



## 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 that must engage the services of a verification body approved by DEQ to perform verification under this division for reports submitted under OAR chapter 340 division 215, applications or reports submitted under OAR chapter 340 division 253, or any combination therein, and to establish requirements for verification bodies and verifiers seeking DEQ approval to perform the third party verifications.

(2) This division supports the following programs:

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

(b) Clean Fuels Program as adopted under OAR chapter 340 division 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 from a verification body attesting 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 340-272-0435, or both.

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

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

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

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

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

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

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

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

(9) “GHG Reporting Program” means the greenhouse gas registration and reporting requirements established under OAR chapter 340 division 215.

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

responsible person.

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

(12) “Less intensive verification” means all verification services as described under OAR 340-272-0300(1), excluding site visit(s) as described under OAR 340-272-0420, and only requiring data checks and document reviews based on the analysis and risk assessment in the most recent sampling plan developed as part of the most current full verification.

(13) “Material misstatement” means any discrepancy, omission, 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.

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

(15) “Nonconformance” means the failure to meet the applicable requirements of this division or the failure to meet the applicable requirements of or use the methods or emissions factors specified under OAR chapter 340 division 215 or OAR chapter 340 division 253 to calculate or report data or submit an application.

(16) “Positive verification statement” means a verification statement from a verification body attesting that it 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 chapter 340 division 215, or OAR chapter 340 division 253, as applicable.

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

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

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

(20) “Reasonable assurance” means high degree of confidence.

(21) “Related entity” means any direct parent company, direct subsidiary, or sister company.

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

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

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

(25) “Responsible person” means a person, regulated entity, or regulated party that is subject to the requirements of OAR 340-272-0110, OAR 340-272-0120, or both.

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

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

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

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

(30) “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 with DEQ regulations, ensuring accuracy according to the standards specified under this division, and submitting a verification statement(s) to DEQ.

(31) “Verification statement” means the final statement produced 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.

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

(33) “Verifier” means a person approved by DEQ under OAR 340-272-0220 to provide

verification services as described by this division.

Statutory/Other Authority: ORS 468.020, 468A.050, 468A.266, 468A.268, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

### **340-272-0100**

#### **General Requirements for Verification of Applications and Reports**

(1) Verification requirement.

(a) The annual third party verification requirements set forth in this division apply beginning in 2022 for applications and for reports with data for calendar year 2021, and in each year thereafter.

(b) Each responsible person must:

(A) Ensure the requirements of this division are met, including but not limited to, ensuring that verification services are provided in compliance with the requirements of OAR 340-272-0300 and that a potential for a conflict of interest is evaluated, monitored, and mitigated according to OAR 340-272-0500;

(B) Engage the services of a verification body approved by DEQ to perform verification under this division;

(C) Ensure that a verification statement is submitted to DEQ from the verification body by the deadline specified under section (2) and ensure that a verification statement is submitted to DEQ for each application and report identified under OAR 340-272-0110 and OAR 340-272-0120; and

(D) Before verification services begin, conduct a conflict of interest evaluation in coordination with the verification body and develop a conflict of interest mitigation plan, if needed, according to OAR 340-272-0500, submit both the evaluation and the plan, as applicable, to DEQ, and receive from DEQ approval in writing to proceed with verification services.

(c) A responsible person may not allow verification services to begin until after the responsible person has submitted to DEQ the application or report that is to be verified, attests that the data submitted to DEQ in the application or report is true, accurate, and complete, and has submitted the conflict of interest evaluation and received DEQ approval according to OAR 340-272-0500.

(2) Verification deadline.

(a) Each responsible person must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from an approved 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. DEQ may alter this deadline and will issue notice of any changes for the applicable year.

(b) Responsible persons required to engage the services of a verification body approved by DEQ to perform annual verification under this division of CFP quarterly reports under OAR 340-272-0110(3), GHG Reporting Program emissions data reports under OAR 340-272-0120(1), or both must do so according to the following:

(A) Engage the services of a verification body approved by DEQ to provide full verification, as described by this division, in the first year that verification is required under subsection (1)(a), and then in at least every third year thereafter.

(B) For up to two years out of every three year period, less intensive verification as defined under OAR 340-272-0020(12) may be provided by a verification body approved by DEQ in place of full verification if:

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

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

(iii) No change of operational control of the responsible person occurred in the previous year.

(C) A verification body may choose to provide full verification, at its discretion, in instances where the responsible person has made changes in sources or significant changes in emissions occurred compared to the previous year, based on the professional judgment of the verification body.

(i) The verification body must provide reasons why it opted for full verification and information on the causes of the changes in emissions to the responsible person.

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

(3) Verification body and verifier rotation requirements.

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

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

### **340-272-0110**

#### **Requirements for Verification of CFP Applications and Reports Submitted under OAR Chapter 340 Division 253**

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

(a) Fuel pathway applicants supplying site-specific CI data for the fuel pathway application are not required to meet the requirements of this division or engage the services of a verification body approved by DEQ to perform verification under this division for each fuel pathway application submitted under OAR chapter 340 division 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) Annual verification of CFP annual fuel pathway (carbon intensity or CI) reports.

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

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

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

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

(c) Verification schedule. Responsible persons under subsection (a) required to engage the services of a verification body approved by DEQ to perform annual verification under this division of fuel pathway reports (CI) must ensure a fuel pathway verification statement for each fuel pathway report is submitted annually to DEQ according to OAR 340-272-0100.

(A) Quarterly review of operational CI data is optional and may only be included as part of annual verification services if the fuel pathway holder submits quarterly data to DEQ. Quarterly review may only be conducted after the fuel pathway holder submits the report and

attests that the statements and information submitted are true, accurate, and complete. Quarterly review does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements for verification under this division, but a verification statement and verification report are not submitted after quarterly review.

(B) Facilities with Pathways recertified from California. A responsible person who must meet the requirements of this division for the purposes of annual verification for any fuel production facility that is also subject to annual or deferred verification under the California Low Carbon Fuel Standard must submit its verification statement to DEQ within ten days of submittal to California ARB.

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

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

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

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

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

(i) If fuel from the facility generates 6,000 or more credits and deficits in Oregon, then the fuel pathway holder must engage the services of a verification body approved by DEQ to perform verification under this division and ensure a fuel pathway verification statement for each fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

(3) Annual verification of CFP quarterly reports.

(a) Applicability. The following responsible persons must meet the requirements of this division and engage the services of a verification body approved by DEQ for the purposes of annual verification under this division, including required site visit(s), for CFP quarterly reports submitted under OAR chapter 340 division 253:

(A) Regulated parties, credit generators, and aggregators subject to OAR 340-253-0100. The scope of verification services is limited to the transaction types under paragraph (B), including associated corrections submitted into quarterly and annual reports.



(B) Except as provided in (b), reporters of volumes for any of the following transaction types must engage the services of a verification body approved by DEQ to perform verification under this division for the following transaction types:

(i) All liquid fuels, including:

(I) Production in Oregon;

(II) Import;

(III) Export;

(IV) Gain of inventory;

(V) Loss of inventory;

(VI) Not used for transportation; and

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

(ii) NGV fueling; and

(iii) Propane fueling.

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

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

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

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

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

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

(c) Verification schedule. Responsible persons under subsection (a) required to engage the services of a verification body approved by DEQ to perform annual verification under this division of CFP quarterly reports must ensure a transactions data verification statement is

submitted to DEQ according to OAR 340-272-0100.

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

(4) Annual verification of CFP annual project reports.

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

(A) Project operators; and

(B) Joint applicants.

(b) Verification schedule. Responsible persons required to engage the services of a verification body approved by DEQ to perform annual verification under this division of project reports must ensure a project report verification statement is submitted annually to DEQ according to with OAR 340-272-0100.

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

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

### **340-272-0120**

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

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

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

(A) A person submitting an emissions data report that indicates emissions equaled or exceeded 25,000 metric tons of CO<sub>2</sub>e, excluding CO<sub>2</sub> from biomass-derived fuels;

(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 CO<sub>2</sub>e, excluding CO<sub>2</sub> from biomass-derived fuels and excluding emissions associated with preference power purchased from BPA; and

(C) A person that submitted an emissions data report that indicated emissions exceeded the threshold in paragraph (A) in the prior year, but that is submitting a report that indicates emissions are reduced below that applicability threshold in the current reporting year.

(b) Verification schedule. Responsible persons required to engage the services of a verification body approved by DEQ to perform annual verification under this division of emissions data reports must ensure a verification statement for each report is submitted to DEQ according to OAR 340-272-0100. These requirements are additional to the requirements in 40 C.F.R. §98.3(f).

(2) Cessation of verification requirement.

(a) Responsible persons must have an emissions data report verified for the first year that the report indicates emissions are reduced below the applicability threshold defined in paragraph (1)(a)(A). An emissions data report is not subject to verification in any following year thereafter where emissions remain below the threshold.

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

(c) If in any subsequent year after meeting verification cessation requirements an emissions data report meets the applicability requirements of subsection (1)(a), the responsible person must have the emissions data report verified according to the requirements of this division, and verification must continue until cessation is met again.

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

### **340-272-0210**

#### **Applications and Criteria for DEQ Approval of Verification Bodies and Verifiers**

(1) Application for approval. A business entity or person seeking DEQ approval or renewal of DEQ approval to perform verification under this division as a verification body or verifier must submit an application to DEQ, on a form approved by DEQ, that includes the following information:

- (a) For verifier applications, a statement about whether the application is for approval as a general verifier, a lead verifier, or a sector specific verifier;
- (b) A statement about which specific types of emissions data reports submitted under OAR chapter 340 division 215, fuel pathway applications or specific types of reports submitted under OAR chapter 340 division 253, or any combination therein, for which the applicant is seeking approval to perform verification;
- (c) Documentation demonstrating that the person or business entity holds the accreditation requirements described in section (2);
- (d) Additional information as required by sections (2) through (7), as applicable;
- (f) A certification that the person or business entity agrees to comply with and be subject to the requirements of this division in relations to all verification work for responsible persons; and
- (g) Any other information requested by DEQ that DEQ determines is relevant to determine whether to approve the applicant.

(2) Application information and accreditation criteria for approval.

(a) Active accreditation under at least one of the following programs is required for any person or business entity that wants to perform verification under this division:

- (A) California ARB’s Low Carbon Fuel Standard program (LCFS);
- (B) California ARB's Mandatory Reporting of Greenhouse Gas Emissions program (MRR);
- (C) American National Standards Institute for Greenhouse Gas Validation/Verification Bodies (ANSI); or
- (D) A substantially equivalent program approved by DEQ.

