Introduction

To receive and maintain an active fuel pathway code, each fuel pathway holder must submit an Annual Fuel Pathway Report to the Alternative Fuels Portal of the Oregon Fuels Reporting System no later than March 31 of each calendar year. This guidance document describes the process for carbon intensity value and credit adjustments associated with the submission, review, and verification of the AFPRs.

Background

Non-provisional fuel pathways are initially certified based on 24 months of a fuel production facility's operational data submitted in the CI calculator. The AFPRs associated with the facility's fuel pathway(s) must contain the most recent 24 months of operational data.

Provisional fuel pathways are used for a new or existing fuel production facility and pathway(s) that have undergone modifications. For these facilities, at least three months of all available operational data must be submitted in the CI calculator. AFPRs associated with provisional fuel pathways may or may not include the full 24 months of operational data.

Recertification fuel pathways are initially certified under the California Air Resources Board’s Low Carbon Fuel Standards (LCFS) program where the fuel pathway holder would like to transport the fuel to California and Oregon. Therefore, they submit the fuel production facility's operational data in the appropriate CI calculator for the same fuel pathway to be reviewed for potential certification under Oregon's Clean Fuels Program (CFP).

Documentation that must be submitted for the annual fuel pathway report

- For non-provisional fuel pathways, populate a copy of the same version of the simplified OR-GREET or full OR-GREET calculator used for the certified non-provisional fuel pathway, including the most recent 24 months of operational data.

- For provisional fuel pathways, populate a copy of the same version of the simplified OR-GREET or full OR-GREET calculator used for the certified provisional fuel
pathway, including the most recent operational data starting from the beginning of the provisional data period forward.

- **For recertification fuel pathways**, with provisional or non-provisional status,
  
  o Submit a copy of the calculator used for the initial certification of the fuel pathway under the CFP (i.e., OR-GREET or CA-GREET) with the most recent 24 months of operational data (for non-provisional fuel pathways) and the most recent up to 24 months of data for provisional fuel pathways.
  
  o In addition, submit all documents submitted to CARB for the LCFS AFPR (e.g., CA-GREET model with most recent months of operating data, other).

In addition, submit the following, if applicable:

- Any temporally variable information requested or required by CFP to be included in the initial application as supplemental information or any required data or documentation listed in the fuel pathway's operating conditions. This information must cover the same period as the updated OR-GREET model required for the AFPR.

- For biomethane, biogas, or renewable electricity used in the fuel production process, refer to 340-253-0600(8)(a) & (b) and any fuel pathway operating conditions provided by CFP.

- For joint applicants subject to site visits by a third-party verifier whose fuel pathway involves using renewable or low-CI process energy, submit invoices for that energy to the AFP.

**Annual fuel pathway report verification requirements**

**For all fuel pathway holders:**

- Beginning in 2021, all AFPRs must be verified by a third party verification body unless exempt.

  **Exemption**: The responsible entity is the holder of the fuel pathway. Holders of approved fuel pathways that do not generate greater than 6,000 credits and deficits during the previous calendar year for the quantity of fuel produced at a given facility are exempt from AFPR third party verification.

- Verification activities may not begin until CFP has approved the responsible entity's conflict of interest disclosure form.
For recertification fuel pathways:

- Fuel pathway holders with recertification fuel pathways are required to submit the AFPRs certified and verified through the LCFS within 10 days of submitting the verification statement to CARB.

- Important note for fuel pathway holders with recertification fuel pathways that have deferred verification under the LCFS:
  - For facilities that generate fewer than or equal to 6,000 credits per year under the LCFS and CFP, the LCFS fuel pathways need to be verified every three years under CARB's verification program.
  - For facilities that generate greater than 6,000 credits per year need to undergo annual verification in LCFS, and that verification statement can be provided to DEQ in lieu of going through a separate CFP verification.
  - However, if a facility generates fewer than or equal to 6,000 credits per year in LCFS BUT greater than 6,000 credits in CFP, the facility must still undergo annual verification in CFP.

Additional third party verification information:

- Fuel pathway holders are responsible for assigning their verification bodies (VBs) to the AFPRs. To assign VBs, go into the OFRS AFP. Then, go to the 'My Facilities' tab and find the Assign VB tab. When you select the Assign VB tab, you should see a drop-down menu of VBs.

- Email the 3PV inbox if you cannot find the VB in the AFP or are unsure whether your facility meets the 6,000 credits or deficits generated per year threshold for verification: 3pverify@deq.oregon.gov.

Annual fuel pathway report review

For all fuel pathway holders:

1. CFP staff will review the AFPR for administrative completeness and then contact fuel pathway holders via the AFP with a summary of the AFPR review outcomes and any required follow up actions.

2. Once the fuel pathway holder follows up on any actions and any pending issues are resolved, the CFP staff will submit the AFPR to the assigned VB (if the fuel pathway holder is subject to verification).
Annual fuel pathway report third party verification

For all fuel pathway holders:

1. Upon completion of the verification of the AFPRs, the fuel pathway holder must submit the verification statement to CFP.

   **Important note for recertification fuel pathways:** Fuel pathway holders with recertification fuel pathways are required to submit the verification statement to CFP within 10 days of submitting it to LCFS.

2. Once the CFP staff reviews the verification outcomes, they will contact the fuel pathway holders with any follow-up action items regarding the CI value and credit adjustments.

Carbon intensity value adjustment process for fuel pathway holders

*Carbon intensity value adjustment*

- **Non-provisional fuel pathway holders with a verified operational CI value lower than their current certified CI value** may elect to keep the previous certified CI value or request that the CFP replace their certified CI value with the verified operational CI value, with an option to request adding a conservative margin of safety.

- **Non-provisional fuel pathway holders not subject to verification with a CI value lower than the certified CI value** may elect to keep the previous certified CI value or request that the CFP replace their certified CI value with the operational CI value, with an option to request adding a conservative margin of safety. However, in this case:
  - To replace the certified CI value with the operational CI value, the fuel pathway holder must submit all materials supporting the reduced CI values, including all materials required in a Tier 1 or Tier 2 application, whichever is applicable.
  - In addition, the fuel pathway holder must submit an attestation that the new CI value can be maintained through the next reporting period with the acknowledgment that exceeding the newly certified CI value in subsequent annual reports or verifications violates the requirements of the DEQ regulations.

- **For non-provisional fuel pathway holders:** CFP will ask all non-provisional fuel pathway holders requesting to replace their certified CI value with the verified operational CI value and/or add a conservative margin of safety to respond with the requested information such as the margin of safety CI value to the CFP within 14 calendar days of receiving the notice.

Effective dates: The new CI values for non-provisional fuel pathway holders requesting to replace their certified CI value with the verified operational CI value is the first quarter of the subsequent annual compliance period. For example, for 2021 AFPRs with a
compliance period end date of December 31, 2021, the effective date will be January 1, 2023.

- **For non-provisional fuel pathway holders**: If a non-provisional fuel pathway holder has an operational CI value higher than the certified CI value, the fuel pathway holder is out of compliance with Division 253 and may be subject to investigation and enforcement by DEQ.

**Removal of provisional status**

- **For provisional fuel pathways** with at least 24 months of operational data by the end of the compliance year (December 31 of each year), CFP will remove the provisional status.

- **For provisional fuel pathways holders**: If the verified operational CI value is lower than the previous provisionally certified CI value, CFP will adjust the fuel pathway CI value, adding a conservative margin of safety upon request of the fuel pathway holder.

Effective dates: The new CI value for these fuel pathways is January of the subsequent year. For example, if the end of the compliance period is December 31, 2021, the effective date will be January 1, 2023.

**Continuing provisional status**

- **For a provisional fuel pathway** with less than 24 months of operational data by the end of the compliance year (December 31 of each year), DEQ will replace the provisionally certified CI values with the verified operational CI values only if the verified CI value is higher than the previous provisionally certified CI value.

- **For a provisional fuel pathway**, conversely, if the verified operational CI value is lower than the previous provisionally certified CI value, DEQ will not adjust the fuel pathway CI value until the provisional status is removed.

Effective dates: The new CI value for these fuel pathways is January of the subsequent year. For example, if the end of the compliance period is December 31, 2021, the effective date will be January 1, 2023.

**Credit adjustment process for fuel pathway holders**

**For non-provisional fuel pathway holders:**

- If the operational CI value is found to be higher than the previously certified CI value and illegitimate credits have been generated:
  - If the fuel was passed to other regulated parties with an obligation that then generated illegitimate credits with the lower CI: Through voluntary action, the fuel pathway holder may indicate if the fuel pathway holder or the party holding the credit bank for the respective fuel pathway holder has credits to cover the impact of the CI value adjustment.
• If the fuel was not passed to another regulated party with obligation, and the fuel pathway holder was the only party to generate illegitimate credits: At your direction, DEQ may administratively adjust the Oregon Fuels Reporting System by either: (a) issuing deficits, or (b) removal of credits in the amount of the illegitimate credits that were generated.

• In the absence of voluntary action, DEQ will act administratively to protect the integrity of the CFP using the tools provided in OAR 340-253-0670 and OAR 340-253-1005(7). Administrative actions may be taken separately or in tandem with civil or criminal enforcement actions.

Effective dates: Entities receiving credit adjustments based on their AFPR will have until the subsequent annual compliance deadline to acquire credits (purchase credits or report credits generating fuel) needed to account for any negative credit balance created by the adjustment.

For example, credit adjustments related to the 2022 AFPR will have until the 2023 annual compliance deadline on April 30, 2023, to acquire any credits needed to account for any negative credit balance created by the adjustment.

For provisional fuel pathway holders:

If the verified operational CI value is higher than the provisionally certified CI value when the fuel pathway moves out of provisional status, any credits generated under a provisionally certified CI value will be adjusted. Based on that verified operational non-provisional fuel pathway CI value, the credit will be adjusted across the entire period from the initial certification (initial start date of the provisional fuel pathway) up to the completion of the AFPR verification (e.g., August 31, 2021).

Effective dates: Entities receiving credit adjustments related to the 2020 AFPR will have until the compliance deadline on April 30, 2023, to acquire any credits (i.e., purchase credits or report credit generating fuel) needed to account for any negative credit balance created by the adjustment.

Note: A notice of credit adjustments will be sent to individual fuel reporting entities.

Alternative formats

DEQ can provide documents in an alternate format or a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.oregon.gov.