

Draft Rules

Note: Division 272 rules are new, but are not presented in redline strikeout for ease of reading

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 272

THIRD PARTY VERIFICATION

340-272-0010

Purpose and Scope

(1) The purpose of this division is to establish requirements for responsible persons required to contract for verification services for applications or reports submitted under OAR 340-215, OAR 340-253, or both, and to establish requirements for verifiers, verification bodies, and for third party verification of applications or reports submitted to DEQ.

(2) This division supports the following programs:

(a) Greenhouse Gas Reporting Program as adopted under OAR 340-215; and

(b) Clean Fuels Program as adopted under OAR 340-253.

(3) LRAPA. Notwithstanding Lane Regional Air Pollution Agency authorization in OAR 340-200-0010(3), DEQ administers this division in all areas of the State of Oregon.

Stat. Auth.: ORS 468.020, 468A.050, 468A.266, 468A.268, 468A.271, 468A.277 & 468A.280

Stats. Implemented: ORS 468 & 468A

Hist.:

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 rendered by a verification body, which attests that it cannot say with a reasonable assurance that the submitted application or report is either free of a material misstatement or that it does not contain correctable errors as defined according to this rule and thus is not in conformance with the requirements to fix such errors according to OAR 340-272-0306, or both.

- (2) “California ARB” means California Air Resources Board.
- (3) “CFP” means the Clean Fuels Program established under OAR 340-253.
- (4) “Conflict of interest” means a situation in which, because of financial or other activities or relationships with other persons or organizations, a person or body is unable or potentially unable to render an impartial verification statement of a potential client’s application or report, or the person or body’s objectivity in performing verification services is or might be otherwise compromised.
- (5) “Correctable errors” means errors identified by the verification team that affect data in the submitted application or report subject to verification, which result from a nonconformance with OAR 340-215 or OAR 340-253. 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 340-215 or OAR 340-253, are not considered errors and therefore do not require correction.
- (6) “DEQ” means Oregon Department of Environmental Quality.
- (7) “Full verification” means all verification services as provided under OAR 340-272-0300.
- (8) “GHG reporting program” means the greenhouse gas registration and reporting requirements established under OAR 340-215.
- (9) “Independent reviewer” means a lead verifier within a verification body who has not participated in conducting verification services for a responsible person for the current reporting year who provides an independent review of verification services rendered to the responsible person. The independent reviewer is not required to meet the requirements for a sector specific verifier.
- (10) “Lead verifier” means a person that has met all of the requirements under this division in relation to verification services and who may act as the lead verifier of a verification team providing verification services.
- (11) “Material misstatement” means any discrepancy, omission, or 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 contains one or more errors that, individually or collectively, result in an overstatement or understatement greater than five percent.
- (12) “Nonconformance” means the failure to meet the requirements of this division or the failure to meet the requirements of or use the methods or emission factors specified under OAR 340-215 or OAR 340-253, as applicable, to calculate or report data or submit an application.

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

(14) “Qualified positive verification statement” means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted application or report is free of material misstatement and is in conformance with OAR 340-272-0306, but may include one or more other nonconformance(s) with the requirements of this division, OAR 340-215 or OAR 340-253, as applicable, which do not result in a material misstatement.

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

(16) “Responsible person” means a person, regulated entity, or regulate party who is subject to the requirements of and who reports under OAR 340-215, OAR 340-253, or both who is required to or elects to contract for verification services under this division.

(17) “Sector specific verifier” means a person who may act as a lead verifier or verifier of a verification team providing verification services after demonstrating specialized experience in the sector for which it is providing verification services. This may include, but is not limited to, demonstrating specialized experience in transactions, oil and gas systems, or process emissions.

(18) “Verification” means a systematic, independent and documented process for evaluation of an application or report in accordance with this division.

(19) “Verification body” means a firm accredited by DEQ that is able to render a verification statement and provide verification services for responsible persons subject to requirements of OAR 340-215 or OAR 340-253.

(20) “Verification services” means services provided during verification as specified under OAR 340-272-0300, including but not limited to reviewing an application or report submitted by a responsible person, assessing compliance, ensuring accuracy according to the standards specified under this division, and submitting a verification statement(s) to DEQ.

(21) “Verification statement” means the final statement rendered by a verification body attesting whether an application or report submitted by a responsible person is free of material misstatement and whether it conforms to the applicable requirements.

(22) “Verification team” means all of those working for a verification body, including all subcontractors, to provide verification services.

(23) “Verified report” means a report that has been reviewed by a third-party verifier and has a verification statement, or statements, if applicable, submitted to DEQ.

(24) “Verifier” means an individual accredited by DEQ to carry out verification services as specified under this division.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.268, 468A.271, 468A.277 & 468A.

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0100

General Requirements for Verification of Applications and Reports

(1) Verification requirement and deadline.

(a) Each responsible person required to contract for verification services in accordance with this division must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from the verification body by August 31 of the year an annual report is submitted for each application and report identified under OAR 340-272-0110 and OAR 340-272-0120.

(A) DEQ may alter this deadline and will issue notice of an updated deadline for that year.

(B) Verification services may not begin until the responsible person certifies the application or report and attests that the data submitted to DEQ is true, accurate, and complete.

(C) An adverse verification statement will result in investigation by DEQ.

(b) Responsible persons required to contract for verification services must obtain full verification beginning in 2021 for data submitted for calendar year 2020 and in each year thereafter, except as otherwise provided in subsection (c).

(c) Responsible persons required to contract for verification services annually for quarterly reports under OAR 340-272-0110(3) or emissions data reports under OAR 340-272-0120(1) or both must obtain verification services according to the following:

(A) Full verification must be obtained beginning in 2021 for data submitted for calendar year 2020, in 2022 for data submitted for calendar year 2021, and in every third year thereafter.

(B) Less intensive verification may be obtained in interim years between full verifications for up to two years out of every three year period, beginning after full verification obtained in 2022. Less intensive verification does not require site visit(s), and allows for less detailed data checks and document reviews based on the analysis and risk assessment in the most recent sampling plan developed as part of the most recent full verification.

(C) Responsible persons must obtain full verification if any of the following apply:

- (i) There has been a change in the verification body;
- (ii) An adverse verification statement or qualified positive verification statement was issued for the previous year; or
- (iii) A change of operational control of the responsible person occurred in the previous year.

(D) A verification body retains the right to perform full verification in instances where there are changes in sources or significant changes in emissions, based on the best judgement of the verification body.

(i) The verification body must provide information on the causes of the emission changes and provide reasoning why the body opted for full verification.

(ii) The verification body must provide justification in the verification report if full verification was not conducted in instances where the total reported differ by greater than 25 percent relative to the previous year's emissions data report.

(2) Verification body and individual verifier rotation requirements.

(a) A responsible person who elects to or is required to contract for verification or both must not use the same verification body or individual verifier(s) to perform verification services under this division for a period of more than six consecutive years.

(A) The six-year period begins on the execution date of the responsible person's first contract for any verification under this division and ends on the date the final verification statement is submitted.

(B) The six-year limit does not reset upon a change in ownership or operational control of the responsible person required to contract for verification services.

(C) If the responsible person is required or elects to contract with another verification body or verifier(s), the responsible person may re-engage the previous verification body or verifier(s) only after at least three years.

(3) Records retention and availability requirements.

(a) Responsible persons must retain records necessary for completing verification services in accordance with the recordkeeping requirements of OAR 340-215 or OAR 340-253, as applicable.

(b) Responsible persons must retain for verification purposes and make available to the verification team:

(A) All information and documentation used to calculate and report emissions, fuels and

electricity transactions;

(B) Any data and information required by or submitted under OAR 340-215 or OAR 340-253; and

(C) Other information as required by the verification team in order for verification services to be completed.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.268, 468A.271, 468A.277 & 468A.

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0110

Requirements for Verification of Applications and Reports Submitted Under OAR 340-253

(1) Verification of fuel pathway (CI) applications.

(a) Fuel pathway applicants supplying site-specific CI data for the fuel pathway application are not required to obtain the services of a verification body accredited by DEQ for purposes of conducting verification services for each fuel pathway application submitted under OAR 340-253.

(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.

(2) Verification of annual fuel pathway (CI) reports.

(a) Applicability. The following persons must obtain the services of a verification body accredited by DEQ for purposes of conducting verification services annually for their fuel pathway report, including required site visit(s), for each fuel pathway report submitted under OAR 340-253, except as otherwise provided under section (b):

(A) Holders of certified fuel pathways who 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 who apply for separate DEQ recognition as a joint applicant under OAR 340-253 and elect to be responsible for separate verification.

(b) Exemptions. Holders of approved fuel pathways that do not generate 6,000 or more credits and 6,000 or more deficits during the previous calendar year for the quantity of fuel produced at a given production facility are not required to contract for verification services.

(c) Verification schedule. Responsible persons required to contract for annual verification of fuel pathway reports (CI) must ensure a fuel pathway verification statement for each fuel pathway report is submitted annually to DEQ in accordance with OAR 340-272-0100(1).

(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 supersede the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must conform to the requirements for verification services of this division, but a verification statement and verification report are not submitted after quarterly review.

(B) Facilities with California Pathways. Any fuel production facility subject to verification under the California Low Carbon Fuel Standard must submit their verification statements to DEQ within ten days of their submittal to the California Air Resources Board.

(i) For facilities whose Fuel Pathway Code in Oregon is a recertification of a California Fuel Pathway Code, the verification statement submitted to the California Air Resources Board must be submitted to DEQ in accordance with the verification deadline specified under OAR 340-272-0100(1).

(ii) For facilities whose fuel pathway code is not a recertification of a California Fuel Pathway Code, but have active California Fuel Pathway Codes, the fuel pathway holder must ensure the following:

(I) That when verification services are performed, the verification body with which they have contracted confirms the inputs and annual operational carbon intensity under OR-GREET 3.0 as required under OAR 340-272-0309; and

(II) That a fuel pathway verification statement for each fuel pathway report is submitted to DEQ in accordance with OAR 340-272-0100(1).

(C) If a fuel pathway holder is eligible for deferred verification under the California program, they must notify DEQ prior to April 30.

(i) If fuel from the facility generates more than 6,000 credits in Oregon, then the fuel pathway holder must contract for verification services according to this division and ensure a fuel pathway verification statement for each fuel pathway report is submitted to DEQ in accordance with OAR 340-272-0100(1).

(3) Verification of quarterly reports.

(a) Applicability. Persons that are subject to OAR 340-253-0060 must obtain the services of a verification body accredited by DEQ annually for purposes of conducting verification services, including required site visit(s), of quarterly reports, except as otherwise provided

under section (b). The scope of verification services is limited to the transaction types under paragraph (A), including associated corrections submitted in annual reports.

(A) Reporters of volumes for any of the following transaction types must obtain verification services for the following transaction types:

(i) All liquid fuels, including

(I) Produced in Oregon;

(II) Import;

(III) Export;

(IV) Gain of inventory;

(V) Loss of inventory; and

(VI) Not used for transportation.

(ii) NGV fueling; and

(iii) Propane fueling.

(b) Exemptions. The following are not required to contract for verification services:

(i) Fuel importers that submit an emissions data report under OAR 340-215 that indicates emissions were less than 25,000 metric tons of CO₂e, excluding CO₂ from biomass-derived fuels for the previous calendar year;

(ii) Persons that do not generate 6,000 or more credits and 6,000 or more deficits during the previous calendar year;

(iii) Persons reporting fuel transactions as Export, Gain of inventory, Loss of inventory and Not used for transportation that do not result in 6,000 or more credits and 6,000 or more deficits generated in a calendar year if all the following conditions are met:

(I) The person did not report any liquid fuel using the transaction types Produced in Oregon or Import; and

(II) The person did not report any NGV fueling or Propane fueling transactions.

(c) Verification schedule. Responsible persons required to contract for annual verification of quarterly reports must ensure a transactions data verification statement is submitted to DEQ in accordance with OAR 340-272-0100(1).

(A) Quarterly review of a quarterly report is optional and may only be included as part of annual verification services after the responsible person submits the report and attests that the statements and information submitted are true, accurate, and complete. Quarterly review does not supersede the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must conform to the requirements for verification services of this division, but a verification statement and verification report are not submitted after quarterly review.

(4) Verification of project reports.

(a) Applicability. Project operators and joint applicants must obtain the services of a verification body accredited by DEQ for purposes of conducting verification services, including required site visit(s), for project reports submitted under OAR 340-253.

(b) Verification schedule. Responsible persons required to contract for annual verification of project reports must ensure a project report verification statement is submitted annually to DEQ in accordance with OAR 340-272-0100(1).

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.268, 468A.271, 468A.277 & 468A.

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0120

Requirements for Verification of Reports Submitted Under OAR 340-215

(1) Verification of annual emissions data reports.

(a) Applicability. The following persons must obtain the services of a verification body accredited by DEQ for purposes of conducting verification services, including required site visit(s), for each emissions data report submitted under OAR 340-215.

(A) Each person submitting an emissions data report that indicates emissions equaled or exceeded 25,000 metric tons of CO₂e, excluding CO₂ from biomass-derived fuels must obtain the services of a verification body accredited by DEQ for purposes of conducting verification services for the entire emissions data report.

(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 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 power purchased from BPA must obtain the services of a verification body accredited by DEQ for purposes of conducting verification services for total emissions, data, and information in the submitted emissions data report associated with each utility that exceeds the threshold.

(b) Cessation of verification. Responsible persons that submit an emissions data report with total emissions below the emissions threshold in a year following a year in which they were required to contract for verification services must have the emissions data report verified for the first year that total reported emissions are reduced below the threshold. An emissions data report in any reporting year thereafter with total reported emissions that are below the threshold is not subject to verification.

(A) A responsible person that meets the cessation requirements for verification must notify DEQ that it is ceasing to verify according to this section and provide the reason(s) for cessation of verification. The notification must be submitted no later than the applicable reporting deadline under OAR 340-215 for the following year.

(B) If in any subsequent year after meeting verification cessation requirements an emissions data report meets the applicability requirements of section (a), the responsible person must contract for verification services and have the emissions data report verified according to the requirements of this division, and verification must continue until cessation is met again.

(c) Verification schedule. Responsible persons required to contract for annual verification of emissions data reports must ensure a verification statement for each report is submitted to DEQ in accordance with OAR 340-272-0100(1). These requirements are additional to the requirements in 40 C.F.R. §98.3(f).

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A
Hist.:

340-272-0200

Notice of Verification Services

(1) After DEQ has provided a determination that the potential for a conflict of interest is acceptable as specified under OAR 340-272-0900(5) and that verification services may proceed, the verification body must submit a notice of verification services to DEQ.

(a) The verification body may begin verification services for the responsible person after the notice is received by DEQ, but must allow a minimum of 14 days advance notice of the site visit unless an earlier date is approved by DEQ.

(b) If the conflict of interest statement and the notice of verification services are submitted together, verification services may not begin until ten days after DEQ has deemed acceptable the potential for conflict of interest.

(c) Verification services may not begin until the responsible person certifies the report in the applicable reporting tool(s) used issued by DEQ.

(2) Any verification notice must include the following information:

(a) A list of the staff designated to provide verification services as a verification team, including the names of each designated staff member, the lead verifier, and all subcontractors, and a description of the roles and responsibilities each member will have during verification. The independent reviewer must also be listed separately.

(b) Documentation that the verification team has the skills required to provide verification services for the responsible person and type of application or report, including all relevant information about the eligibility of the verifier as described under OAR 340-272-0800(1). The notice must include a demonstration that the verification team includes at least one member accredited as a sector specific verifier that is not also the independent reviewer, as required by DEQ.

(c) General information on the responsible person, including:

(A) Name and list of facilities and other locations that will be subject to verification services, contact, address, telephone number, and e-mail address.

(B) The industry sector, North American Industry Classification System (NAICS) code, or source identification number for reporting facilities under OAR 340-215.

(C) The CFP ID(s) for the responsible person under OAR 340-253.

(D) The date(s) of the site visit, if required, with physical address and contact information.

(E) A brief description of expected verification services to be performed, including expected completion date and whether quarterly review is planned in the context of an annual verification requirement.

(d) If any of the information under subsection (a) or (c) changes after the notice is submitted to DEQ, the verification body must notify DEQ as soon as the change is made and submit an updated notice of verification services. The conflict of interest must be reevaluated and information must be resubmitted according to OAR 240-272-0900. DEQ must approve the resubmitted conflict of interest evaluation information in writing.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0300

Requirements for Verification Services

(1) Verification services must be performed by verification bodies accredited by DEQ and must meet the requirements of this division.

(2) Verification services must include the requirements of OAR 340-272-0301 through OAR 340-272-0313, as applicable to the application or report submitted under OAR 340-253 or OAR 340-215.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0301

Verification Plan

(1) The verification team must develop a verification plan based on the requirements of this rule.

(2) The verification plan must include information on the timing of verification services. Such information must include:

(A) Dates of proposed meetings and interviews with with personnel of the responsible person;

(B) Dates of proposed site visits;

(C) Types of proposed document and data reviews and, for reports submitted under OAR 340-253, how quarterly review is planned in the context of an annual verification requirement, if applicable; and

(D) Expected date for completing verification services.

(3) Verification plans for verification services conducted for applications or reports submitted under OAR 340-253 must also include the following information from the responsible person:

(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 they are subject to, other renewable or low carbon fuels markets they participate in, and other mandatory or voluntary auditing programs they are subject to, as applicable;

(b) Information regarding the training or qualifications of personnel involved in developing the applications and reports;

(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 fuel pathway application and each type of 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) Evidence demonstrating that any joint applicants are being separately verified and thus are outside the scope of the instant verification services being provided by the verification body; and

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

(4) Verification plans for verification services conducted for emissions data reports submitted under OAR 340-215 must also include the following information from the responsible person:

(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 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0302

Scoping Verification Services

(1) The verification team must discuss with the responsible person the scope of the verification services and request any information and documents needed for initial

verification services.

(2) The verification team must create a draft sampling plan and verification plan prior to a site visit.

(3) The verification team must review the documents provided and conduct a review of original documents and supporting data for the verification services specified under this division.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0303

Site Visits

(1) Requirements for site visits for verification services conducted for applications and reports submitted under OAR 340-253.

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

(b) At least one DEQ-accredited lead verifier on the verification team must at a minimum make one site visit, during each year full verification is required, to each facility; and, if different from the fuel production facility, the central records location for which the records supporting an application or report subject to verification are submitted.

(A) A separate site visit is required if a responsible person elects to contract for verification services to verify a fuel pathway application.

(B) Site visits, included voluntarily as part of a quarterly review, may not substitute for the required site visit for full verification services.

(c) During the site visit, the verification team member(s) must conduct the following:

(A) Review supporting evidence used to develop reports listed OAR 340-253 submitted to DEQ.

(B) Review and understand the data management systems and accounting practices used by the responsible person to acquire, process, track, and report CFP data. The verification team member(s) must evaluate the uncertainty and effectiveness of these systems.

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

(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, and temporary measurement method requirements for consistency with the requirements of OAR 340-253; and

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

(2) Requirements for site visits for verification services conducted for emissions data reports submitted under OAR 340-215.

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

(b) At least one accredited verifier in the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit, during each year full verification is required, to each facility for which an emissions data report is submitted.

(A) The verification team member(s) must visit the headquarters or other location of central data management when the responsible person is a retail provider or fuel supplier.

(c) During the site visit, the verification team member(s) must conduct the following:

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

(B) Review and understand the data management systems used by the responsible person to track, quantify, and report greenhouse gas emissions and, when applicable, electricity and fuel transactions. The verification team member(s) must evaluate the uncertainty and effectiveness of these systems.

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

(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 40 C.F.R. part 98 or OAR 340-215, as applicable; and

(iv) Review financial transactions to confirm fuel, feedstock, and electricity purchases and sales, and confirming 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 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0304

Sampling Plan

(1) The verification team must develop a sampling plan that meets the requirements of this rule as part of confirming emissions data, electricity transactions, or fuel transactions used for reports submitted under OAR 340-215 and as part of verifying fuel pathway applications and verifying CFP reports submitted under OAR 340-253.

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

(a) The verification team must develop a sampling plan 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 person and type of application or report. The analysis must review the inputs for the development of the submitted applications and reports, the rigor and appropriateness of data management systems, and the coordination within the responsible person's organization to manage the operation and maintenance of equipment and systems used to develop submitted applications or reports.

(b) The verification team must revise the sampling plan to describe tasks completed as information becomes available and potential issues emerge with material misstatement or nonconformance with the requirements of this division, OAR 340-253, or OAR 340-215.

(c) The verification body must retain the sampling plan in paper, electronic, or other format for a period of at least ten years following the submission of each verification statement. The sampling plan must be made available to DEQ upon request.

(d) The verification body must retain all material received, reviewed, or generated to render a verification statement for a responsible person for a period of at least ten years. The documentation must allow for a transparent review of how a verification body reached its conclusion in the verification statement, including independent review.

(3) Sampling plans required for verification services conducted for applications and reports submitted under OAR 340-253 must also meet the following requirements:

(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 application.

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

(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;

(E) CI calculations, as applicable;

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

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

(c) After completing the analysis required, the verification team must include in the sampling plan a list that includes the following information in paragraphs (A) through (C). The sampling plan list must be updated and finalized prior to 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 340-272-0305, 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.

(d) Specified source feedstocks. Specified source feedstocks included in fuel pathway applications and reports that require third-party verification must be included in the scope of verification services. When a fuel pathway does not require third-party verification, specified source feedstocks must be included in the scope of verification of the quarterly fuel transactions 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 person, the verification team must update its risk assessment and sampling plan to assure specified source feedstock characterization and quantities to the point of origin.

(4) Sampling plans required for verification services conducted for emissions data reports submitted under OAR 340-215 must also meet the following requirements:

(a) The sampling plan must include a ranking of emissions sources by amount of contribution to total CO₂e emissions for the responsible person 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 person including risk of incomplete reporting.

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

(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.

(c) After completing the analysis required, the verification team must include in the sampling plan a list that includes the following information in paragraphs (A) through (C). The sampling plan list must be updated and finalized prior to 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 340-272-0305, 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 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0305

Data Checks

(1) General requirements applicable to all data checks.

(a) The verification team must use data checks to determine the reliability of the submitted application or report.

(b) The verification team must use data checks to ensure that the appropriate methodologies and emission factors have been applied for the data submitted in applications and reports required under OAR 340-253 or OAR 340-215, as applicable.

(c) The verification team must choose data checks to ensure the accuracy of data submitted in applications and reports required under OAR 340-253 or OAR 340-215, as applicable.

(d) The verification team must use professional judgment in establishing the extent of data checks required for the team to conclude with reasonable assurance whether each data type or reported emissions specified for the application or report is free of material misstatement.

(e) The verification team is responsible for ensuring via data checks that there is reasonable assurance that the application or report conforms to the requirements of OAR 340-253 or OAR 340-215, as applicable.

(f) The verification team must compare its own calculated results with the submitted data in order to confirm the extent and impact of any omissions and errors. Any discrepancies must be investigated.

(2) Additional requirements for data checks for applications and reports submitted under OAR 340-253.

(a) The verification team must choose data checks based on the relative contribution to greenhouse gas emissions or reductions and the associated risks of contributing to material misstatement or nonconformance, as indicated in the sampling plan.

(b) At a minimum, data checks selected by the verification team must include:

(A) Tracing data in the application and report to its origin;

(B) Reviewing the procedure for data compilation and collection;

- (C) Recalculating intermediate and final data to check original calculations;
 - (D) Reviewing calculation methodologies used by the responsible person for conformance with OAR 340-253; and
 - (E) Reviewing meter and analytical instrumentation measurement accuracy and calibration for consistency with the requirements of OAR 340-253, as applicable.
- (c) In the verification team's comparison of its own calculated results with reported data, the comparison of data checks must also include the following:
- (A) A narrative to indicate which data were checked;
 - (B) The types and quantity of data evaluated;
 - (C) The percentage of reported source data covered by data checks; and
 - (D) Any separate discrepancies that were identified in the application or report.
- (3) Additional requirements for data checks for emissions data reports submitted under OAR 340-215.
- (a) The verification team must use data checks for emissions sources and fuel and electricity transactions data, as applicable, based on their relative contributions to emissions and the associated risks of contributing to material misstatement or nonconformance, as indicated in the sampling plan.
 - (b) At a minimum, data checks selected by the verification team must include:
 - (A) Tracing data in the emissions data report to its origin;
 - (B) Recalculating emission estimates to check original calculations;
 - (D) Reviewing calculation methodologies used by the responsible person for conformance with OAR 340-215; and
 - (E) Reviewing meter and fuel analytical instrumentation measurement accuracy and calibration for consistency with the requirements of OAR 340-215 or 40 C.F.R. part 98, as applicable.
 - (c) In addition to being responsible for ensuring reasonable assurance that the emissions data report conforms to the requirements of OAR 340-215, the verifier's review of conformance must include the following information is correctly reported, as applicable:
 - (A) For facilities that combust natural gas, natural gas supplier customer account number,

service account identification number, or other primary account identifier(s);

(B) For suppliers of natural gas, end user names, account identification numbers, and natural gas deliveries are reported using the appropriate units; and

(C) Energy generation, disposition information, and electricity purchases and acquisitions.

(d) In the verification team's comparison of its own calculated results with reported data, the comparison of data checks must also include the following:

(A) A narrative to indicate which sources and transactions were checked;

(B) The types and quantity of data that were evaluated for each source and transaction;

(C) The percentage of reported emissions covered by data checks; and

(D) Any separate discrepancies that were identified in emissions data.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0306

Modifications to Applications and Reports

(1) As a result of data checks by the verification team and prior to completion of a verification statement(s), the responsible person must fix all correctable errors that affect the data in the submitted application or report, and submit a revised application or report to DEQ.

(a) Failure to submit a revised application or report to DEQ will result in an adverse verification statement.

(b) Failure to fix misreported data that do not affect credit or deficit calculations in reports submitted under OAR 340-253 represents a nonconformance with this division but does not, absent other errors, result in an adverse validation or verification statement.

(c) Failure to fix misreported data that do not affect emissions in reports submitted under OAR 340-215 represents a nonconformance with this division but does not, absent other errors, result in an adverse verification statement.

(2) The responsible person must maintain documentation to support any revisions made to the initial application or report submitted. Documentation for all submittals must be retained by the responsible person for ten years.

(3) The verification team must use professional judgment in the determination of correctable errors as defined under OAR 340-272-0020, including whether differences are not errors but result from truncation or rounding or averaging.

(4) The verification team must document the source of any difference identified, including whether the difference results in a correctable error or whether the difference does not require further investigation because it is the result of truncation, rounding, or averaging.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0307

Findings

(1) To verify that the application or report is free of material misstatements, the verification team must make its own determination of emissions for checked sources or must make its own calculation of specified data types reported by substituting the checked data from OAR 340-272-0305, as applicable.

(a) The verification team must determine whether there is reasonable assurance that the application or report submitted under OAR 340-253 does not contain a material misstatement as calculated according to OAR 340-272-0309 or OAR 340-272-0310, as applicable.

(b) The verification team must determine whether there is reasonable assurance that the emissions data report submitted under OAR 340-215 does not contain a material misstatement in emissions on a CO₂ equivalent basis as calculated according to OAR 340-272-0311.

(2) To assess conformance, the verification team must review the methods and factors used to develop the application or report for adherence to the requirements of this division and ensure that the requirements of OAR 340-215 and OAR 340-253 are met, as applicable.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0308

Log of Issues

(1) The verification team must keep a log that documents any issues identified in the course of verification activities that may affect determinations of material misstatement and nonconformance, whether identified by the verifier or by the reporter regarding the original or subsequent certified reports or identified by DEQ staff.

(2) The issues log must identify the regulatory section related to the nonconformance or potential nonconformance, if applicable, and indicate if the issues were corrected by the responsible person prior to completing the verification services.

(3) Any other concerns that the verification team has with the preparation of the application or report must be documented in the issues log and communicated to the responsible person during the course of verification services.

(4) The log of issues must indicate whether each issue has a potential bearing on material misstatement, nonconformance, or both, and whether an adverse verification statement may result if not addressed.

(5) If quarterly review is conducted before an annual verification for reports submitted under OAR 340-253, any issues identified must be formalized according to this rule in the log of issues during the quarterly review.

(a) The log of issues for the annual verification must include the cumulative record of issues from all quarterly reviews, as well as the annual verification.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0309

Material Misstatement Assessments for Fuel Pathways and Quarterly Fuel Transactions Submitted Under OAR 340-253

(1) Assessments of material misstatement must be conducted separately on each calculated operational CI value and each quarterly fuel transaction quantity per fuel pathway code (expressed in units from the applicable sections of OAR 340-253).

(a) Material misstatement assessments are not conducted for quarterly review.

(2) Operational carbon intensity. A material misstatement of operational carbon intensity must be found if the reported operational CI (gCO₂e/MJ) 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) Each fuel pathway CI is subject to data checks under OAR 340-272-0305 and must be assessed separately for material misstatement. The verification team must assess the inputs and annual operational carbon intensity for fuel pathway codes that are not a recertification of a California Fuel Pathway Code, but have active California Fuel Pathway Codes.

(b) One or more material misstatements results in a finding of material misstatement for the fuel pathway application or report.

(c) All correctable errors identified must be fixed prior to the completion of the verification services to receive a positive or qualified positive verification statement.

(d) In assessing whether a fuel pathway application or fuel pathway report contains a material misstatement, the verification team must populate a controlled version of the Simplified CI Calculator for Tier 1 pathways, or DEQ-approved OR-GREET3.0 for Tier 2 pathways, and determine whether any reported operational CI value contains a material misstatement using the following equations for relative error threshold and absolute error threshold. The following calculations of relative error threshold, absolute error threshold and percent error must be included in the final verification report according to OAR 340-272-0400.

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

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

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

Where:

- “Difference in CI” = the absolute value result of the reported operational CI minus the verifier’s calculation of CI. 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.
- “Discrepancies” = any differences between the reported site-specific CI inputs and the verifier’s calculated site-specific CI inputs subject to data checks under OAR 340-272-0305.
- “Omissions” = any site-specific CI inputs or associated source data the verifier concludes must be part of the fuel pathway application or fuel pathway report, but were not included.
- “Misreporting” = duplicate, incomplete or other CI input data the verifier concludes should, or should not, be part of the fuel pathway application or fuel pathway report.
- “| Reported Operational CI Value |” = the absolute value of the operational CI submitted in the fuel pathway application or fuel pathway report.

(3) Quarterly fuel transaction quantities per fuel pathway code. A material misstatement of quarterly fuel quantity must be found if the responsible person’s reported fuel quantity per fuel pathway code per quarter contains one or more errors that, individually or collectively,

result in an overstatement or understatement greater than five percent.

(a) Each aggregated quarterly fuel quantity per fuel pathway code is subject to data checks under OAR 340-272-0305 and must be assessed separately for material misstatement.

(b) One or more material misstatements results in a finding of material misstatement for the verification period.

(c) All correctable errors identified must be fixed prior to the completion of the verification services to receive a positive or qualified positive verification statement.

(d) In assessing whether a quarterly fuel transaction report contains a material misstatement, the verification team must determine whether any quarterly fuel transaction quantity per fuel pathway code contains a material misstatement using the following equation. The following calculation of percent error must be included in the final verification report according to OAR 340-272-0400.

$$\begin{aligned} \text{Percent error (fuel transaction quantity)} &= \\ & \sum [\text{Discrepancies} + \text{Omissions} + \text{Misreporting}] \div [\text{Reported quarterly fuel transaction} \\ & \text{quantity for fuel pathway code}] \\ & \times 100\% \end{aligned}$$

Where:

“Discrepancies” = any differences between the fuel quantity for the fuel pathway code reported in the quarterly fuel transactions report and the verifier’s review of calculation of fuel quantity subject to data checks under OAR 340-272-0305.

“Omissions” = any fuel quantity the verifier concludes must be part of the quarterly fuel transactions report, but was not included.

“Misreporting” = duplicate, incomplete or other fuel quantity data the verifier concludes should or should not be part of the quarterly fuel transactions report.

“Reported quarterly fuel transaction quantity for fuel pathway code” = the total of all reported fuel quantities for each fuel pathway code for each transaction type for each quarter for which the verifier is conducting a material misstatement assessment.

(4) When evaluating material misstatement, verifiers must deem correctly substituted missing data to be accurate, regardless of the amount of missing data.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0310

Material Misstatement Assessments for Project Reports Submitted Under OAR 340-253

(1) A material misstatement of project data for project reports (project-based crediting) must be found if the responsible person's project report contains one or more errors that, individually or collectively, result in an overstatement greater than five percent of the reported total greenhouse gas emission reductions.

(2) A material misstatement of project data is not found when discrepancies, omissions, or misreporting, or an aggregation of the three, result in an understatement of total reported greenhouse gas emission reductions in the project report.

(3) Each project report must be assessed separately for material misstatement.

(4) All correctable errors identified must be fixed prior to the completion of the verification services to receive a positive or qualified positive verification statement.

(5) In assessing whether a project report contains a material misstatement, the verification team must determine whether the greenhouse gas reductions quantified and reported in the project report contain a material misstatement using the following equation. Any discrepancies, omissions, or misreporting found by the verification team must include the positive or negative impact on the total reported greenhouse gas emission reductions when entered in the material misstatement equation. The following calculation of percent error must be included in the final verification report according to OAR 340-272-0400.

$$\text{Percent error (project data)} = \frac{\sum([\text{Discrepancies}, \text{Omissions}, \text{Misreporting}] \div \text{Reported GHG Emissions reduction})}{\times 100\%}$$

Where:

- “Discrepancies” = any differences between the reported GHG emissions reductions in the project plan and the verifier's calculated value based on data checks under OAR 340-272-0305.
- “Omissions” = any GHG emissions, excluding any GHG reductions, the verifier concludes must be part of the project report, but were not included.
- “Misreporting” = duplicate, incomplete or other GHG emissions or reductions data the verifier concludes should, or should not, be part of the project report.
- “Reported GHG emissions reductions” = the total of all GHG emissions reductions reported in the project report for which the verifier is conducting a material misstatement assessment.

(6) When evaluating material misstatement, verifiers must deem correctly substituted missing data to be accurate, regardless of the amount of missing data.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0311

Material Misstatement Assessments for Emissions Data Submitted Under OAR 340-215

(1) Assessments of material misstatement must be conducted independently on total reported emissions.

(2) A material misstatement must be found if the total reported emissions (metric tons of CO₂e) in an emissions data report submitted under OAR 340-215 contains errors greater than five percent.

(3) Each emissions data report is subject to data checks under OAR 340-272-0305 and must be assessed separately for material misstatement.

(4) All correctable errors identified must be fixed prior to the completion of the verification services to receive a positive or qualified positive verification statement.

(5) In assessing whether an emissions data report contains a material misstatement, the verification team must separately determine whether the total reported emissions contain a material misstatement using the following equation:

$$\text{Percent error (emissions)} = \frac{\sum([\text{Discrepancies} + \text{Omissions} + \text{Misreporting}]}{\text{Total reported emissions}} \div \times 100\%$$

Where:

“Discrepancies” = any differences between the reported emissions and the verifier’s review of emissions for a data source subject to data checks under OAR 340-272-0305.

“Omissions” = any emissions the verifier concludes must be part of the emissions data report, but were not included.

“Misreporting” = duplicate, incomplete or other emissions the verifier concludes should or should not be part of the emissions data report or duplicate data the verifier concludes should not be part of the emissions data report.

“Total reported emissions” = the total annual responsible person emissions for which the verifier is conducting a material misstatement assessment.

(6) When evaluating material misstatement, verifiers must deem correctly substituted missing

data to be accurate, regardless of the amount of missing data.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0312

Review of Missing Data Substitution

(1) If a source selected for a data check was affected by a loss of data used for the reported data in the application or report:

(a) The verification team must confirm that the reported data or reported emissions for that source were calculated using the applicable missing data procedures, or that a reasonable temporary data collection procedure was used for the source or that DEQ approved an alternative method; and

(b) The verifier must note the date, time, and source of any missing data substitutions discovered during the course of verification in the verification report.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0313

Review of Operations and Emissions Specific to Reports Submitted Under OAR 340-215

(1) The verification team must review facility operations to identify applicable greenhouse gas emissions sources.

(a) The review conducted by the verification team must include a review of the emissions inventory and each type of emission source to ensure that all sources specified under OAR 340-215-0030 are properly included in the emissions data report.

(b) The verification team must ensure that the reported current primary and any secondary (if reported) NAICS codes accurately represent the NAICS-associated activities for the facility.

(A) Review of these NAICS codes and associated activities must be documented in the verification team's sampling plan.

(B) If the verification team determines that the reported NAICS code(s) is inaccurate and the responsible person does not submit a revised emissions data report to correct the current NAICS code(s), the result will be an adverse verification statement.

(2) The verification team must review electricity transaction records, including deliveries and receipts of power via North American Electric Reliability Corporation (NERC) e-Tags, written power contracts, settlements data, and any other applicable information required to confirm reported electricity procurements and deliveries.

(3) If a change in the facility's operations or status resulted in an increase or decrease of more than five percent in emissions of greenhouse gases in relation to the previous data year, the verification team must ensure the information reported in an emissions data report is in conformance with OAR 340-215.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280
Statutes/Other Implemented: ORS 468 & 468A
Hist.:

340-272-0400

Completion of Verification Services

(1) Verification statement.

(a) Upon completion of verification services, the verification body must complete a verification statement, and provide its statement to the responsible person and DEQ by the applicable verification deadline.

(b) Before the verification statement(s) are completed, the verification body must have the verification services and findings of the verification team independently reviewed within the verification body by an independent reviewer who is a lead verifier not involved in services for the responsible person during that application period or reporting year.

(2) Independent review.

(a) The independent reviewer must serve as a final check on the verification team's work to identify any significant concerns, including:

(A) Errors in planning;

(B) Errors in data sampling; and

(C) Errors in judgment by the verification team that are related to the draft verification statement.

(b) The independent reviewer must maintain independence from the verification services by not making specific recommendations about how the verification services should be conducted.

(c) The independent reviewer must review documents applicable to the verification services provided, and identify any failure to comply with requirements of this division, OAR 340-215, OAR 340-253, and with the verification body's internal policies and procedures for providing verification services, as applicable. The independent reviewer must concur with the verification findings before the verification statement(s) can be issued.

(3) Completion of findings and verification report and statement.

(a) The verification body is required to provide each responsible person with the following:

(A) A detailed verification report, which must be submitted to the responsible person at the same time as or before the final verification statement is submitted to DEQ. The detailed verification report must be made available to DEQ upon request. The verification report must at a minimum include:

(i) A detailed description of the facility or entity including all data sources and boundaries;

(ii) A detailed description of the accounting procedures and data management systems, including data acquisition, tracking, and emission calculation, as applicable;

(iii) The verification plan;

(iv) The detailed comparison of the data checks conducted during verification services;

(v) The log of issues identified in the course of verification services and their resolution;

(vi) Any qualifying comments on findings during verification services;

(vii) Findings of omissions, discrepancies, and misreporting, and the material misstatement calculations required under OAR 340-272-0309 through OAR340-272-0311, as applicable; and

(viii) For reports submitted under OAR 340-253, a detailed description of entities in the supply chain contributing CI parameters;

(B) The verification team must have a final discussion with the responsible person explaining its findings, and notify the responsible person of any unresolved issues noted in the issues log before the verification statement is finalized;

(C) The verification body must provide the verification statement to the responsible person and DEQ, attesting whether the verification body has found the submitted application or report to be free of material misstatement, and whether the application or report is in conformance with the requirements of this division, OAR 340-215, and OAR 340-253, as applicable. For every qualified positive verification statement, the verification body must explain the nonconformances contained within the application or report. For every adverse verification statement, the verification body must explain all nonconformances or material

misstatements leading to the adverse verification statement;

(D) The lead verifier on the verification team must attest that the verification team has carried out all verification services as required by this division; and

(E) The lead verifier who has conducted the independent review of verification services and findings must attest to his or her independent review on behalf of the verification body and his or her concurrence with the findings that they are true, accurate, and complete.

(4) Adverse verification statement.

(a) Prior to the verification body providing an adverse verification statement for the application or report to DEQ, the verification body must notify the responsible person, who must be provided at least 14 calendar days to modify the application or report(s) to correct any material misstatement or nonconformances found by the verification team.

(b) The verification body must provide notice to DEQ of the potential for an adverse verification statement at the same time it notifies the responsible person, and include a current issues log. The modified application or report and verification statement must be submitted to DEQ before the verification deadline.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0500

Final Verified Applications and Reports

(1) Upon delivery of a verification statement to DEQ, the reported data is deemed final by DEQ. No changes may be made to the application or report as submitted, and all verification requirements of this division will be considered complete.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0600

Re-verification Requirements

(1) If DEQ finds a high level of conflict of interest existed between a verification body and a responsible person, an error is identified or a report that received a positive or qualified positive verification statement fails a DEQ audit, DEQ may set aside the positive or qualified positive verification statement issued by the verification body and require the responsible person to have the report re-verified by a different verification body within 90 days. In

instances where an error to a report is identified and determined by DEQ to not affect the emissions or reported data, the change may be made without a set aside of the positive or qualified positive verification statement.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0700

DEQ Data Requests and Audits

(1) DEQ data requests and audits of responsible persons.

(a) Upon request by DEQ, the responsible person must provide the data used to generate an application or report including all data available to a verifier in the conduct of verification services, within 14 calendar days.

(b) Upon written notification by DEQ, the responsible person must make itself, its personnel, and other entities in its feedstock and finished fuel supply chain, as applicable, available for a DEQ audit.

(2) DEQ data requests and audits of verification bodies.

(a) Upon request by DEQ, the verification body must provide DEQ the verification report given to the responsible person, as well as the sampling plan, contracts for verification services, and any other supporting documents and calculations, within 14 calendar days.

(b) Upon written notification by DEQ, the verification body must make itself and its personnel available for a DEQ audit.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0800

Accreditation Requirements for Verification Bodies, Lead Verifiers, and Verifiers

(1) Eligibility requirements for third-party verifier accreditation.

(a) Third-party verifiers seeking to obtain DEQ accreditation must meet the following minimum eligibility requirements:

(A) Apply to receive accreditation as a third-party verifier from DEQ for both the verification body and all individuals performing verification services for the verification body.

(B) Demonstrate to DEQ's satisfaction sufficient knowledge of the relevant methods and protocols in this division, OAR 340-215, and OAR 340-253, as applicable. Certification may be limited to certain data types or sources of emissions.

(C) Maintain active accreditation or recognition as a verifier under at least one of the following programs:

(i) California ARB's Mandatory Reporting of Greenhouse Gas Emissions program;

(ii) California Climate Action Registry;

(iii) The Climate Registry;

(iv) Climate Action Reserve;

(v) American National Standards Institute (ANSI);

(vi) Accredited ISO 14001 registrars;

(vii) Accredited ISO 14064 registrars;

(viii) Accredited ISO 50001 registrars; or

(ix) Other verification standard approved by DEQ.

(2) Requirements for applying for DEQ accreditation and taking DEQ trainings and exams.

(a) DEQ will issue accreditation to verification bodies, lead verifiers, and verifiers that meet the requirements of this rule. The accreditation requirements specified under this rule apply to all verification bodies, lead verifiers, and verifiers that want to provide verification services under this division.

(b) Verification body accreditation application. To apply for accreditation as a verification body, the applicant must submit the following information to DEQ:

(A) A list of all verification staff and a description of their duties and qualifications, including DEQ accredited verifiers on staff. The applicant must demonstrate staff qualifications by listing each individual's education, experience, professional licenses, and other relevant information;

(i) A verification body must employ and retain at least two verifiers that have been accredited by DEQ as lead verifiers;

(ii) A verification body must employ and retain at least five total full-time staff;

(B) The applicant must provide a list of any judicial proceedings, enforcement actions, or administrative actions filed against the body within the previous five years, with an explanation as to the nature of the proceedings;

(C) The applicant must provide documentation that the body maintains a minimum of four million U.S. dollars of professional liability insurance. Neither general nor umbrella liability policies may be used for the professional liability insurance minimum for the purposes of this provision;

(D) The applicant must demonstrate that the body has policies and mechanisms in place to prevent conflicts of interest and to identify and resolve potential conflict of interest situations if they arise. The applicant must provide the following information:

(i) Identification of services provided by the verification body, the industries that the body serves, and the locations where those services are provided;

(ii) A detailed organizational chart that includes the verification body, its management structure, and any related entities; and

(iii) The verification body's internal conflict of interest policy that identifies activities and limits to monetary or non-monetary gifts that apply to all employees and procedures to monitor, assess, and notify DEQ of potential conflicts of interest;

(E) The applicant must demonstrate that the body has procedures and policies to support staff technical training as it relates to verification, including DEQ training; and

(F) The verification body must notify DEQ within 30 days of when it no longer meets these requirements for accreditation as a verification body.

(i) Verification body staffing changes are considered an amendment to the verification body accreditation application and therefore DEQ must be notified of any changes. The verification body may request that additional time be provided in order to hire additional staff to meet these requirements.

(c) Verifier accreditation application.

(i) To apply for accreditation as a general verifier, the applicant must submit documentation to DEQ that provides evidence that the applicant meets the criteria under paragraphs (d)(A) and (B).

(ii) To apply for accreditation as a lead verifier for verification of emissions data reports submitted under OAR 340-215, the applicant must submit documentation to DEQ that provides evidence that the applicant meets the criteria under paragraphs (d)(A) through (C) and subsection (g).

(iii) To apply for accreditation as a lead verifier for verification of applications and reports

submitted under OAR 340-253, the applicant must submit documentation to DEQ that provides evidence that the applicant meets the criteria under paragraphs (d)(A) through (E), as applicable, and subsection (g).

(d) Verifier competency requirements. To perform verifications, verifiers must be employed by, or contracted with a verification body accredited by DEQ and must submit evidence to demonstrate that competency requirements are met.

(A) Verifiers must provide evidence demonstrating the minimum educational background required to act as a verifier for DEQ. Minimum educational background means that the applicant has either:

(i) A bachelor's level college degree or equivalent in engineering, science, technology, business, statistics, mathematics, environmental policy, economics, or financial auditing; or

(ii) Evidence demonstrating the completion of significant and relevant work experience or other personal development activities that have provided the applicant with the communication, technical, and analytical skills necessary to conduct verification.

(B) Verifiers must provide evidence demonstrating sufficient workplace experience to act as a verifier, including evidence that the applicant verifier has a minimum of two years of full-time work experience in a professional role involved in emissions data management, emissions technology, emissions inventories, environmental auditing, financial auditing, life cycle analysis, transportation fuel production, or other technical skills necessary to conduct verification.

(C) To act as a lead verifier, in addition to the qualifications under paragraphs (A) and (B), one of the following qualifications under subparagraphs (i) through (iv) must be met. To become a lead verifier, verifiers meeting one of the lead verifier qualifications under subparagraphs (ii) through (iv) must complete training specific to the CFP or GHG reporting program, as applicable. Verifiers applying to become a lead verifier with the qualifications under subparagraph (i) must take the DEQ-approved comprehensive general verification training and examination in addition to the training specific to the CFP or GHG reporting program.

(i) The verifier must have worked as a project manager or lead person for no less than four years, of which two may be graduate level work in the development of greenhouse gas or other air emissions inventories or as a lead environmental data or financial auditor;

(ii) The verifier must have participated within the previous two years as part of the verification team in at least three completed verifications under the supervision of a lead verifier accredited by DEQ;

(iii) The verifier must be accredited as a lead verifier by California ARB for the Mandatory Reporting of Greenhouse Gas Emissions program or Low Carbon Fuel Standard;

(iv) To verify applications and reports submitted under OAR 340-253, the verifier must have experience acting as the lead on an attestation engagement services team for the U.S. Environmental Protection Agency (EPA) Renewable Fuel Standard (RFS) program within the previous two years or currently be acting as a team lead;

(v) To verify applications and reports submitted under OAR 340-253, the verifier must have experience acting as the lead on a Quality Assurance Program (QAP) services team for the U.S. EPA RFS program within the previous two years or currently be acting as a team lead;
or

(vi) To verify applications and reports submitted under OAR 340-253, the verifier must have experience acting as a the lead on a biofuels certification audit within the previous two years or currently be acting as a lead under one of the following international certification systems: International Sustainability and Carbon Certification (ISCC), Roundtable on Sustainable Biomaterials (RSB), or Bonsucro.

(D) To become accredited as a lead verifier for verification of fuel pathway applications or fuel pathway reports, the verifier must have experience in alternative fuel production technology and process engineering.

(E) To become and remain accredited as a lead verifier for verification of project reports and quarterly reports submitted by producers and importers of gasoline or diesel, the verifier may need to be accredited as a sector specific verifier as required by DEQ.

(e) Verification training. Applicants must take a DEQ-approved general verification training and receive a passing score of greater than an unweighted 70 percent on an exit examination.

(i) If an applicant does not pass the exam after the training, they may retake the exam a second time.

(ii) Only one retake of the examination is allowed before the applicant must retake the DEQ-approved general verification training course.

(f) Sector specific verifiers. The applicant seeking to be accredited as a sector specific verifier as specified by DEQ must, in addition to meeting the requirements for accredited lead verifier or verifier qualification, have at least two years of professional experience related to the sector in which they are seeking accreditation, take DEQ sector specific verification training and receive a passing score of greater than an unweighted 70 percent on an exit examination.

(i) If the applicant does not pass the exam after the training, they may retake the exam a second time.

(ii) Only one retake of the examination is allowed before the applicant must retake the DEQ approved sector specific verification training.

(g) DEQ may request additional information or documentation from a verifier or affiliated verification body to demonstrate that the verifier meets the competency requirements set forth here, or may seek additional information from other persons or entities regarding the verifier's fitness for qualification.

(3) DEQ Accreditation.

(a) DEQ will inform an applicant seeking accreditation as a verification body, lead verifier, verifier, or sector specific verifier either that the application is complete or that additional specific information is required to make the application complete.

(b) Upon a finding by DEQ that an application for accreditation as a verification body, lead verifier, verifier, or sector specific verifier is complete and meets all applicable requirements, the applicant will be eligible to attend the required verification training.

(c) Following completion of the application process and all applicable training and examination requirements, DEQ will notify the applicant if accreditation has been withheld or will issue an accreditation for the verification body, lead verifier, verifier, or sector specific verifier.

(d) Accreditation is valid for a period of three years. Upon expiration, the applicant may re-apply for accreditation as a verification body, lead verifier, verifier, or sector specific verifier. All DEQ approved training and examination requirements applicable at the time of re-application must be met for accreditation to be renewed by DEQ.

(e) All verification body requirements must be met for DEQ to renew the verification body accreditation.

(f) Within 20 days of being notified of any nonconformance in another voluntary or mandatory greenhouse gas emissions reporting program or fuels program, a DEQ accredited verification body, lead verifier, verifier, or sector specific verifier must provide written notice to DEQ of the corrective action. That notification must include reasons for the corrective action and the type of corrective action. The verification body or verifier must provide additional information to DEQ upon request.

(4) Modification, suspension or revocation of a notification approving a verification body, lead verifier, or verifier and voluntary withdrawal from the accreditation program.

(a) DEQ may review and, for good cause, including but not limited to any violation of this division, modify, suspend, or revoke a notification providing accreditation to a verification body, lead verifier, or verifier.

(b) A verification body must notify all persons that have a current contract for verification services with it or received verification services from it within the past six months of its suspension or revocation of accreditation within ten days and may not continue to provide verification services.

(c) A responsible person who has contracted for verification services who has been notified by a verification body of a suspended or revoked accreditation must contract with a different verification body for verification services.

(d) An accredited verification body or individual verifier may request to voluntarily withdraw its accreditation by providing a written notice to DEQ requesting such withdrawal.

(5) Subcontracting.

(a) The following requirements apply to any verification body that elects to subcontract a portion of verification services:

(A) All subcontractors must be accredited by DEQ to perform the verification services for which the subcontractor has been engaged by the verification body.

(B) The verification body must assume full responsibility for verification services performed by subcontractor verifiers.

(C) A verification body may not use subcontractors to meet the minimum staff total or lead verifier requirements as specified under paragraph (2)(b)(A).

(D) A verifier acting as a subcontractor to another verification body may not further subcontract or outsource verification services for a responsible person.

(E) A verification body that engages a subcontractor is responsible for demonstrating an acceptable level of conflict of interest, as provided under OAR 340-272-0900, between its subcontractor and the responsible person for which it will provide verification services.

(F) A verification body may not use a subcontractor as the independent reviewer.

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-0900

Conflict of Interest Requirements for Verification Bodies and Verifiers

(1) Applicability. Conflict of interest requirements apply to verification bodies, lead verifiers, including independent reviewers, and verifiers accredited by DEQ to perform verification services. Any individual person or company that is hired by a responsible person to contract with a verification body on behalf of the responsible person is also subject to the conflict of interest assessment in this rule. In such instances, the verification body must assess and address the potential conflict of interest between itself and the contracting entity, as well as

between itself and the responsible person, including a written assessment provided and signed by the contracting entity.

(a) The following definitions apply for the purposes of this rule:

(A) “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.

(B) “Related entity” for the purposes of this subsection means any direct parent company, direct subsidiary, or sister company.

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

(a) The responsible person and the verifier share any management staff or board of directors membership, or any of the senior management staff of the responsible person have been employed by the third-party verifier, or vice versa, within the previous five years;

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

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

(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 conducted in accordance with, or equivalent to, the requirements of this rule, 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 340-253 or OAR 340-215, or uploading data for DEQ, on behalf of the responsible person;

(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

person;

(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 person that relates to their internal accounting controls, financial systems, or financial statements, unless the result of those services will not be part of the verification process;

(xi) 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;

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

(xiii) Any legal services; or

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

(B) High conflict of interest services provided to a responsible person subject to OAR 340-253:

(i) Designing, developing, implementing, reviewing, or maintaining an information or data management system for data submitted under OAR 340-253 or OAR 340-215 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 person;

(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 person;

(C) High conflict of interest services provided to a responsible person subject to OAR 340-215:

(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 emission factors or other greenhouse gas-related engineering analysis, including developing or reviewing a California Environmental Quality Act (CEQA) greenhouse gas analysis that includes facility specific information; or

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

(c) Any member of the verification body or verification team has provided verification services for the responsible person except within the time periods in which the responsible person is allowed to use the same verification body or team members as specified under OAR 340-272-0100(2); or

(d) Any member of the verification body provides any type of monetary or non-monetary incentive to a responsible person to secure a verification services contract. The potential for conflict of interest must be deemed to be high when any member of the responsible person provides any type of monetary or non-monetary incentive to a member of the verification body to influence verification documentation or 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); and

(b) Any services provided to the responsible person by any member of the verification body or verification team within the last five years are valued at less than 20 percent of the fee for the proposed verification services. Any verification conducted in accordance with, or equivalent to this rule provided by the verification body or verification team outside the jurisdiction of DEQ is excluded from this financial assessment but must be disclosed to DEQ according to section (5).

(c) For verification services conducted for applications or reports submitted under OAR 340-

253, non-DEQ verification services are excluded from categories of risk if those services are conducted in accordance with, or substantially equivalent to this rule, including, but not limited to, auditing services provided under the U.S. EPA RFS (QAP services, attest engagement services, third-party engineering reports), third-party certification of environmental management systems under ISO 14001, energy management systems under 50001 standards, or certification systems recognized by other governmental agencies, including the European Commission. Verification services provided under California ARB's Mandatory Reporting of Greenhouse Gas Emissions program, Low Carbon Fuel Standard, or Cap-and-Trade Regulation are also excluded from categories of risk for potential conflict of interest.

(d) For verification services conducted for reports submitted under OAR 340-215, non-DEQ verification services are deemed to be low risk if those services are conducted in accordance with, or equivalent to this rule, including, but not limited to, third-party certification of environmental management system under ISO 14001 or energy management system under 50001 standards. Verification services provided under California ARB's Mandatory Reporting of Greenhouse Gas Emissions program, Low Carbon Fuel Standard, or Cap-and-Trade Regulation are also excluded from categories of risk for potential conflict of interest.

(4) Medium conflict of interest. The potential for a conflict of interest will be deemed to be medium where the potential for a conflict of interest is not deemed to be either high or low as specified under this rule. The potential for conflict of interest will also be deemed to be medium where there are any instances of personal or familial relationships between the members of the verification body and management or staff of the responsible person.

(a) If a verification body identifies a medium potential for conflict of interest and intends to provide verification services for the responsible person, the verification body must submit a plan to avoid, neutralize, or mitigate the potential conflict of interest situation, in addition to the submittal requirements specified under section (5). 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 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.

(b) DEQ will evaluate the conflict of interest mitigation plan and determine whether verification services may proceed.

(5) Conflict of interest submittal requirements for accredited verification bodies.

(a) Before the start of any work related to providing verification services, a verification body must first be authorized to provide verification services in writing by DEQ. To obtain authorization, the verification body must submit to DEQ an evaluation of the potential for a conflict of interest that the verification body, related entities, or any subcontractors performing verification services may have with the responsible person for which it will perform verification services. The information submitted to DEQ must include 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 person or related entities and, if so, provide a description of such services and the years in which such services were provided;

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

(i) Identification of the nature and location of the work performed for the responsible person 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 person's greenhouse gas emissions;

(ii) The nature of past, present, or future relationships of any member of the verification team, verification body, or related entities with the responsible person 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 person or related entities;

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

(III) How much work was performed for the responsible person 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 person or a related entity; and

(V) How much work related to greenhouse gases the verification team has performed for the

responsible person or related entities in the last five years, in dollars; and

(iii) 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 perform verification services for the responsible person, and a description of any instances of personal or family relationships with management or employees of the responsible person that potentially represent a conflict of interest; and

(E) Identification of any other circumstances known to the verification body or responsible person that could result in a conflict of interest.

(F) Include a written attestation submitted to DEQ as follows:

"I certify under penalty of perjury under the laws of the State of Oregon the information provided in the conflict of interest evaluation submittal is true, accurate, and complete."

(6) Conflict of interest determinations. DEQ will review the evaluation submitted by the verification body and will notify the verification body in writing whether the verification body is authorized to proceed with verification services.

(a) DEQ will notify the verification body in writing when the conflict of interest evaluation information submitted is deemed complete. After deeming the information complete, DEQ will determine whether the verification body is authorized to proceed with verification and will so notify the verification body.

(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.

(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 person and related entities, and the cost of the verification services to be performed. 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.

(7) Monitoring conflict of interest situations.

(a) After commencement of verification services, the verification body must 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 has taken or proposes to take to avoid, neutralize, or mitigate the potential for a conflict of interest.

(b) The verification body must 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 person or related entity for which the body has provided verification services, the verification body must notify DEQ of the contract and the nature of the work to be performed, and revenue received. DEQ will determine the level of conflict using the criteria in sections (1) through (4), if the responsible person must reverify their applications or reports, and if accreditation revocation is warranted.

(c) The verification body must notify DEQ, within 30 days, of any emerging conflicts of interest during the time verification services are being provided and one year after verification services are completed.

(A) If DEQ determines that a disclosed emerging potential conflict is medium risk and this risk can be mitigated, the verification body is deemed to have met the conflict of interest requirements to continue to provide verification services to the responsible person and will not be subject to suspension or revocation of accreditation.

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

(d) The verification body must report to DEQ any changes in its organizational structure, including mergers, acquisitions, or divestitures, for one year after completion of verification services.

(e) DEQ may invalidate a verification finding if a potential conflict of interest has arisen for any member of the verification team. In such a case, the responsible person will be provided 90 days to complete reverification.

(f) If the verification body or its subcontractor(s) are found to have violated the conflict of interest requirements of this rule, DEQ may rescind accreditation of the body, its verifier staff, or its subcontractor(s).

Statutory/Other Authority: ORS 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

340-272-1000

DEQ Verification Authority

(1) DEQ retains full authority in determining if an application or report contains a discrepancy, omission, or misreporting, or any aggregation of the three that impacts the verification status. DEQ may issue an adverse verification statement for an application or report even if it has received a positive verification statement from the third-party verifier. DEQ may also issue an adverse verification statement for:

- (a) Failure to submit a complete annual or quarterly report in a timely manner;
- (b) Failure to complete third-party verification if required by this division; or
- (c) Other forms of noncompliance with this division, OAR 340-215, or OAR 340-253.

Stat. Auth.: ORS 468.020, 468A.050, 468A.266, 468A.268, 468A.277 & 468A.280

Stats. Implemented: ORS 468 & 468A

Hist.: