



Oregon Clean Fuels Program

# Annual Fuel Pathway Report and Third Party Verification Requirements

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**Updates to this document:** Instructions on how to submit the Annual Fuel Pathway Report

## 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 by March 31 of each calendar year<sup>1</sup>. This guidance document describes the process for carbon intensity value and credit adjustments associated with submitting, reviewing, and verifying 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 to the CI calculator. The full 24 months of operational data may not be included in provisional pathway AFPRs.

**Recertification fuel pathways** are initially certified under the California Air Resources Board's Low Carbon Fuel Standards program, and the fuel pathway holder would like to transport the fuel to California and Oregon. These pathway holders must submit the fuel pathway application material submitted to CARB's LCFS, the CARB's staff summary with all operating conditions, and all pertinent supporting information, like validation reports, etc., to the Clean Fuels Program for review and potential certification of the fuel pathways under Oregon's e 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 two calendar years 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,

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<sup>1</sup> Oregon Administrative Rule 340-253-0450(9)(f)

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- Submit a copy of the calculator used for the initial certification of the fuel pathway under the (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.
- In addition, submit all documents submitted to CARB's LCFS for their AFPR requirements (e.g., CA-GREET model with most recent months of operating data, documentation required under the fuel pathway's operating conditions, etc.).
- In addition, submit the following, if applicable:
  - Any temporarily 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 340-253-0450(9)(f)(E)(i) 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.

## How to submit the annual fuel pathway report

Upload your annual fuel pathway report as a fuel pathway application in the AFP. You can use a single pathway application to cover multiple pathways from a single facility, just be make sure to check the "This application contains multiple pathways" checkbox on the first application screen.

View the Instructions on submitting a pathway application on page 17 of our [Annual Fuel Pathway User Guide](#).

In the description section for the fuel pathway application, please state "Annual Fuel Pathway Report" and "Same CI" or "Lower CI" or other as appropriate. Note: If it is determined that your CI value is lower than the currently certified CI, you can request a modified CI.

## Annual fuel pathway report verification requirements

### For non-provisional and provisional 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 generate fewer 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.

### For recertification fuel pathways:

- Fuel pathway holders with recertification fuel pathways must submit the AFPRs that are certified and verified through the LCFS within 10 days of submitting the verification statement to CARB.
- For fuel pathway holders with recertification fuel pathways that have **deferred verification under the LCFS, it is important to note that:**
  - For facilities that generate fewer than or equal to 6,000 credits per year under CARB's LCFS and CFP, the LCFS fuel pathways need to be verified every three years under CARB's verification program.
  - Facilities that generate greater than 6,000 credits per year must undergo annual verification for CARB's LCFS. That verification statement can be provided to DEQ in lieu of going through a separate CFP verification.
  - However, if a facility generates fewer than 6,000 credits per year under CARB's LCFS but 6,000 or more credits in CFP, the facility must still undergo annual verification in CFP.

- Important clarification: If you have a recertification pathway and are not subject to 3PV under the Oregon CFP, you do not need to submit a COI to DEQ.

### Third-party verification specifics:

- Verification activities may not begin until DEQ has approved the responsible entity's conflict of the interest disclosure form.
- Fuel pathway holders assign their verification bodies to the AFPRs in 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 at least 6,000 credits and deficits generated per year threshold for verification: [3pverify@deq.oregon.gov](mailto:3pverify@deq.oregon.gov).

## Review of the annual fuel pathway report

### For all fuel pathway holders:

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

## Third-party verification of the annual fuel pathway report

### For non-provisional and provisional fuel pathway holders:

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

### For recertification fuel pathway holders:

- Fuel pathway holders with recertification fuel pathways must submit the verification statement to CFP within 10 days of submitting it to LCFS.
- 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 non-provisional pathway holders

- **Non-provisional fuel pathway holders with a verified operational CI value lower than their current certified CI value** may elect to keep the previously 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 to that value.
- **Non-provisional fuel pathway holders not subject to verification with a CI value lower than the certified CI value** may elect to keep the previously 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 to that value. 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 Tier 1 or Tier 2 applications, 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.

**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 Dec. 31, 2021, the effective date will be Jan. 1, 2023.

- **For all 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. If a fuel pathway holder believes its operational CI value has risen above its certified CI value at any point during the year, it should immediately notify DEQ, as all fuel producers have an obligation under the rules to ensure that the certified CI value used for reporting is accurate.

## For provisional fuel pathway holders

### 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 Dec. 31, 2021, the effective date will be Jan. 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

### Illegitimate credit violations

#### 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:

- The fuel producer is violating the CFP regulations.

- **Violation:** Failure by a fuel producer to inform DEQ of its operational carbon intensity exceeds its certified carbon intensity as described in OAR 340-253-0400(8) and (9) when those certified carbon intensities generated illegitimate credits as described in OAR 340-253-1005(7). Administrative actions will be taken along with enforcement actions in accordance with OAR 340-012-0054(1)(hhh).
- **Actions:**
  - DEQ will send a PEN and refer violations involving 100 or more illegitimate credits or for the second violation in 36 months.
  - DEQ will send a WLOC giving 30 calendar days from the date of the WLOC to correct the violation if involving 99 or fewer illegitimate credits.
- If the fuel was passed to other regulated parties with obligation that then generated illegitimate credits, then the fuel pathway holder may voluntarily indicate if the fuel pathway holder or a party holding the credit bank for the respective fuel pathway holder has credits to cover the impact of the CI value and credit 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, DEQ may administratively adjust the Oregon Fuels Reporting System by either: (a) issuing deficits or (b) removing credits equal to the amount of the illegitimate credits generated.

### **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., Aug. 31, 2021), and subject to the violation and actions defined above (under the non-provisional fuel pathway holder status).

### **Additional credits**

If the **operational CI value is found to be lower than the previously certified CI value:**

- If the fuel production facility has gone through third-party verification for their annual fuel pathway report, and they have received a positive or qualified positive verification statement; and
- One or more of the pathways in their annual fuel pathway report had volumes reported against it, and that pathway's operational CI for the reporting year was at least 1 gram per megajoule lower than the certified CI used for reporting; and
- The certified fuel pathway being verified is a full pathway, not temporary or provisional pathway.

**Then,**

- The fuel producer can request to receive the additional legitimate credits generated on the fuel pathway, and CFP will review the total legitimate credits generated post-verification of the AFPR and fuel transaction reports and issue options for the fuel producer to receive the legitimate credits.
- To receive the credits, the fuel producer must register in the Low Carbon Fuel Standard Reporting Tool part of the OFRS by the end of the second quarter annually.
- Credits will only be issued to the fuel producer or the fuel pathway holder for that fuel production facility.
- The fuel producer could distribute the credits to other parties through the normal credit transfer process.

**Reminder:** The additional credits will be based on the **verified operational CI** for non-provisional pathways only and the obligated volume of fuel under that fuel pathway code in the prior reported year, based on the fuel pathway code certification start date and subsequently reported fuel volumes under the CFP.

**Effective dates:** Entities receiving credit adjustments based on their verified AFPR will have until the subsequent annual compliance deadline to acquire additional credits. For example, credit adjustments related to the 2022 AFPR will have until the 2023 annual compliance deadline on April 30, 2023, to acquire any additional credits.

## **Non-discrimination statement**

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).