OAR Chapter 340, Division 215	This rulemaking proposes amendments to expand third party verification applicability to all entities subject to the Climate Protection Program and all electric companies and electricity service suppliers regardless of emissions level.
340-272-0210	Applications and Criteria for DEQ Approval of Verification Bodies and Verifiers	This rulemaking proposes an amendment allowing subcontractors to meet minimum lead verifier requirements for the purposes of qualifying verification bodies and ensures that subcontractors used for this purpose are DEQ approved.
340-272-0220	DEQ Review and Approval of Verification Bodies and Verifiers	This rulemaking proposes minor clarifying edits to this section.
340-272-0300	Requirements for Verification Services	This rulemaking removes language specifying that subcontractors may not be used to meet minimum lead verifier requirements or act as independent reviewers and clarifies requirements for subcontracting verification services.
340-272-0350	DEQ Review and Approval of Verification and Re-verification Requirements	This rulemaking proposes minor clarifying edits to this section.
340-272-0405	Notice of Verification Services	This rulemaking proposes amendments to clarify the timing of the site visit and require verifiers in training to be included on the form.
340-272-0415	Verification Plan	This rulemaking corrects typo(s) in this section.
340-272-0445	Log of Issues	This rulemaking corrects typo(s) in this section.
340-272-0450	Material Misstatement Assessments for CFP Fuel Pathways and Quarterly Fuel Transactions	This rulemaking corrects typo(s) in this section.

	Submitted Under OAR Chapter 340, Division 253	
340-272-0455	Material Misstatement Assessments for CFP Project Reports Submitted Under OAR Chapter 340, Division 253	This rulemaking corrects typo(s) in this section.
340-272-0460	Material Misstatement Assessments for Emissions Data Submitted Under OAR Chapter 340, Division 215	This rulemaking corrects typo(s) in this section.
340-272-0470	Review of Operations and Emissions for Emissions Data Reports Submitted under OAR Chapter 340, Division 215	This rulemaking proposes amendments adding verification requirements for biomethane and hydrogen reporting.
340-272-0495	Independent Review and Completion of Verification Services	This rulemaking proposes amendments requiring verifiers in training to be listed in the verification report and to update to gender neutral language.
340-272-0500	Requirements for Conflict of Interest Evaluation	This rulemaking proposes minor clarifying edits to this section.

1b. Page 65 in Rules Exempt from Five Year Review table.

Rules Exempt from Five-Year Review				
340-012-0054	340-012-0135	340-215-0020	340-215-0030	340-215-0034
340-215-0040	340-215-0042	340-215-0044	340-215-0046	340-215-0105
340-215-0110	340-215-0115	340-215-0120	340-216-0025	340-216-8010
340-216-8020	340-271-0010	340-271-0020	340-271-0110	340-271-0120
340-271-0130	340-271-0150	340-271-0310	340-271-0320	340-271-0330
340-271-0420	340-271-0430	340-271-0450	340-271-8100	340-271-9000
340-272-0020	340-272-0100	340-272-0110	340-272-0120	340-272-0210
340-272-0220	340-272-0300	340-272-0405	340-272-0415	340-272-0450
340-272-0455	340-272-0460	340-272-0470	340-272-0495	340-272-0500
340-272-0350	340-272-0445			

2. Removing duplicative rule language of OAR 340-272-0450 on page 355 of the Draft Rules – Edits Included section of the staff report.

340-272-0450

Material Misstatement Assessments for CFP Fuel Pathways and Quarterly Fuel Transactions Submitted under OAR Chapter 340, Division 253

(1) The verification team must conduct separate assessments of material misstatement on each calculated operational CI value and each quarterly fuel transaction quantity for each fuel pathway code (expressed in units from the applicable sections of OAR chapter 340 division 253). Material misstatement assessments are not conducted for quarterly review.

(2) Assessments of material misstatement of carbon intensity must meet all the requirements of this section.

(a) Each fuel pathway CI is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of its carbon intensity. The inputs and annual operational carbon intensity for fuel pathway codes that are not a recertification of a California Fuel Pathway Code(s) but have an active California Fuel Pathway Code(s) must be assessed.

(b) Material misstatement of carbon intensity includes any discrepancy as described in paragraph (A) of this subsection, omission as described in paragraph (B) of this subsection, or misreporting as described in paragraph (C) of this subsection, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported operational CI (grams of carbon dioxide equivalent per megajoule or gCO₂e/MJ) in a CFP fuel pathway application or report contains one or more errors that, individually or collectively, result

in an overstatement or understatement more than five percent of the reported operational CI, or 2 gCO₂e/MJ, whichever absolute value expressed in gCO₂e/MJ is greater.

(A) Discrepancies include any differences between the reported site-specific CI inputs and the verifier's calculated site-specific CI inputs subject to data checks under OAR 340-272-0430.

(B) Omissions include any site-specific CI inputs or associated source data the verifier concludes must be part of a fuel pathway application or report but were not included.

(C) Misreporting includes duplicate, incomplete, or other CI input data the verifier concludes should or should not be part of a fuel pathway application or report.

(c) One or more material misstatements of carbon intensity will result in a finding of material misstatement for the fuel pathway application or report.

(d) A controlled version of the Simplified CI Calculator for Tier 1 pathways, a DEQ-approved OR-GREET for Tier 2 pathways, or another substantially equivalent model approved by DEQ for the specific fuel pathway application under OAR 340-253-0400(1), as applicable, must be populated to assess whether a fuel pathway application or report contains a material misstatement of carbon intensity.

(e) The following equations for percent error, relative error threshold, and absolute error threshold must be used to determine whether any reported operational CI value contains a material misstatement of carbon intensity and must be included in the final verification report according to OAR 340-272-0495.

Percent error (CI) = $(\sum | \text{Difference in CI} | \div | \text{Reported Operational CI} |) \times 100\%$

Relative error threshold (CI) = $| \text{Difference in CI} | \geq 0.05 \times | \text{Reported Operational CI Value} |$

Absolute error threshold (CI) = $| \text{Difference in CI} | \geq 2 \text{ g CO}_2\text{e/MJ}$

(3) Assessments of material misstatement of quarterly fuel quantity for each fuel pathway code must meet all the requirements of this section.

(a) Each aggregated quarterly fuel quantity for each fuel pathway code is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of quarterly fuel quantity.

(b) Material misstatement of quarterly fuel quantity includes any discrepancy as described in paragraph (A) of this subsection, omission as described in paragraph (B) of this subsection, or misreporting as described in paragraph (C) of this subsection, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported fuel quantity for each fuel pathway code per quarter in a CFP quarterly report contains

one or more errors that, individually or collectively, result in an overstatement or understatement greater than five percent.

(A) Discrepancies include any differences between the fuel quantity for the fuel pathway code reported and the verifier's review of calculation of fuel quantity subject to data checks under OAR 340-272-0430.

(B) Omissions include any fuel quantity the verifier concludes must be part of a quarterly report but was not included.

(C) Misreporting includes duplicate, incomplete, or other fuel quantity data the verifier concludes should or should not be part of a quarterly report.

(c) One or more material misstatements of quarterly fuel quantity will result in a finding of material misstatement for the annual verification of the quarterly fuel quantity for each fuel pathway code.

(d) The following equation for percent error must be used to determine whether any quarterly fuel quantity for each fuel pathway code contains a material misstatement of quarterly fuel quantity and must be included in the final verification report according to OAR 340-272-0495.

Percent error (fuel quantity) =

$$\left(\sum (\text{Discrepancies} + \text{Omissions} + \text{Misreporting}) \div \text{Reported quarterly fuel transaction quantity for fuel pathway code} \right) \times 100\%$$

(e) When evaluating material misstatement of quarterly fuel quantity, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.

Statutory/Other Authority: ORS 468.020, 468A.266, 468A.271 & 468A.277

Statutes/Other Implemented: ORS 468A.010, 468A.015 & 468A.265 through 468A.277

History:

[DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020](#)

340-272-0450

~~Material Misstatement Assessments for CFP Fuel Pathways and Quarterly Fuel Transactions Submitted under OAR Chapter 340, Division 253~~

~~(1) The verification team must conduct separate assessments of material misstatement on each calculated operational CI value and each quarterly fuel transaction quantity for each fuel pathway code (expressed in units from the applicable sections of OAR chapter 340 division 253). Material misstatement assessments are not conducted for quarterly review.~~

~~(2) Assessments of material misstatement of carbon intensity must meet all the requirements of this section.~~

~~(a) Each fuel pathway CI is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of its carbon intensity. The inputs and annual operational carbon intensity for fuel pathway codes that are not a recertification of a California Fuel Pathway Code(s) but have an active California Fuel Pathway Code(s) must be assessed.~~

~~(b) Material misstatement of carbon intensity includes any discrepancy as described in paragraph (A) of this subsection, omission as described in paragraph (B) of this subsection, or misreporting as described in paragraph (C) of this subsection, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported operational CI (grams of carbon dioxide equivalent per megajoule or gCO₂e/MJ) in a CFP fuel pathway application or report contains one or more errors that, individually or collectively, result in an overstatement or understatement more than five percent of the reported operational CI, or 2 gCO₂e/MJ, whichever absolute value expressed in gCO₂e/MJ is greater.~~

~~(A) Discrepancies include any differences between the reported site-specific CI inputs and the verifier's calculated site-specific CI inputs subject to data checks under OAR 340-272-0430.~~

~~(B) Omissions include any site-specific CI inputs or associated source data the verifier concludes must be part of a fuel pathway application or report but were not included.~~

~~(C) Misreporting includes duplicate, incomplete, or other CI input data the verifier concludes should or should not be part of a fuel pathway application or report.~~

~~(e) One or more material misstatements of carbon intensity will result in a finding of material misstatement for the fuel pathway application or report.~~

~~(d) A controlled version of the Simplified CI Calculator for Tier 1 pathways, a DEQ-approved OR-GREET for Tier 2 pathways, or another substantially equivalent model approved by DEQ for the specific fuel pathway application under OAR 340-253-0400(1), as applicable, must be populated to assess whether a fuel pathway application or report contains a material misstatement of carbon intensity.~~

~~(e) The following equations for percent error, relative error threshold, and absolute error threshold must be used to determine whether any reported operational CI value contains a material misstatement of carbon intensity and must be included in the final verification report according to OAR 340-272-0495.~~

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~~(3) Assessments of material misstatement of quarterly fuel quantity for each fuel pathway code must meet all the requirements of this section.~~

~~(a) Each aggregated quarterly fuel quantity for each fuel pathway code is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of quarterly fuel quantity.~~

~~(b) Material misstatement of quarterly fuel quantity includes any discrepancy as described in paragraph (A) of this subsection, omission as described in paragraph (B) of this subsection, or misreporting as described in paragraph (C) of this subsection, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported fuel quantity for each fuel pathway code per quarter in a CFP quarterly report contains one or more errors that, individually or collectively, result in an overstatement or understatement greater than five percent.~~

~~(A) Discrepancies include any differences between the fuel quantity for the fuel pathway code reported and the verifier's review of calculation of fuel quantity subject to data checks under OAR 340-272-0430.~~

~~(B) Omissions include any fuel quantity the verifier concludes must be part of a quarterly report but was not included.~~

~~(C) Misreporting includes duplicate, incomplete, or other fuel quantity data the verifier concludes should or should not be part of a quarterly report.~~

~~(c) One or more material misstatements of quarterly fuel quantity will result in a finding of material misstatement for the annual verification of the quarterly fuel quantity for each fuel pathway code.~~

~~(d) The following equation for percent error must be used to determine whether any quarterly fuel quantity for each fuel pathway code contains a material misstatement of quarterly fuel quantity and must be included in the final verification report according to OAR 340-272-0495.~~

~~Percent error (fuel quantity) =~~

~~$$\frac{(\sum(\text{Discrepancies} + \text{Omissions} + \text{Misreporting})) \div \text{Reported quarterly fuel transaction quantity for fuel pathway code}}{\times 100\%}$$~~

~~(e) When evaluating material misstatement of quarterly fuel quantity, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.~~

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~~**Statutes/Other Implemented:** ORS 468A.010, 468A.015 & 468A.265 through 468A.277~~

~~**History:**~~

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