



State of Oregon Department of Environmental Quality

Draft Rules – OAR 340-272

Clean Fuels Program 2024 Rulemaking

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

Division 272 THIRD PARTY VERIFICATION

340-272-0020

Definitions

The definitions in this rule and in OAR 340-200-0020, OAR 340-215-0020, and OAR 340-253-0040, and the acronyms in OAR 340-253-0060 apply to this division. If the same term is defined in this rule and another division, the definition in this rule applies to this division.

(1) “Adverse verification statement” means a verification statement from a verification body that (either or both):

(a) It cannot say with reasonable assurance the submitted report or fuel pathway application is free of a material misstatement; or

(b) The submitted report or fuel pathway application contains correctable errors and thus is not in conformance with the requirements to fix such errors according to OAR 340-272-0435.

(2) “California ARB” means California Air Resources Board.

(3) “CFP” means the Oregon Clean Fuels Program established under OAR chapter 340, division 253.

(4) “Conflict of interest” means a situation in which, because of financial or other activities or relationships with other persons or organizations, a verification body is unable or potentially unable to provide an impartial verification statement of a potential client’s report or fuel pathway application, or the verification body’s objectivity in providing verification services is or might be otherwise compromised.

(5) “Correctable errors” means errors identified by the verification team that affect data in the submitted report or fuel pathway application, which result from a nonconformance with OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable. Differences that, in the professional judgment of the verification team, are the result of differing but reasonable methods of truncation or rounding or averaging, where a specific procedure is not prescribed by this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, are not considered errors and therefore do not require correction.

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

(7) “Difference in CI” means the absolute value result of the reported operational CI minus the verifier’s calculation of CI for material misstatement of carbon intensity assessments for a CFP fuel pathway application or annual report. The verifier’s calculation of CI is based on site-specific data inputs modified to include discrepancies, omissions, and misreporting found during the course of verification services.

(8) “Full verification” means all verification services as required under OAR 340-272-0300(1).

(9) “GHG Reporting Program” means the Oregon Greenhouse Gas Reporting Program established under OAR chapter 340, division 215.

(10) “Independent reviewer” means a lead verifier within a verification body that has not participated in providing verification services for a responsible entity for the current reporting year and provides an independent review of verification services provided to the responsible entity.

(11) “Lead verifier” means a person that has met the requirements to perform such role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to act as the lead of a verification team providing verification services as described by this division.

(12) “Less intensive verification” means all verification services required for full verification, except for site visit(s) as described under OAR 340-272-0420, and only requiring data checks and document reviews based on the analysis and risk assessment in the most recent sampling plan developed as part of the most current full verification.

(13) “Material misstatement” means any discrepancy, omission, misreporting, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that reported data or a submitted report or fuel pathway application contains one or more errors, as described in OAR 240-272-0450, OAR 240-272-0455, and OAR 240-272-0460, as applicable.

(14) “Member” means any employee or subcontractor of the verification body or related entities of the verification body and includes any individual with majority equity share in the verification body or its related entities.

(15) “Nonconformance” means the failure to meet the applicable requirements of this division or the failure to meet requirements of OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable, to calculate or report data or submit a fuel pathway application.

(16) “Positive verification statement” means a verification statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway application is free of material misstatement and that it conforms to the requirements of this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable.

(17) “Professional judgment” means decisions based on professional qualifications and relevant greenhouse gas accounting and auditing experience.

(18) “Qualified positive verification statement” means a statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway application is free of material misstatement and has been corrected or modified in conformance with OAR 340-272-0435, but may include one or more other nonconformance(s) with the requirements of this division, OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, which do not result in a material misstatement.

(19) “Quarterly review” means a review process conducted by the verification team after quarterly data is submitted and before annual data is submitted and verified.

(20) “Reasonable assurance” means high degree of confidence in the accuracy and truth of a conclusion.

(21) “Reported emissions reductions” means the total of all greenhouse gas emissions reductions reported in a CFP project report.

(22) “Reported Operational CI Value” means the absolute value of the operational CI submitted in a CFP fuel pathway application or annual report used for material misstatement of carbon intensity assessments.

(23) “Reported quarterly fuel transaction quantity for fuel pathway code” means the total of all reported fuel quantities for each fuel pathway code for each transaction type for each quarter in a CFP quarterly report for which the verifier is conducting a material misstatement of quarterly fuel quantity assessment.

(24) “Responsible entity” means a person that is subject to or voluntarily agrees to be subject to the requirements of OAR 340-272-0110, OAR 340-272-0120, or both.

(25) “Sector specific verifier” means a person that has met the requirements to perform such a role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to act as a sector specific verifier in providing verification services as described by this division. This may include, but is not limited to, demonstrating specialized experience in transactions, oil and gas systems, or process emissions.

(26) “Subcontractor” means an individual or business firm contracting to perform part or all of another’s contract.

(27) “Total reported emissions” means the total annual greenhouse gas emissions in a GHG Reporting Program emissions data report.

~~(2829XX)~~ “Validation” means verification of a fuel pathway application using the requirements of this division.

~~(3028)~~ “Validation statement” means the final statement produced by a verification body attesting whether a fuel pathway application is free of material misstatement and whether it conforms to the requirements of California ARB’s Low Carbon Fuel Standard~~this Division.~~

~~(3029)~~ “Verification” or “third-party verification” means a systematic, independent, and documented process for evaluation of a report or fuel pathway application according to this division.

~~(310)~~ “Verification body” means a business entity that has met the requirements under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to provide verification services and produce verification statements as described by this division.

~~(324)~~ “Verification services” means services provided during full verification or less intensive verification, including but not limited to reviewing a report or fuel pathway application submitted by a responsible entity, assessing compliance with DEQ regulations, ensuring accuracy according to the standards specified by DEQ, and submitting a verification statement(s) to DEQ.

~~(332)~~ “Verification statement” means the final statement produced by a verification body attesting whether a report or fuel pathway application submitted by a responsible entity is free of or contains material misstatement and whether it does or does not conform to the applicable requirements.

~~(343)~~ “Verification team” means all persons working for a verification body, including all subcontractors, to provide verification services.

(354) “Verifier” means an individual person that has met the requirements to perform such role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to provide verification services as described by this division.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

[DEQ 17-2023, amend filed 11/16/2023, effective 11/16/2023](#)

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

340-272-0100

General Requirements for Verification of Reports and Fuel Pathway Applications

(1) The annual third party verification requirements set forth in this division apply beginning in 2022 for reports with data for calendar year 2021, and in each year thereafter. Quarterly review conducted as part of annual verification services that meet the requirements of this division may begin in 2022 for reports with data for the year 2022.

(2) Each responsible entity must:

(a) Engage the services of a verification body to perform verification under this division;

(b) Do the following before verification services begin:

(A) Conduct a conflict of interest evaluation in coordination with the verification body according to OAR 340-272-0500 and develop a conflict of interest mitigation plan, if needed, according to OAR 340-272-0500. Ensure both a complete and accurate conflict of interest evaluation and conflict of interest mitigation plan, as applicable, are submitted to DEQ, and receive from DEQ approval in writing to proceed with verification services; and

(B) Submit to DEQ the report that is to be verified and attest that the data and information submitted to DEQ in the report is true, accurate, and complete;

(c) Ensure that a verification statement is submitted to DEQ from the verification body for each report identified under OAR 340-272-0110 and OAR 340-272-0120 by the deadline specified under section (3); and

(d) Ensure the requirements of this division are met, including but not limited to, ensuring that verification services are provided in compliance with the requirements

of OAR 340-272-0300 and that a potential for a conflict of interest is evaluated, monitored, and mitigated according to

OAR 340-272-0500;

(3) Verification deadlines.

(a) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from a verification body by August 31 of the year a report is submitted, for the following reports, as applicable:

(A) Any CFP report, as applicable under OAR 340-272-0110; and

(B) Any GHG Reporting Program emissions data report described under OAR 340-215-0044(1)

(a) through (d), and (g), as applicable under OAR 340-272-0120.

(b) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from a verification body by September 30 of the year a report is submitted, for each GHG Reporting Program emissions data report described under OAR 340-215-0044(1)(e) and (f), as applicable under OAR 340-272-0120.

(c) DEQ may extend verification deadlines in subsections (a) or (b) as necessary and will issue notice of any extensions.

(4) Requirements for full or less intensive verification for certain responsible entities.

(a) Responsible entities required to engage the services of a verification body to perform annual verification of CFP quarterly reports under OAR 340-272-0110(43), GHG Reporting Program emissions data reports under OAR 340-272-0120(1), or both must engage the services of a verification body to provide full verification, as described by this division, in the first year that verification is required under section (1), in 2023, and then in at least every third year thereafter, if subsection (b) is applicable. Full verification is required in any year where subsection (b) does not apply. Responsible entities required to engage the services of a verification body to perform validation of a CFP fuel pathway application under OAR 340-253, must perform a full site visit ~~must be performed~~ as part of the validation and during the first year of full verification of the annual fuel pathway report.

(b) Responsible entities required to engage the services of a verification body to perform annual verification of CFP quarterly reports under OAR 340-272-0110(43), GHG Reporting Program emissions data reports under OAR 340-272-0120(1), or both may engage the services of a verification body to provide less intensive

verification in place of full verification, for up to two years out of every three year period, if:

(A) There has not been a change in the verification body;

(B) A positive verification statement was issued for the previous year; and

(C) No change of operational control of the responsible entity occurred in the previous year.

(c) A verification body may choose to provide full verification, at its discretion, in instances where the responsible entity has made changes in sources, significant changes in emissions, significant changes in data management systems, or any combination therein, occurred compared to the previous year, based on the professional judgment of the verification body.

(A) The verification body must provide reasons why it opted for full verification to the responsible entity and to DEQ.

(B) The verification body must provide justification in the verification report if it did not opt for full verification in instances where the total reported emissions differ by greater than 25 percent relative to the previous year's emissions.

(5) Verification body and verifier rotation requirements.

(a) A responsible entity must not use the same verification body or verifier(s) to perform verification for a period of more than six consecutive years.

(b) A responsible entity must wait at least three years before re-engaging the previous verification body or verifier(s) to perform verification.

(c) If a reporting entity is required to select a new verification body to verify a report or fuel pathway application that has been set aside according to OAR 340-272-0350(2)(a), the reporting entity may continue to contract for verification services with its current verification body, subject to the six-year time limit, unless the verification body's approval to provide those services has been modified, suspended or revoked by DEQ under OAR 340-272-0220(3).

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

[DEQ 17-2023, amend filed 11/16/2023, effective 11/16/2023](#)

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

340-272-0110

Requirements for ~~Verification of CFP Reports and~~Validation of Fuel Pathway Applications Submitted under OAR Chapter 340, Division 253 and Verification of Annual Fuel Pathway Reports and CFP Quarterly Reports submitted under OAR Chapter 340, Division 253

(1) ~~Optional verification~~Validation of CFP fuel pathway (carbon intensity or CI) applications.

~~(a)~~ Fuel pathway applicants supplying site-specific CI data for the fuel pathway application are ~~not~~ required to ~~meet the requirements of this division or to~~:

~~(a)~~ ~~e~~Engage the services of a verification body to perform ~~verification-validation~~ for each fuel pathway application submitted under OAR chapter 340, division 253; or

~~(b)~~ Submit to DEQ documentation generated during validation of the fuel pathway for the California ~~Air Resources Board~~ARB Low Carbon Fuel Standard program ~~within ten business days of the corresponding submission to CARB~~withand thea ~~recertification fuel pathway application to DEQ, including the verification statement and report.~~ If a verification statement has been completed for the fuel pathway under California ARB's Low Carbon Fuel Standard more recently than the latest validation statement, then the verification statement must also be submitted at the same time that the fuel pathway application and validation statement are submitted to DEQ.

~~(b)~~ Fuel pathway applications that have been verified according to the requirements of this division, including site visit(s), will be prioritized for approval by DEQ.

~~(A)~~ Fuel pathway applicants that choose to engage the services of a verification body to perform verification may do so once a list of approved verification bodies and verifiers qualified to verify CFP fuel pathway applications is made available on DEQ's website according to OAR-340-272-0220(1)(d)(B).

~~(2)~~~~(a)~~(A) Fuel pathway applicants submitting fuel pathway applications to DEQ that have been ~~verified-validated~~ according to the requirements of this division must submit the ~~verification-validation~~ statement and report to DEQ at the same time that the application is submitted.

~~(b)~~(B) A fuel pathway application submitted to DEQ that includes an adverse ~~verification-validation~~ statement will not be considered by DEQ.

~~(c)~~ Fuel pathway applications submitted to DEQ that have been verified-validated under California ARB's Low Carbon Fuel Standard may submit to DEQ materials relating to that ~~verification-validation~~.

~~(A) Fuel pathway applications submitted to DEQ that include a positive or qualified positive validation statement under California ARB's Low Carbon Fuel Standard will be prioritized for approval by DEQ.~~

~~(cDB)~~ Fuel pathway applications submitted to DEQ that include an adverse validation statement issued under California ARB's Low Carbon Fuel Standard will not be considered by DEQ.

~~(DC) If applicable, the most recent Any verification or validation statements for the fuel pathway under California ARB's Low Carbon Fuel Standard must also be submitted at the same time that the fuel pathway application and validation statement are submitted to DEQ.~~

~~(32)~~ Annual verification of CFP annual fuel pathway (carbon intensity or CI) reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification under this division, including required site visit(s), for each annual fuel pathway report submitted under OAR chapter 340, division 253, except as otherwise provided under subsection (b):

(A) Holders of certified fuel pathways that supplied site-specific CI data for pathway certification and are required to update site-specific CI data on an annual basis; and

(B) Specified source feedstock suppliers and other persons with site-specific CI data that apply for separate DEQ recognition as a joint applicant under OAR chapter 340, division 253 and elect to be responsible for separate verification.

(b) Exemptions. Holders of approved fuel pathways that do not generate at least 6,000 total credits and deficits during the previous calendar year for the quantity of fuel produced at a given production facility and reported in the CFP are not subject to the requirements of this division for that year.

(c) Verification schedule. Responsible entities that are subject to the subsection (a) requirement to engage the services of a verification body to perform verification of annual fuel pathway reports (CI) must ensure a fuel pathway verification statement for each fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(A) Quarterly review of operational CI data is optional and may only be included as part of annual verification services if the fuel pathway holder submits quarterly data to DEQ. Quarterly review may only be conducted after the fuel pathway holder submits the report and attests that the statements and information submitted are true, accurate, and complete. Quarterly review does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements for verification under this

division, but a verification statement and verification report are not submitted after quarterly review.

(B) Facilities with California pathways recertified in Oregon. A responsible entity that must meet the requirements of this division for the purposes of annual verification for any fuel production facility that is also subject to annual or deferred verification under California ARB's Low Carbon Fuel Standard must submit its verification statement to DEQ within ten calendar days of its comparable submittal to California ARB. If the responsible entity received an adverse verification statement, it must also submit the log of issues at the same time it submits the verification statement to DEQ.

(i) For responsible entities that operate facilities with one or more Oregon fuel pathway codes that are a recertification of California fuel pathway codes, the verification statement submitted to California ARB must be submitted to DEQ according to the verification deadline specified under OAR 340-272-0100.

(ii) For responsible entities that operate facilities with one or more fuel pathway codes that are not a recertification of California fuel pathway codes, but have active California fuel pathway codes, the fuel pathway holder must ensure the following:

(I) That when verification services are provided, the inputs and annual operational carbon intensity are confirmed under OR-GREET as required under OAR 340-272-0450; and

(II) That a fuel pathway verification statement for each annual fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(C) If a fuel pathway holder is eligible for deferred verification under the California program, the fuel pathway holder must notify DEQ before April 30 of each year. If fuel from the facility generates 6,000 or more total credits and deficits in Oregon, then the fuel pathway holder must engage the services of a verification body to perform verification and ensure a fuel pathway verification statement for each annual fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(43) Annual verification of CFP quarterly reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification under this division, including required site visit(s), for CFP quarterly reports submitted under OAR chapter 340, division 253, except as otherwise provided under subsection (b):

(A) For Regulated parties, credit generators, and aggregators subject to OAR 340-253-0100, The scope of verification services is limited to the transaction types under paragraph (B), including associated corrections submitted into CFP quarterly and annual reports. Third party verification applicability for such persons is based on

the annual report as of the annual reporting deadline, regardless of whether submitted corrections lower credits and deficits generated below the applicable thresholds.

(B) Except as provided in subsection (b), reporters of volumes for any of the following transaction types must engage the services of a verification body to perform verification for the following transaction types:

(i) All liquid fuels, including:

(I) Production in Oregon;

(II) Out of State Production for Import;

(III) All Import transactions;

(IV) Exports, other than Position Holder Sales for Export or export transactions reported on behalf of an unregistered exporter;

(V) Gain of inventory;

(VI) Loss of inventory;

(VII) Not used for transportation; and

(VIII) Transactions used to claim exempt uses under OAR 340-253-0250;

(ii) NGV fueling; ~~and~~

(iii) Propane fueling, and

(iv) Starting in 2026 for the 2025 data year, EV charging, except when related to residential charging.-

(b) Exemptions. The following are not subject to the requirements of this division:

(A) Persons that do not generate 6,000 or more total credits and deficits (not counting residential charging credits), in the aggregate, during the previous calendar year. For the purposes of this rule, any credits or deficits generated by persons that are related entities or share full or partial common ownership or operational control must be aggregated together to determine whether or not the exemption applies;

(B) Persons, including their related entities, reporting fuel transactions only in one or more of the transaction types: Export, Position Holder Sale for Export, Gain of inventory, Loss of inventory, and Not used for transportation, if all of the following conditions are met:

(i) All such transactions do not generate 6,000 or more total credits and deficits, in the aggregate, during the previous calendar year;

(ii) The person did not report any liquid fuel using the transaction types: Production in Oregon or Import into Oregon; and

(iii) The person did not report any NGV fueling transactions.

~~(C) Persons that generate residential charging credits shall exclude those credits from the 6,000 credits and deficits threshold for determining verification applicability.~~

(c) Verification schedule. Responsible entities under subsection (a) required to engage the services of a verification body to perform annual verification of CFP quarterly reports must ensure a transactions data verification statement is submitted to DEQ according to OAR 340-272-0100.

(d) Optional quarterly review. Quarterly review of a CFP quarterly report is optional and does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements of this division, but a verification statement and verification report are not submitted after quarterly review.

~~(54)~~ Annual verification of CFP annual project reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification, including required site visit(s), for CFP project reports required to be submitted as a condition of a fuel pathway's continued approval under OAR 340-253-0450(9)(e)(E):

(A) Project operators; and

(B) Joint applicants.

(b) Verification schedule. Responsible entities under subsection (a) required to engage the services of a verification body to perform verification of CFP project reports must ensure a project report verification statement is submitted annually to DEQ according to with OAR 340-272-0100.

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

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

[340-272-0120](#)

Requirements for Verification of GHG Reporting Program Emissions Data Reports Submitted under OAR Chapter 340, Division 215

(1) Annual verification of GHG Reporting Program emissions data reports.

(a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification of the entire emissions data report, including required site visit(s), for each separate emissions data report submitted under OAR chapter 340, division 215, except as otherwise provided under subsection (b):

(A) A regulated entity that submits an emissions data report as described under OAR 340-215-0044(1) that indicates emissions equaled or exceeded 25,000 metric tons of CO₂e, excluding CO₂ from biomass-derived fuels. Third party verification applicability is based on the annual report as at the time of the annual reporting deadline, regardless of whether later-submitted corrections lower/decrease the reported emissions below the applicable 25,000 MT CO₂e threshold;

(B) A third party that is not the Bonneville Power Administration (BPA) that registers and submits an emissions data report on behalf of a consumer-owned utility for emissions, data, and information submitted for each individual utility with emissions that equaled or exceeded 25,000 metric tons of CO₂e, excluding CO₂ from biomass-derived fuels and excluding emissions associated with preference power purchased from BPA;

(C) A regulated entity that submitted an emissions data report that indicated emissions exceeded the threshold in paragraph (A) in the previous year, but that submits an emissions data report that indicates emissions are reduced below that applicability threshold in the current reporting year;

(D) All regulated entities subject to the Climate Protection Program requirements described under OAR chapter 340, division 271, regardless of emissions reported; and

(E) All regulated entities that are electric companies and electricity service suppliers as defined in ORS 757.600, regardless of emissions reported.

(b) Exemptions. The following are not subject to the requirements of this division:

(A) A regulated entity that is not an electric company and not subject to requirements under OAR chapter 340, division 215 and that submits an emissions data report as described under OAR 340-215-0044(1) that indicates emissions were less than 25,000 metric tons of CO₂e, excluding CO₂ from biomass-derived fuels. For the purposes of this rule, any GHG emissions in emissions data reports as described under OAR 340-215-0044(1)(c) submitted by fuel suppliers or in-state producers that

are related entities or share full or partial common ownership or operational control must be aggregated together to determine whether or not the exemption applies;

(B) An emissions data report as described under OAR 340-215-0044(1)(a) that includes emissions data and information described in 40 C.F.R. part 98 subpart HH – Municipal Solid Waste Landfills;

(C) An emissions data report as described under OAR 340-215-0044(1)(d) submitted by a natural gas supplier that is an interstate pipeline; and

(D) Any emissions data report as described under OAR 340-215-0044(1)(e) submitted by Bonneville Power Administration (BPA) acting as a third-party reporter on behalf of any consumer-owned utility, as allowable under OAR 340-215-0120(4).

(c) Verification schedule. Responsible entities that are subject to the subsection (a) requirement to engage the services of a verification body to perform verification of emissions data reports must ensure a verification statement for each emissions data report is submitted to DEQ according to OAR 340-272-0100.

(A) These requirements are in addition to the requirements in 40 C.F.R. 98.3(f).

(B) An asset-controlling supplier that submitted an emissions data report to DEQ as described under OAR 340-215-0044(1)(f) that includes the same data and information reported to and verified under California ARB's Mandatory Reporting of Greenhouse Gas Emissions program may submit the same verification statement to DEQ. If an adverse verification statement is received, a current issues log must also be submitted to DEQ.

(2) Cessation of verification requirement.

(a) Responsible entities must have an emissions data report verified for the first year that the report indicates emissions are reduced below the applicability threshold defined in paragraph (1)

(a)(A). An emissions data report is not subject to verification in any following year thereafter where emissions remain below the threshold.

(b) A responsible entity that meets the verification cessation requirements for two consecutive years must notify DEQ in writing in the second year that it is ceasing the verification requirement according to this paragraph and provide the reason(s) for cessation of verification. The notification must be submitted no later than the applicable reporting deadline under OAR chapter 340, division 215 for that year.

(c) If in any subsequent year after meeting verification cessation requirements an emissions data report meets the applicability requirements of subsection (1)(a), the responsible entity must have the emissions data report verified according to the

requirements of this division, and verification must continue until the cessation requirement is met again.

Statutory/Other Authority: ORS 468.020, 468A.050 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050 & 468A.280

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340-272-0350

DEQ Review and Approval of Verification and Re-verification Requirements

(1) DEQ review of verification.

(a) In addition to any other enforcement authority DEQ may have, DEQ retains full authority in determining whether to approve, modify, or reject any verification statement submitted to DEQ for a report or fuel pathway application by a verification body on behalf of a responsible entity under this division.

(b) DEQ may issue an adverse verification statement for a report or fuel pathway application if it has information to support such a conclusion, even if it has received a positive verification statement from a verification body.

(c) DEQ may also issue an adverse verification statement for:

(A) Failure to submit a complete or accurate fuel pathway application or annual or quarterly report in a timely manner;

(B) Failure to conduct or complete third-party verification as required by this division;
or

(C) Any other violation of this division, OAR chapter 340, division 215, or OAR chapter 340, division 253.

(2) Re-verification requirements.

(a) If a verification body submits a positive or qualified positive verification statement to DEQ, DEQ may [reject and set aside the submitted verification statement and](#) require the applicable responsible entity to have a report or fuel pathway application re-verified by a different verification body within 90 days if:

(A) DEQ finds a high level of conflict of interest existed between a verification body and a responsible entity;

(B) DEQ finds a potential conflict of interest has arisen between the responsible entity and the verification body or any verifier engaged by the responsible entity to perform verification through monitoring as required under OAR 340-272-0500(8);

(C) DEQ makes a determination that any of the bases for modification, suspension, or revocation of DEQ approval under OAR 340-272-0220(3)(a) for a verification body or verifier engaged by the responsible entity to perform verification have occurred, and impacted the verification services provided, or impacted the verification statement(s) submitted to DEQ;

(D) An error is identified that affects the emissions in an emissions data report(s) submitted under OAR chapter 340, division 215, or the credit or deficit calculations in a CFP report(s) or fuel pathway application(s) submitted under OAR chapter 340, division 253; or

(E) A report that received a positive or qualified positive verification statement fails DEQ verification or audit under OAR 340-272-0355.

(b) If DEQ identifies an error and determines that the error does not affect the emissions in an emissions data report, or the credit or deficit calculations in a CFP report or fuel pathway application, a correction may be made by the responsible entity without DEQ set aside of the positive or qualified positive verification statement.

(c) A verification body may not continue to provide verification services to a responsible entity, and the responsible entity must have any report(s) or fuel pathway application(s) verified by a different verification body, upon receiving notification from the verification body with which it is currently engaged to provide verification services of either of the following:

(A) A modification to DEQ approval of the verification body or any members of the verification team that is relevant to the verification services being performed; or

(B) Suspension or revocation of DEQ approval of the verification body or any members of the verification team.

(d) A responsible entity that must have a report or fuel pathway application verified by a different verification body according to subsection (c) may contact DEQ to request an extension if it believes it cannot meet the applicable verification deadline under OAR 340-272-0100(3) and it must receive written approval from DEQ of any extended deadline(s).

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

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

[340-272-0415](#)

Verification Plan

- (1) Verification services must include the development of a verification plan that meets the requirements of this rule.
- (2) All verification plans must contain information on the timing of verification services, including:
 - (a) Dates of proposed meetings and interviews with personnel of the responsible entity;
 - (b) Dates of proposed site visits;
 - (c) Types of proposed document and data reviews and, for CFP reports submitted under OAR chapter 340, division 253, how quarterly review is planned in the context of an annual verification requirement, as applicable; and
 - (d) Expected date for completing verification services.
- (3) In addition to the information required under section (2), verification plans for verification services provided for CFP reports and fuel pathways applications submitted under OAR chapter 340, division 253 must also include the following information from the responsible entity:
 - (a) Information to allow the verification team to develop an understanding of facility or entity boundaries, operations, accounting practices, type of CFP report(s) the person is responsible for, CFP regulatory sections the responsible entity is subject to, other renewable or low carbon fuels markets the responsible entity participates in, and other mandatory or voluntary auditing programs the responsible entity is subject to, as applicable;
 - (b) Information regarding the training or qualifications of personnel involved in developing the report(s) or fuel pathway application(s);
 - (c) Description of the specific methodologies used to quantify and report data, including but not limited to calibration procedures and logs for measurement devices capturing site-specific data;
 - (d) Information about the data management system and accounting procedures used to capture and track data for each fuel pathway application and each type of CFP report as needed to develop the verification plan;

(e) Information about the entities in the supply chain upstream and downstream of the fuel producer that contribute to site-specific CI data, including a list of feedstock suppliers and contact names with physical addresses;

(f) For aggregators, information about the entities the aggregator reports on behalf of, including a list of reporting entities and the fuel type(s) they report;

(g) Evidence demonstrating that any joint applicants are being separately verified; and

(h) Previous CFP verification reports, as applicable, and other audit reports including reports from production or management system certifications and internal audits.

(4) In addition to the information required under section (2), verification plans for verification services provided for GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must also include the following information from the responsible entity:

(a) Information to allow the verification team to develop a general understanding of facility or entity boundaries, operations, emissions sources, and electricity or fuel transactions, as applicable;

(b) Information regarding the training or qualifications of personnel involved in developing the emissions data report;

(c) Description of the specific methodologies used to quantify and report greenhouse gas emissions, electricity and fuel transactions, and associated data as needed to develop the verification plan;

(d) Information about the data management system used to track greenhouse gas emissions, electricity and fuel transactions, and associated data as needed to develop the verification plan; and

(e) Previous GHG Reporting Program verification reports.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

[DEQ 17-2023, amend filed 11/16/2023, effective 11/16/2023](#)

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

340-272-0420

Site Visits

(1) Verification services must include site visit(s) that meet the requirements of this rule.

(2) Site visit(s) conducted as part of verification services for verification of CFP reports and fuel pathway applications submitted under OAR chapter 340, division 253 must meet the requirements of this section:

(a) Site visits must occur after all data and CFP reports for the previous calendar year have been attested to and submitted to DEQ, except that a site visit may be conducted as part of a quarterly review if:

(A) No aspects of the data management systems or accounting practices change following the site visit; and

(B) There are no significant changes to the fuel production process or facility when the verification is for an annual fuel pathway report;

(b) At least one DEQ-approved lead verifier on the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit to each facility during each year full verification is required under OAR 340-272-0100(4). If the responsible entity keeps records supporting a report or fuel pathway application subject to verification under this division in a location that is different from the fuel production facility, then such verifier(s) must at a minimum make one site visit to the location where those records are stored;

(c) A separate site visit is required if a responsible entity elects to engage the services of a verification body to provide verification services for **verification validation** of a fuel pathway application; **and**

(d) For aggregators and network service providers for electric vehicle supply equipment, the verifier(s) must make at least one site visit to the location where the aggregator's records are stored. Additional site visits to the entities using an aggregator are to be performed at the verifier's discretion and must follow the requirements for sampling outlined in OAR 340-272-0425; and

(ed) The following must be conducted during a site visit:

(A) Review supporting evidence used to develop CFP reports submitted to DEQ;

(B) Review and understand the data management systems and accounting practices used by the responsible entity to acquire, process, track, and report CFP data. Evaluate the uncertainty and effectiveness of these systems; and

(C) Carry out tasks that, in the professional judgment of the verification team, are needed in the verification process, including the following, at minimum:

(i) Conduct interviews with key personnel, such as process engineers, metering experts, accounting personnel, and project operators, as well as staff involved in compiling data and preparing the CFP reports;

(ii) Make direct observations of production equipment, confirming diagrams for processes, piping, and instrumentation; measurement system equipment; and accounting systems for data types determined in the sampling plan to be high risk;

(iii) Assess conformance with measurement accuracy, data capture, temporary measurement method requirements, and the monitoring plan for consistency with the requirements of OAR chapter 340, division 253; and

(iv) Review financial transactions to confirm complete and accurate reporting.

(3) Site visit(s) conducted as part of verification services for verification of GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must meet the requirements of this section:

(a) Site visits must occur after all data and emissions data reports for the previous calendar year have been attested to and submitted to DEQ;

(b) At least one approved verifier in the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit to each facility for which an emissions data report is submitted during each year full verification is required under OAR 340-272-0100(4). The headquarters or other location of central data management must be visited when the responsible entity is an electricity supplier or fuel supplier, including natural gas suppliers; and

(c) The following must be conducted during a site visit:

(A) Check that all sources specified under OAR 340-215-0030, as applicable to the responsible entity are identified appropriately;

(B) Review and understand the data management systems used by the responsible entity to track, quantify, and report greenhouse gas emissions and, when applicable, electricity and fuel transactions. Evaluate the uncertainty and effectiveness of these systems; and

(C) Carry out tasks that, in the professional judgment of the verification team, are needed in the verification process, including the following, at minimum:

(i) Conduct interviews with key personnel, such as process engineers and metering experts, as well as staff involved in compiling data and preparing the emissions data report;

(ii) Make direct observations of equipment for data sources and equipment supplying data for sources determined in the sampling plan to be high risk;

(iii) Assess conformance with measurement accuracy, data capture, and missing data substitution requirements for consistency with the requirements of OAR chapter 340, division 215, as applicable; and

(iv) Review financial transactions to confirm fuel and electricity purchases and sales, and to confirm the complete and accurate reporting of required data such as facility fuel suppliers, fuel quantities delivered, and the entity from which fuel was received.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

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

340-272-0425

Sampling Plan

(1) Verification services must include the development of a sampling plan that meets the requirements of this rule.

(2) All sampling plans must meet the following requirements:

(a) The sampling plan must be developed based on a strategic analysis developed from document reviews and interviews to assess the likely nature, scale, and complexity of the verification services for a responsible entity and type of report or fuel pathway application. The analysis must review the inputs for the development of the submitted report(s) and fuel pathway application(s), the rigor and appropriateness of data management systems, and the coordination within the responsible entity's organization to manage the operation and maintenance of equipment and systems used to develop submitted report(s) and fuel pathway application(s);

(b) The sampling plan must be revised to describe tasks completed as information becomes available and potential issues emerge with material misstatement or nonconformance; and

(c) The sampling plan must be retained according to the recordkeeping requirements of OAR 340-272-0300(3)(d). The sampling plan must be made available to DEQ upon request.

(3) In addition to meeting the requirements under section (2), sampling plans for verification services provided for CFP reports and fuel pathway applications

submitted under OAR chapter 340, division 253 must also meet the requirements of this section:

(a) The sampling plan must include a ranking of data sources by relative contribution to the data type to be assessed for material misstatement and a ranking of data sources with the largest calculation uncertainty, including risk of incomplete reporting, based on type of report or fuel pathway application;

(b) The sampling plan must include a qualitative narrative of uncertainty risk assessment in the following areas:

(A) Data acquisition equipment;

(B) Data sampling and frequency;

(C) Data processing and tracking;

(D) Tracking of fuel transportation into Oregon to include modes of transportation and distances traveled, as applicable for CFP fuel pathway applications or annual fuel pathway reports;

(E) CI calculations, as applicable;

(F) Fuel pathway code allocation methodology, as applicable; and

(G) Management policies or practices in developing CFP reports;

(c) After the verification team completes the strategic analysis and risk assessment, the sampling plan must be revised to include a list with the information described in paragraphs (A) through (C) of this subsection. The sampling plan list must be updated and finalized before the completion of verification services. The final sampling plan must describe in detail how the identified risks were addressed during the verification. When quarterly reviews are conducted as part of annual verification services, the final sampling plan must describe in detail how the risks and issues identified for the annual data set were addressed during each quarterly review and final annual verification. The sampling plan list must include the following:

(A) Data sources that will be targeted for document reviews, data checks as specified under OAR 340-272-0430, and an explanation of why they were chosen;

(B) Methods used to conduct data checks for each data type; and

(C) A summary of the information analyzed in the data checks and document reviews conducted for each data type; and

(d) Specified source feedstocks included in CFP fuel pathway applications and annual fuel pathway reports that require verification must be included in the scope of verification services. When verification is not required for a fuel pathway, specified source feedstocks must be included in the scope of verification of the CFP quarterly reports. The verification team must use professional judgment and include in its risk assessment and sampling plan its analysis of the need for a desk review or site visit for verification of any entity in the feedstock chain of custody. This analysis must include an evaluation of the need to trace feedstock through feedstock suppliers, including aggregators, storage or pretreatment facilities, and traders or brokers, to the point of origin. If an error is detected during data checks of records maintained by the responsible entity, the risk assessment and sampling plan must be updated to assure specified source feedstock characterization and quantities to the point of origin.

(e) Sampling plans for aggregators of credit generators must include the following:

(A) A ranking of credit generators by relative contribution to the data type to be assessed for material misstatement and a ranking of credit generators with the largest calculation uncertainty;

(B) Qualitative narrative of uncertainty risk assessment for credit generations according to the requirements of OAR 340-272-0425(3)(b); and

(C) Indication of whether the verification team intends to make a site visit to each credit generator listed based on the risk assessments abovedescribed in this subsection.

(4) In addition to meeting the requirements under section (2), sampling plans for verification services provided for GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must also meet the requirements of this section:

(a) The sampling plan must include a ranking of emissions sources by amount of contribution to total reported emissions (metric tons of CO₂e) for the responsible entity and a ranking of emissions sources with the largest calculation uncertainty. As applicable and deemed appropriate by the verification team, fuel and electricity transactions must also be ranked or evaluated relative to the amount of fuel or power exchanged and uncertainties that may apply to data provided by the responsible entity including risk of incomplete reporting;

(b) The sampling plan must include a qualitative narrative of uncertainty risk assessment in the following areas:

(A) Data acquisition equipment;

(B) Data sampling and frequency;

(C) Data processing and tracking;

(D) Emissions calculations;

(E) Data reporting; and

(F) Management policies or practices in developing emissions data reports; and

(c) After the verification team completes the strategic analysis and risk assessment, the sampling plan must be revised to include a list with the information described in paragraphs (A) through (C) of this subsection. The sampling plan list must be updated and finalized before the completion of verification services. The final sampling plan must describe in detail how the identified risks were addressed during the verification. The sampling plan list must include the following:

(A) Emissions sources and transactions, as applicable, that will be targeted for document reviews, and data checks as specified under OAR 340-272-0430, and an explanation of why they were chosen;

(B) Methods used to conduct data checks for each source or transaction; and

(C) A summary of the information analyzed in the data checks and document reviews conducted for each emissions source or transaction targeted.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

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

340-272-0500

Requirements for Conflict of Interest Evaluation

(1) Conflict of interest evaluation. Before verification services may begin, each responsible entity must coordinate with the verification body with which it has engaged to perform verification to conduct a conflict of interest evaluation between itself and any verification bodies, verifiers, lead verifiers, sector specific verifiers, independent reviewers, and subcontractors intending to perform verification under the requirements of this division.

(2) High conflict of interest. The potential for a conflict of interest must be deemed to be high where:

(a) The responsible entity and the verification body share any management staff or board of directors membership, or any of the senior management staff of the

responsible entity have been employed by the verification body, or vice versa, within the previous five years;

(b) Any employee of the verification body, or any employee of a related entity, or a subcontractor who is a member of the verification team has provided to the responsible entity any of the services in paragraph (A) (B), or (C) of this subsection, as applicable, within the previous five years:

(A) High conflict of interest services provided to any responsible entity:

(i) Designing or providing consultative engineering or technical services in the development and construction of a fuel production facility; or energy efficiency, renewable power, or other projects which explicitly identify greenhouse gas reductions as a benefit;

(ii) Any service related to development of information systems, or consulting on the development of environmental management systems except for systems that will not be part of the verification process and except for accounting software systems;

(iii) Verification services that are not provided in accordance with, or equivalent to, the requirements of this division, unless the systems and data reviewed during those services, as well as the result of those services, will not be part of the verification process;

(iv) Reporting under OAR chapter 340, division 253 or OAR chapter 340, division 215, or uploading data for DEQ, on behalf of the responsible entity;

(v) Bookkeeping and other non-attest services related to accounting records or financial statements, excluding services and results of those services that will not be part of the verification process;

(vi) Directly managing any health, environment, or safety functions for the responsible entity;

(vii) Appraisal services of carbon or greenhouse gas liabilities or assets;

(viii) Brokering in, advising on, or assisting in any way in carbon or greenhouse gas-related markets;

(ix) Appraisal and valuation services, both tangible and intangible;

(x) Any actuarially oriented advisory service involving the determination of amounts recorded in financial statements and related accounts;

(xi) Any internal audit service that has been outsourced by the responsible entity that relates to its internal accounting controls, financial systems, or financial statements, unless the result of those services will not be part of the verification process;

(xii) Fairness opinions and contribution-in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the resulting services will not be part of the verification process;

(xiii) Acting as a broker-dealer (registered or unregistered), promoter or underwriter on behalf of the responsible entity;

(xiv) Any legal services; or

(xv) Expert services to the responsible entity, a trade or membership group to which the responsible entity belongs, or a legal representative for the purpose of advocating the responsible entity's interests in litigation or in a regulatory or administrative proceeding or investigation.

(B) Additional high conflict of interest services provided to a responsible entity subject to OAR chapter 340, division 253:

(i) Designing, developing, implementing, reviewing, or maintaining an information or data management system for data submitted under OAR chapter 340, division 253 or OAR chapter 340, division 215 unless the review was part of providing independent quality assurance audit services, attestation engagement services, providing verification services according to the U.S. EPA RFS or the EU RED, or third-party engineering reports according to the U.S. EPA RFS;

(ii) Developing CI or fuel transaction data or other greenhouse gas related engineering analysis that includes facility-specific information;

(iii) Designing, developing, implementing, conducting an internal audit, consulting, or maintaining a project to receive CFP project-based credits;

(iv) Preparing or producing CFP fuel pathway application or CFP reporting manuals, handbooks, or procedures specifically for the responsible entity;

(v) Owning, buying, selling, trading, or retiring CFP credits, RINs, or credits in any carbon market; or

(vi) Dealing in or being a promoter of credits on behalf of the responsible entity.

(C) Additional high conflict of interest services provided to a responsible entity subject to OAR chapter 340, division 215:

(i) Designing, developing, implementing, reviewing, or maintaining an inventory or information or data management system for facility air emissions, or, where applicable, electricity or fuel transactions, unless the review was part of providing greenhouse gas verification services;

(ii) Developing greenhouse gas emissions factors or other greenhouse gas-related engineering analysis, including developing or reviewing a greenhouse gas analysis for air quality permitting or land use review that includes facility specific information; or

(iii) Preparing or producing greenhouse gas-related manuals, handbooks, or procedures specifically for the responsible entity.

(c) Any member of the verification body or verification team has provided verification services for the responsible entity except within the time periods in which the responsible entity is allowed to use the same verification body or team members as specified under OAR 340-272-0100(5); or

(d) Any member of the verification body provides any type of monetary or non-monetary incentive to a responsible entity to secure a verification contract, influence verification documentation, or influence verification findings.

(3) Low conflict of interest. The potential for a conflict of interest will be deemed to be low where:

(a) No potential for a high conflict of interest is found according to section (2);

(b) No potential for a medium conflict of interest is found according to section (4); and

(c) Verification services are provided within the allowable period under OAR 340-272-0100(5).

(4) Medium conflict of interest. The potential for a conflict of interest will be deemed to be medium where:

(a) There are any instances of personal or familial relationships between the members of the verification body and management or staff of the responsible entity; or

(b) A member of the verification team provided insignificant services to the facility within the previous five years, but are not services that result in a potential for a high conflict of interest according to section (2).

(5) Conflict of interest mitigation plan and submittal requirements for responsible entity. If a medium potential for conflict of interest is identified and the responsible

entity intends to engage the verification body for verification, the responsible entity must coordinate with the verification body with which it has engaged to perform verification to submit a plan to DEQ to avoid, neutralize, or mitigate the potential conflict of interest situation, in addition to the evaluation submittal requirements specified under section (6). At a minimum, the conflict of interest mitigation plan must include:

(a) A demonstration that any individuals with potential conflicts have been removed and insulated from working on or discussing the project;

(b) An explanation of any changes to the organizational structure or verification body to remove the potential conflict of interest. A demonstration that any unit with potential conflicts has been divested or moved into an independent entity or any subcontractor with potential conflicts has been removed; and

(c) Any other circumstance that specifically addresses other sources for potential conflict of interest.

(6) Conflict of interest evaluation submittal requirements for responsible entities. A responsible entity must submit to DEQ a conflict of interest evaluation that includes the following:

(a) Identification of whether the potential for conflict of interest is high, low, or medium based on factors specified under sections (2) through (4);

(b) Identification of whether the verification body, related entities, or any member of the verification team has previously provided verification services for the responsible entity or related entities and, if so, include a description and years of service;

(c) Identification of whether any member of the verification team, verification body, or related entity has engaged in services of any nature with the responsible entity or related entities either within or outside Oregon during the previous five years. If services other than DEQ verification under this division have previously been provided, the following information must also be submitted:

(A) The nature and location of the work performed for the responsible entity or related entity and whether the work is similar to the type of work to be performed during verification, such as emissions inventory, auditing, energy efficiency, renewable energy, or other work with implications for the responsible entity's greenhouse gas emissions;

(B) The nature of past, present, or future relationships of any member of the verification team, verification body, or related entities with the responsible entity or related entities including:

(i) Instances when any member of the verification team, verification body, or related entities has performed or intends to perform work for the responsible entity or related entities;

(ii) Identification of whether work is currently being performed for the responsible entity or related entities, and if so, the nature of the work;

(iii) How much work was performed for the responsible entity or related entities in the last five years, in dollars;

(iv) Whether any member of the verification team, verification body, or related entities has contracts or other arrangements to perform work for the responsible entity or a related entity; and

(v) How much work related to greenhouse gases the verification team has performed for the responsible entity or related entities in the last five years, in dollars; and

(C) Explanation of how the amount and nature of work previously performed is such that any member of the verification team's credibility and lack of bias should not be under question;

(d) A list of names of the staff that would provide verification services for the responsible entity, and a description of any instances of personal or family relationships with management or employees of the responsible entity that potentially represent a conflict of interest;

(e) Identification of any other circumstances known to the responsible entity or verification body that could result in a conflict of interest; and

(f) A written attestation submitted to DEQ as follows:

"I certify under penalty of perjury under the laws of the State of Oregon that to the best of my knowledge and belief, the information provided in this conflict of interest evaluation submittal is true, accurate, and complete."

(7) Conflict of interest determinations.

(a) DEQ will review the conflict of interest evaluation and conflict of interest mitigation plan, if applicable, submitted by the responsible entity and will notify the responsible entity in writing whether the verification body is authorized to proceed with verification services.

(b) If DEQ determines the verification body or any member of the verification team meets the criteria for a high conflict of interest, verification services may not proceed. DEQ may, at its discretion, determine that a high conflict of interest exists when a member of the verification team provided services within the ~~previous~~ previous five

years, but the services were not services that result in a potential for a high conflict of interest according to section (2). If DEQ makes such a determination, it must explain in writing why it believes the work performed creates a high conflict of interest.

(c) If DEQ determines that there is a low potential conflict of interest, verification services may proceed.

(d) If DEQ determines that the verification body and verification team have a medium potential for a conflict of interest, DEQ will evaluate the conflict of interest mitigation plan submitted, and may request additional information from the applicant to complete the determination. In determining whether verification services may proceed, DEQ may consider factors including, but not limited to, the nature of previous work performed, the current and past relationships between the verification body, related entities, and its subcontractors with the responsible entity and related entities, and the cost of the verification services to be provided. If DEQ determines that these factors when considered in combination demonstrate an acceptable level of potential conflict of interest, DEQ will authorize the verification body to proceed with verification services.

(8) Monitoring conflict of interest situations.

(a) After commencement of verification services, both the verification body and the responsible entity must each:

(A) Monitor and immediately make full disclosure in writing to DEQ regarding any potential for a conflict of interest situation that arises. This disclosure must include a description of actions that the verification body and the responsible entity have taken or propose to take to avoid, neutralize, or mitigate the potential for a conflict of interest;

(B) Continue to monitor arrangements or relationships that may be present for a period of one year after the completion of verification services. During that period, within 30 days of the verification body or any verification team member entering into any contract with the responsible entity or related entity for which the body has provided verification services, the responsible entity must notify DEQ of the contract and the nature of the work to be performed. DEQ will determine whether the relationship constitutes a conflict and, if it does, whether the responsible entity must re-verify its reports or fuel pathway applications, and if modification, suspension, or revocation of DEQ approval of the verification body or any verification team member is warranted; and

(C) Notify DEQ, within 30 days, of any conflicts of interest that arise after verification services begin and until one year after verification services are completed. When such notification is made:

(i) If DEQ determines that a disclosed emerging potential conflict is medium risk and the responsible entity and verification body agree to mitigate this risk in a manner acceptable to DEQ, the verification body may continue to provide verification services to the responsible entity and will not be subject to suspension or revocation of DEQ approval; and

(ii) If DEQ determines that a disclosed emerging potential conflict is medium or high risk and this risk cannot be mitigated, the verification body may not continue to provide verification services to the responsible entity, and may be subject to suspension or revocation of approval.

(b) Each verification body must report to DEQ any changes in its organizational structure, including mergers, acquisitions, or divestitures, that occur within one year after completion of any verification services.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

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