(b) Approval to provide verification services for applications or reports submitted under OAR chapter 340 division 253 requires accreditation under California ARB’s LCFS, or a substantially equivalent program approved by DEQ.

(c) Approval to provide verification services for emissions data reports submitted under OAR chapter 340 division 215 requires accreditation under California ARB’s MRR, ANSI, or a substantially equivalent program approved by DEQ.

(d) Submit additional information in the application with details of accreditation, including but not limited to, recognition or designation as a lead verifier or sector specific verifier, and sector specific accreditations by California ARB or organization-level sector accreditations

by ANSI, as applicable, to demonstrate qualifications to provide verification services for specific types of emissions data reports submitted under OAR chapter 340 division 215, applications or specific types of reports submitted under OAR chapter 340 division 253, or any combination therein.

(3) Application information and criteria for approval for a verification body. To be approved as a verification body, the applicant must also submit the following information to DEQ in the application:

(a) A list of all verification staff and subcontractors and a description of their duties and qualifications, including DEQ-approved verifiers on staff. The applicant must demonstrate staff qualifications by listing each individual's education, experience, professional licenses, accreditations, status as general verifier, lead verifier, or sector specific verifier, and other relevant information. A verification body must employ and retain at least two lead verifiers;

(b) A list of any judicial proceedings, enforcement actions, or administrative actions filed against the verification body within the previous five years, with an explanation as to the nature of the proceedings;

(c) Documentation that demonstrates that the body maintains a minimum of four million U.S. dollars of professional liability insurance;

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

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

(f) 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 potential conflicts of interest.

(4) Application information and criteria for approval as a general verifier. To be approved as a verifier, the applicant must also submit the following information to DEQ in the application:

(a) Applicants must indicate their employer or affiliated verification body on the application; and

(b) Applicants must demonstrate verification qualifications by providing information on education, experience, professional licenses, accreditations, status as general verifier, lead verifier, or sector specific verifier, and other relevant information or other personal development activities that demonstrate communication, technical, and analytical skills necessary to perform verification. Evidence demonstrating necessary skills may include, but is not limited to:

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

(B) 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 perform verification.

(5) Application information and criteria for approval as a lead verifier for the GHG Reporting Program. To be approved as a lead verifier for verification of emissions data reports submitted under OAR chapter 340 division 215, in addition to submitting information as required by section (4), the applicant must also submit documentation to DEQ in the application indicating that at least one of the following qualifications are met:

(a) The verifier is accredited as a lead verifier by California ARB for the Mandatory Reporting of Greenhouse Gas Emissions program;

(b) The verifier is designated as a lead verifier by the ANSI-accredited verification body with which it is employed or affiliated; or

(c) The verifier is designated as a lead verifier by a substantially equivalent accreditation program approved by DEQ.

(6) Application information and criteria for approval as a lead verifier for the CFP. To be approved as a lead verifier for verification of applications or reports submitted under OAR chapter 340 division 253, in addition to submitting information as required by section (4), the applicant must also submit the following documentation to DEQ in the application:

(a) Indication that at least one of the following qualifications are met:

(A) The verifier is accredited as a lead verifier by California ARB for the Low Carbon Fuel Standard program; or

(B) The verifier is designated as a lead verifier by a substantially equivalent accreditation program approved by DEQ.

(b) To be approved as a lead verifier for verification of fuel pathway applications or fuel pathway reports, the applicant must also submit documentation to DEQ in the application that demonstrates experience in alternative fuel production technology and process engineering.

(c) To be approved as a lead verifier for verification of project reports and quarterly reports submitted by producers and importers of gasoline or diesel, the applicant must submit documentation to DEQ in the application that demonstrates experience with oil and gas systems. This evidence may include accreditation as an oil and gas systems sector specific verifier.

(7) Application information and criteria for approval as a sector specific verifier. To be approved as a sector specific verifier, in addition to submitting information as required by section (4), the applicant must also submit the following documentation to DEQ in the application:

(a) Documentation demonstrating at least two years of professional experience related to the sector in which he or she is seeking approval; and

(b) Details of any sector specific accreditations by California ARB, as applicable; or

(c) Details of any organization-level sector accreditations by ANSI, as applicable.

(8) Verification training and exam requirements.

(a) To be approved by DEQ, individual applicants must take DEQ-approved general verification training, sector specific verification training, CFP specific verification training, and GHG Reporting Program specific verification training, as deemed applicable by DEQ based on the application submitted to DEQ and for the type of approval the applicant has requested.

(b) Applicants must receive a passing score of greater than an unweighted 70 percent on an exit examination.

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

(B) Only one retake of the examination is allowed before the applicant must retake the applicable training.

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

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

**340-272-0220**

### **DEQ Review Approval of Verification Bodies and Verifiers**

(1) DEQ review and approval process.

(a) After receipt of an application under OAR 340-272-0210, DEQ will inform the applicant either that a submitted application is complete or that additional specific information is required to make the application complete. If the application is incomplete, DEQ will not consider the application further until the applicant provides the additional information requested by DEQ.

(b) DEQ will review complete applications to determine whether applicants have met the requirements and criteria to be approved to perform verification according to OAR 340-0270-0120. DEQ approval will be limited to certain report types, data types, sources of emissions, or sectors, according to the information in the application and the qualifications of the applicant, and based on DEQ's determination of whether the applicant demonstrates, to DEQ's satisfaction, sufficient knowledge of the relevant methods and requirements in this division, OAR chapter 340 division 215, and OAR chapter 340 division 253, as applicable.

(c) Applicants may satisfy the required verification training(s) and exam(s) after DEQ finds that an application for approval as a verification body or verifier is complete and meets all applicable requirements under OAR 340-272-0210(1), but DEQ will not issue final approval until such training(s) and exam(s) have been completed according to OAR 340-272-0210(8).

(d) Following completion of the application process and all applicable training and examination requirements, DEQ will notify the applicant in writing if approval has been withheld or will issue a written approval for the verification body, general verifier, lead verifier, or sector specific verifier.

(A) DEQ will issue written approval to verification bodies, general verifiers, lead verifiers, and sector specific verifiers that apply and meet the requirements under OAR 340-272-0210 and successfully complete verification training(s) and exam(s) as required under OAR 340-272-0210(8).

(B) DEQ will maintain a current list of approved verification bodies, general verifiers, lead verifiers, and sector specific verifiers on DEQ's website.

(e) Each DEQ approval is valid for a period of three years from the date the approval is issued by DEQ. The applicant may re-apply for approval as a verification body, general verifier, lead verifier, or sector specific verifier any time, following the same application procedures according to OAR 340-272-0210, with renewal of DEQ approval contingent upon satisfying all DEQ-approved training and examination requirements applicable at the time of re-application.

(2) Requirements to maintain approval.

(a) Except as provided under subsection (c) below, a verification body, general verifier, lead verifier, or sector specific verifier must notify DEQ within 30 days of when it no longer meets the requirements for approval under OAR 340-272-0210, as applicable.

(b) A verification body must notify DEQ of any staffing changes within 30 days of any such change as these changes are considered an amendment to the verification body's approval.

(c) DEQ must be notified immediately if a verification body or verifier loses or withdraws from accreditation under any program specified or approved under OAR 340-272-0210(2)(a).

(d) Within 20 days of being notified of any nonconformance in another voluntary or



mandatory greenhouse gas emissions reporting program or fuels program, a DEQ-approved verification body or 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.

(3) Modification, suspension, or revocation of DEQ approval.

(a) DEQ may modify, suspend, or revoke an approval to perform verification if a verification body or verifier:

(A) Fraudulently obtained or attempted to obtain accreditation under any program specified under OAR 340-272-0210(2)(a);

(B) Fraudulently obtained or attempted to obtain approval from DEQ under this division;

(C) Failed at any time to satisfy the eligibility criteria and requirements specified under OAR 340-272-0210;

(D) Does not satisfy the requirements to maintain approval according to section (2);

(E) Provided verification services that failed to meet the requirements under OAR 340-272-0300(1) and (3);

(F) Violated the conflict of interest requirements under OAR 340-272-0500;  
or

(G) Knowingly or recklessly submitted false or inaccurate information or verification statement(s) to DEQ.

(b) A DEQ action to modify, suspend, or revoke an approval to perform verification is subject to the contested case procedures under ORS 183.413 through 183.470 and OAR chapter 340 division 11.

(c) A verification body or verifier whose approval to perform verification has been revoked may reapply according to OAR 340-272-0120 after demonstrating to DEQ that the cause of the revocation has been resolved.

(4) Voluntary withdrawal from DEQ approval. An approved verification body or verifier may request to voluntarily withdraw its approval by providing a written notice to DEQ requesting such withdrawal.

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 provided and completed must meet the requirements of OAR 340-272-0405 through OAR 340-272-0495, as applicable to the type of application or report submitted under OAR chapter 340 division 253 or OAR chapter 340 division 215.

(2) Requirements for responsible persons.

(a) Responsible persons must engage the services of a verification body that meets the requirements and criteria under OAR 340-272-0210 and has been approved by DEQ under 340-272-0220 to perform verification under this division, and each verification body engaged must be approved by DEQ to provide the type of verification services applicable to the responsible person.

(b) A responsible person that has been notified by DEQ or by its verification body that the verification body's DEQ approval has been suspended or revoked, must engage the services of a different DEQ-approved verification body to perform verification.

(c) Each responsible person must ensure that the verification services provided on its behalf meet the requirements of this division.

(d) Records retention and availability requirements.

(A) Responsible persons must retain records necessary for completing verification services and records requested by the verification team according to the recordkeeping requirements of OAR chapter 340 division 215 or OAR chapter 340 division 253, as applicable.

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

(i) All information and documentation used to calculate and report emissions, fuel quantities, and fuels and electricity transactions;

(ii) All data and information required by or submitted under OAR chapter 340 division 215 or OAR chapter 340 division 253; and

(iii) Other data and information as necessary in order for verification services to be completed.

(3) Requirements for verification bodies and verifiers.

(a) Eligibility to perform verification.

(A) A verification body or verifier must meet the requirements and criteria of OAR 340-272-

0210 and must have DEQ approval under OAR 340-272-0220 to be eligible to perform verification under this division.

(B) Verifiers must be employed by, or contracted with a DEQ-approved verification body in order to provide verification services under this division.

(b) Subcontracting.

(A) Any verification body that elects to subcontract a portion of verification services must meet the following requirements:

(i) The verification body must assume full responsibility for verification services provided by subcontractor verifiers.

(ii) A verification body may not use subcontractors to meet the minimum lead verifier requirements as specified under OAR 340-272-0210(3)(a).

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

(B) All subcontractors must apply for and meet the requirements and criteria for DEQ approval under OAR 340-272-0210 and be approved by DEQ under OAR 340-272-0220 in order to provide the verification services for which the subcontractor has been engaged by the verification body.

(c) A verification body must notify all responsible persons with which it is currently engaged to provide verification services or that have received verification services from it within the past six months of a modification relevant to the type of verification services needed or of suspension or revocation of DEQ approval of the body or any of its general verifiers, lead verifiers, sector specific verifiers, or subcontractors within ten days of DEQ's final determination under OAR 340-272-0220(3)(c) and may not continue to provide verification services.

(d) Records retention.

(A) Verification bodies that provide verification services under this division must retain documentation relating to verification in paper, electronic, or other format for a period of at least seven years following the submission of each verification statement.

(B) The documentation must allow for a transparent review of how a verification body reached its conclusion in the verification statement, including independent review. At a minimum, the documentation retained must include:

(i) Application(s) or report(s) submitted by the responsible person to DEQ for which verification services are being provided;

(ii) Verification plan(s);

- (iii) Sampling plan(s);
- (iv) Verification report(s);
- (v) Verification statement(s); and
- (vi) Any other documentation, calculations, and verification notes developed as part of providing and completing verification services.

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

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

**340-272-0350**

### **DEQ Review and Approval of Verification and Re-verification Requirements**

(1) DEQ review of verification.

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

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

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

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

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

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

(2) Re-verification requirements.

(a) DEQ may set aside a positive or qualified positive verification statement submitted to DEQ by a verification body and require the responsible person to have an application or report re-verified by a different verification body within 90 days if:

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

responsible person;

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

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

(D) An error is identified that affects the emissions in reports submitted under OAR chapter 340 division 215, or the credit or deficit calculations in applications or reports submitted under OAR chapter 340 division 253; or

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

(b) In instances where an error is identified and determined by DEQ to not affect the emissions in reports submitted under OAR chapter 340 division 215, or the credit or deficit calculations in applications or reports submitted under OAR chapter 340 division 253, the change may be made without a set aside of the positive or qualified positive verification statement.

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

Stats. Implemented: ORS 468 & 468A

Hist.:

### **340-272-0355**

#### **DEQ Data Requests and Audits**

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

(a) Upon written request by DEQ, the responsible person must provide the data used to generate an application or report including all data made available to the verification team engaged by the responsible person to perform verification, within 14 calendar days of DEQ's request.

(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 written request by DEQ, the verification body must provide to DEQ the verification report given to the responsible person, as well as the sampling plan, contracts for verification, and any other supporting documents, 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.:

### **340-272-0405**

#### **Notice of Verification Services**

(1) The responsible person must ensure the verification body submits a notice of verification services to DEQ that meets the requirements of this rule. The notice of verification services must be submitted after DEQ has provided a determination that the potential for a conflict of interest is acceptable as specified under OAR 340-272-0500(3) and that verification services may proceed.

(a) If the conflict of interest evaluation submitted by the responsible person and the notice of verification services submitted by the verification body are submitted at the same time, verification services may not begin until DEQ has deemed acceptable the potential for conflict of interest in writing.

(b) Except as provided in section (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 calendar days advance notice of a site visit unless an earlier date is approved by DEQ.

(c) Verification services may not begin until the responsible person submits the application or report to DEQ and attests that the data and information contained in the application or report is true, accurate, and complete.

(2) The 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 individual, 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 requiring verification. When required by DEQ, the notice must include a demonstration that the verification team includes at least one individual on the verification team approved by DEQ as a sector specific verifier that is not also the independent reviewer, but may be the lead verifier.

(c) General information about the responsible person, including the following, as applicable:

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

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

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

(D) The date(s) of the site visit if full verification is being provided and if required under OAR 340-272-0420, with physical address and contact information.; and

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

(3) If any of the information under section (2) changes after the notice is submitted to DEQ, DEQ must be notified as soon as the change is made and an updated notice of verification services must be submitted by the verification body. The conflict of interest must be reevaluated and information must be resubmitted according to OAR 240-272-0500. Verification services must be suspended until DEQ approves 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.:

approved

**340-272-0410**

### **Scoping Verification Services**

(1) The responsible person and the verification team must discuss the activities and scope of the verification services and there must be a transfer of information and documents that are needed for initial verification services.

(2) The verification team must review original documents and supporting data provided to them by the responsible person.

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

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

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

**340-272-0415**

**Verification Plan**

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

(2) All verification plans must contain information on the timing of verification services, including:

(a) Dates of proposed meetings and interviews with 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 chapter 340 division 253, how quarterly review is planned in the context of an annual verification requirement; and

(d) Expected date for completing verification services.

(3) In addition to the information required under section (2), verification plans for verification services provided for CFP applications and reports submitted under OAR chapter 340 division 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 the responsible person is subject to, other renewable or low carbon fuels markets the responsible person participates in, and other mandatory or voluntary auditing programs the responsible person is 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
  - (g) Previous CFP verification reports, as applicable, and other audit reports including reports from production or management system certifications and internal audits.
- (4) In addition to the information required under section (2), verification plans for verification services provided for GHG Reporting Program emissions data reports submitted under OAR chapter 340 division 215 must also include the following information from the responsible 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.:

### **340-272-0420**

#### **Site Visits**

- (1) Verification services must include site visit(s) that meet the requirements of this rule.
- (2) Site visit(s) conducted as part of verification services for verification of CFP applications and reports submitted under OAR chapter 340 division 253 must meet the requirements of this section.
  - (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-approved lead verifier on the verification team must at a minimum

make one site visit, during each year full verification is required under OAR 340-272-0100(2), 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.

(c) A separate site visit is required if a responsible person elects to engage the services of a verification body to provide verification services for verification of a fuel pathway application.

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

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

(A) Review supporting evidence used to develop reports 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. Evaluate the uncertainty and effectiveness of these systems.

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

(i) Conduct interviews with key personnel, such as process engineers, metering experts, accounting personnel, and project operators, as well as staff involved in compiling data and preparing the 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 chapter 340 division 253; and

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

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

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

(b) At least one approved verifier in the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit, during each year full

verification is required under OAR 340-272-0100(2), to each facility for which an emissions data report is submitted. The headquarters or other location of central data management must be visited when the responsible person is an electricity supplier or fuel supplier, including natural gas suppliers.

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

(A) Check that all sources specified under OAR 340-215-0030, as applicable to the responsible 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. Evaluate the uncertainty and effectiveness of these systems.

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

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

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

(iii) Assess conformance with measurement accuracy, data capture, and missing data substitution requirements for consistency with the requirements of 40 C.F.R. part 98 or OAR chapter 340 division 215, as applicable; and

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

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

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

### **340-272-0425**

#### **Sampling Plan**

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

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

(a) The sampling plan must be developed based on a strategic analysis developed from document reviews and interviews to assess the likely nature, scale, and complexity of the

verification services for a responsible 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 and reports.

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

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

(3) In addition to meeting the requirements under section (2), sampling plans for verification services provided for CFP applications and reports submitted under OAR chapter 340 division 253 must also meet the requirements of this section.

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

(E) CI calculations, as applicable;

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

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

(c) After the verification team completes the strategic analysis and risk assessment, the sampling plan must be revised to include a list with the 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 340-272-0430, and an explanation of why they were chosen;

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

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

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

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

(a) The sampling plan must include a ranking of emissions sources by amount of contribution to total reported emissions (metric tons of CO<sub>2</sub>e) 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 the verification team completes the strategic analysis and risk assessment, the the sampling plan must be revised to include a list with 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 340-272-0430, and an explanation of why they were chosen;

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

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

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

Statutes/Other Implemented: ORS 468 & 468A

Hist.:

### **340-272-0430**

#### **Data Checks**

(1) Verification services must include data checks that meet the requirements of this rule.

(2) General requirements applicable to all data checks.

(a) Data checks must be used to determine the reliability of the submitted application or report and to ensure that the appropriate methodologies and emissions factors have been applied as required under OAR chapter 340 division 253 or OAR chapter 340 division 215, as applicable.

(b) Data checks must be chosen to ensure the accuracy of data submitted in the application or report.

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

(d) Data checks must be used to ensure that there is reasonable assurance that the application or report conforms to the requirements of OAR chapter 340 division 253 or OAR chapter 340 division 215, as applicable.

(e) Results calculated by the verification team must be compared with the data in the application or report in order to confirm the extent and impact of any omissions and errors. Any discrepancies must be investigated.

(3) In addition to meeting the requirements under section (2), data checks for CFP applications and reports submitted under OAR chapter 340 division 253 must also meet the requirements of this section.

(a) Data checks must be chosen 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 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 chapter 340 division 253; and

(E) Reviewing meter and analytical instrumentation measurement accuracy and calibration for consistency with the requirements of OAR chapter 340 division 253, as applicable.

(c) In the comparison of the verification team's 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.

(4) In addition to meeting the requirements under section (2), data checks for GHG Reporting Program emissions data reports submitted under OAR chapter 340 division 215 must also meet the requirements of this section.

(a) Data checks must be used 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 must include:

- (A) Tracing data in the emissions data report to its origin;
  - (B) Recalculating emissions estimates to check original calculations;
  - (D) Reviewing calculation methodologies used by the responsible person for conformance with OAR chapter 340 division 215; and
  - (E) Reviewing meter and fuel analytical instrumentation measurement accuracy and calibration for consistency with the requirements of OAR chapter 340 division 215 or 40 C.F.R. part 98, as applicable.
- (c) In addition to ensuring with reasonable assurance that the emissions data report conforms to the requirements of OAR chapter 340 division 215, the review of conformance must ensure 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 comparison of the verification team’s 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.:

**340-272-0435**

**Modifications to Applications and Reports**

- (1) As a result of data checks conducted 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 fix all correctable errors identified prior to the completion of the verification services and 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 chapter 340 division 253 represents a nonconformance but does not, absent other errors, result in an adverse verification statement.

(c) Failure to fix misreported data that do not affect emissions in reports submitted under OAR chapter 340 division 215 represents a nonconformance 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 at least seven years.

(3) Correctable errors as defined under OAR 340-272-0020 must be determined using professional judgment of the verification team, including whether differences are not errors but result from truncation, rounding, or averaging.

(4) The source of any difference identified by the verification team must be documented, 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.:

### **340-272-0440**

#### **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 make its own calculation of specified data types reported by substituting the checked data from OAR 340-272-0430, as applicable.

(a) The verification team must determine whether there is reasonable assurance that the CFP application or report submitted under OAR chapter 340 division 253 does not contain a material misstatement as calculated according to OAR 340-272-0450 or OAR 340-272-0455, as applicable.

(b) The verification team must determine whether there is reasonable assurance that the GHG Reporting Program emissions data report submitted under OAR chapter 340 division 215

does not contain a material misstatement in emissions as calculated according to OAR 340-272-0460.

(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 chapter 340 division 215 and OAR chapter 340 division 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.:

### **340-272-0445**

#### **Log of Issues**

(1) A log must be kept that documents any issues identified in the course of verification that may affect determinations of material misstatement and nonconformance, whether identified by the verification team, by the responsible person regarding the original or subsequent submitted reports, or by DEQ.

(2) The issues log must identify the regulatory section related to the material misstatement, 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 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 chapter 340 division 253, any issues identified must be formalized according to this rule in the log of issues during the quarterly review. 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.:

### **340-272-0450**

## **Material Misstatement Assessments for Fuel Pathways and Quarterly Fuel Transactions Submitted Under OAR chapter 340 division 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 chapter 340 division 253). Material misstatement assessments are not conducted for quarterly review.

(2) Material misstatement of carbon intensity.

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

(b) Material misstatement of carbon intensity must include 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 the reported operational CI (grams of carbon dioxide equivalent per megajoule or gCO<sub>2</sub>e/MJ) in a CFP fuel pathway application or report contains one or more errors that, individually or collectively, result in an overstatement or understatement more than five percent of the reported operational CI, or 2 gCO<sub>2</sub>e/MJ, whichever absolute value expressed in gCO<sub>2</sub>e/MJ is greater.

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

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

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

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

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

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

according to OAR 340-272-0495.

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

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

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

(3) Material misstatement of quarterly fuel quantity per fuel pathway code.

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

(b) Material misstatement of quarterly fuel quantity must include 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 the reported fuel quantity per fuel pathway code per quarter in a CFP quarterly report contains one or more errors that, individually or collectively, result in an overstatement or understatement greater than five percent.

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

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

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

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

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

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

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

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

### **340-272-0455**

#### **Material Misstatement Assessments for Project Reports Submitted Under OAR chapter 340 division 253**

- (1) Each project report must be assessed separately for material misstatement of project data.
- (2) Material misstatement of project data must include 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 the project report contains one or more errors that, individually or collectively, result in an overstatement greater than five percent of the responsible person's reported emissions reductions.
  - (a) Discrepancies must include any differences between the reported emissions reductions and the verifier's calculated value based on data checks under OAR 340-272-0430.
  - (b) Omissions must include any emissions, excluding any emissions reductions, the verifier concludes must be part of a project report, but were not included.
  - (c) Misreporting must include duplicate, incomplete, or other emissions or emissions reductions data the verifier concludes should or should not be part of a project report.
- (3) 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 reported emissions reductions in the project report.
- (4) The following equation for percent error must be used to determine whether the greenhouse gas reductions quantified and reported in the project report contain a material misstatement of project data and must be included in the final verification report according to OAR 340-272-0495.

*Percent error (project data) =*  
$$\left( \sum (\text{Discrepancies} + \text{Omissions} + \text{Misreporting}) \div \text{Reported emissions reduction} \right) \times 100\%$$
- (5) Any discrepancies, omissions, or misreporting found must include the positive or negative impact on the reported emissions reductions when entered in the equation in section (4).
- (6) When evaluating material misstatement of project data, correctly substituted missing data must be deemed 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.:

### **340-272-0460**

#### **Material Misstatement Assessments for Emissions Data Submitted Under OAR chapter 340 division 215**

- (1) Assessments of material misstatement of emissions data must be conducted independently on total reported emissions.
- (2) Material misstatement of emissions data must be found if any discrepancy, omission, or misreporting, or aggregation of the three, identified in the course of verification services leads a verification team to believe that the total reported emissions (metric tons of CO<sub>2</sub>e) in a GHG Reporting Program emissions data report contains errors greater than five percent.
  - (a) Discrepancies must include any differences between the reported emissions and the verifier's review of emissions for a data source subject to data checks under OAR 340-272-0430.
  - (b) Omissions must include any emissions the verifier concludes must be part of an emissions data report, but were not included.
  - (c) Misreporting must include duplicate, incomplete, or other emissions the verifier concludes should or should not be part of an emissions data report.
- (3) Each emissions data report is subject to data checks under OAR 340-272-0430 and must be assessed separately for material misstatement of emissions data.
- (4) The following equation for percent error must be used to determine whether the total reported emissions in an emissions data report contain a material misstatement of emissions data and must be included in the final verification report according to OAR 340-272-0495.

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

- (5) When evaluating material misstatement, correctly substituted missing data must be deemed 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.:

### **340-272-0465**

#### **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, the verification team must confirm that the reported data or reported emissions for that source were calculated using any missing data procedures as required under OAR chapter 340 division 215 or OAR chapter 340 division 253, as applicable, that a reasonable temporary data collection procedure was used for the source, or that DEQ approved an alternative method; and

(2) 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, the verification team 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.:

### **340-272-0470**

#### **Review of Operations and Emissions for Emissions Data Reports Submitted under OAR chapter 340 division 215**

(1) Facility operations must be reviewed to identify applicable greenhouse gas emissions sources.

(a) The review must be conducted by the verification team.

(b) The review must include a review of the emissions inventory and each type of emissions source to ensure that all sources specified under OAR 340-215-0030 are included in the emissions data report, as applicable.

(c) The reported current primary and any secondary (if reported) NAICS codes must be reviewed to ensure they accurately represent the NAICS-associated activities for the facility.

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

(B) If the reported NAICS code(s) is determined to be 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) Electricity transaction records must be reviewed, including but not limited to written power contracts and any other applicable information required to confirm reported electricity procurements and deliveries.

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

Statutes/Other Implemented: ORS 468 & 468A  
Hist.:

### **340-272-0495**

#### **Completion of Verification Services**

(1) Verification statement.

(a) The verification body must complete a verification statement(s) upon completion of verification services, and provide its statement to the responsible person and submit its statement to DEQ by the applicable verification deadline specified under OAR 340-272-0100(2). Each positive, qualified positive, or adverse verification statement must describe the findings of the verification.

(b) The verification body must have the verification services and findings of the verification team independently reviewed within the verification body by an independent reviewer before the verification statement(s) are completed. The independent reviewer must be a lead verifier not involved in verification services for the responsible person during that application period or reporting year, but does not need to be a sector specific verifier.

(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 performed.

(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 chapter 340 division 215, OAR chapter 340 division 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 verification statement.



(a) The verification body must 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 list of all verification team members that provided verification services, including identification of general verifiers, lead verifiers, sector specific verifiers, and the independent reviewer;

(ii) 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 emissions 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 340-272-0450, OAR 340-272-0455, or OAR 340-272-0460, as applicable; and

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

(B) The verification statement(s), which must be provided to the responsible person and submitted to DEQ.

(i) For every qualified positive verification statement, the verification body must explain the nonconformances contained within the application or report.

(ii) For every adverse verification statement, the verification body must explain all nonconformances or material misstatements leading to the adverse verification statement.

(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.

(4) Attestations in the verification statement. The verification statement must contain the following attestations:

(a) The verification body must attest whether it 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 chapter 340 division 215, and OAR chapter 340 division 253, as applicable;

(b) 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

(c) The lead verifier that has performed 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.

(5) Procedures for potential adverse verification statement and petition process.

(a) Prior to the verification body submitting an adverse verification statement to DEQ, the verification body must notify the responsible person of the potential of an adverse verification statement.

(A) The responsible person must make modifications to correct any material misstatements or nonconformance found by the verification team.

(B) The modified report and verification statement must be submitted to DEQ before the verification deadline specified in OAR 340-272-0100(2).

(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.

(c) If the responsible person and the verification body cannot reach agreement on modifications to the application or report that result in a positive verification statement or qualified positive verification statement because of a disagreement on the requirements of this division, the responsible person may petition DEQ before the verification deadline or before the verification statement is submitted to make a final decision as to the verifiability of the submitted application or report.

(A) At the same time that the responsible person petitions DEQ, the responsible person must submit all information it believes is necessary for DEQ to make a determination.

(B) If at any point DEQ requests information from the responsible person or the verification body in order to make a determination, the information must be submitted to DEQ within ten days.

(C) DEQ will notify both the responsible person and the verification body of its determination.

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

### **340-272-0500**

#### **Requirements for Conflict of Interest Evaluation**

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

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

(a) The responsible person and the verification body 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 verification body, or vice versa, within the previous five years;

(b) Any employee of the verification body, or any employee of a related entity, or a subcontractor who is a member of the verification team has provided to the responsible person any of the services in paragraph (A) or paragraphs (B), (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 provided in accordance with, or equivalent to, the requirements of this division, unless the systems and data reviewed during those services, as well as the result of those services, will not be part of the verification process;

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

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

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

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

(iv) Preparing or producing CFP fuel pathway application or CFP reporting manuals, handbooks, or procedures specifically for the responsible 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 chapter 340 division 215:

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

(ii) Developing greenhouse gas emissions factors or other greenhouse gas-related engineering analysis, including developing or reviewing a 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(3); 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 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);

(b) No potential for a medium conflict of interest is found according to section (4); and (c) Verification services are provided within the allowable period under OAR 340-272-0100(3).

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

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

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

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

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

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

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

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

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

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

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

(A) The nature and location of the work performed for the responsible 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;

(B) 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

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

(d) A list of names of the staff that would provide verification services for the responsible 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;

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

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

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

(7) Conflict of interest determinations.

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

(b) If DEQ determines the verification body or any member of the verification team meets the criteria for a high conflict of interest, verification services may not proceed.

(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 provided. If DEQ determines that these factors when considered in combination demonstrate an acceptable level of potential conflict of interest, DEQ will authorize the verification body to proceed with verification services.

(8) Monitoring conflict of interest situations.

(a) After commencement of verification services, both the verification body and the responsible person must each monitor and immediately make full disclosure in writing to DEQ regarding any potential for a conflict of interest situation that arises. This disclosure must include a description of actions that the verification body and the responsible person has taken or proposes to take to avoid, neutralize, or mitigate the potential for a conflict of interest.

(b) The responsible person and 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 responsible person must notify DEQ of the contract and the nature of the work to be performed. DEQ will determine whether the relationship constitutes a conflict and, if it does, whether the responsible person must re-verify its applications or reports, and if approval modification, suspension, or revocation of the verification body or any verification team member is warranted.

(c) Both the verification body and the responsible person 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 may continue to provide verification services to the responsible person and will not be subject to suspension or revocation of DEQ approval.

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

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

Statutes/Other Implemented: ORS 468 & 468A

Hist.: