



Oregon Clean Fuels Program

Annual Fuel Pathway Report and Third Party Verification Requirements

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Updates to this document:

- Process overview added.
- Updates based on 2024 CFP Rulemaking.

Introduction

To maintain an active fuel pathway code, each fuel pathway holder must submit an Annual Fuel Pathway Report (AFPR) to the Alternative Fuels Portal (AFP) of the Oregon Fuels Reporting System by March 31 of each calendar year¹. This guidance document describes the process for carbon intensity verification, carbon intensity value adjustments, and credit adjustments associated with AFPRs.

Background

There are three types of certified fuel pathways in Oregon: provisional fuel pathways, non-provisional fuel pathways, and ones that are recertifications of ones already approved by the California Air Resources Board for provisional or non-provisional fuel pathways. AFPR requirements vary slightly for each pathway type.

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. A 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 (also referred to as CARB and the LCFS, respectively) program. 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 (CFP) for review and potential certification of the fuel pathways

¹ Oregon Administrative Rule 340-253-0450(9)(f)

under Oregon's CFP. They must also provide a GREET calculator that is modified from the approved California calculator to account for the differences in the fuel's transportation to Oregon.

Process Overview

There are five steps to the AFPR process each year as shown in the graphic below. Steps 2, 4, and 5 may not apply based on the amount of credits and deficits generated under a facility's Fuel Pathway Code(s) (FPC) and the difference between the operating and certified Carbon Intensities (CI).



Step 1: Submit an AFPR

An AFPR consists of an updated OR-GREET calculator, a signed attestation form, and other documentation needed for DEQ to confirm the adequacy of the certified Carbon Intensity. It is due by March 31 of each calendar year. Documentation that must be submitted alongside the calculator each year varies based on the fuel type and producer and is either specified in the regulation or a fuel producer's operating conditions.

How to submit the annual fuel pathway report

Start a new a fuel pathway application in 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. In the "Applied Pathway Description", please include these three things: the phrase "Annual Fuel Pathway Report", an indication of the change in CI (Same CI, Lower CI, Higher CI), and the appropriate FPC. Instructions on submitting a pathway application can be found on page 17 of our AFP user guide here:

<https://www.oregon.gov/deq/FilterDocs/CFP-AltFuelRegistrationSystem.pdf>

What documentation must be submitted for the annual fuel pathway report

Note: The 2024 CRP rulemaking added additional documentation requirements for AFPRs submitted in 2025 and 2026. All AFPRs for fuel pathways initially certified prior to 2025 are required to submit both the OR-GREET 4.0 calculator in addition to the OR-GREET 3.0 calculator.

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.
- Download the “General Attestation Letter” from the pathway application and have the authorized official sign.
- Attach any additional documents required by the fuel pathway operating conditions.

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.
- Download the “General Attestation Letter” from the pathway application and have an authorized company officer sign.
- Attach any additional documents required by the fuel pathway operating conditions.

For recertification fuel pathways (with provisional or non-provisional status):

- Submit a copy of the CA-GREET calculator used for the initial certification of the fuel pathway 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.
- Populate a copy of the same version of the simplified OR-GREET or full OR-GREET calculator with the same operational data as the CARB calculator.
- 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.).
- Download the “General Attestation Letter” from the pathway application and have the authorized official sign.
- Attach any additional documents required by the Oregon fuel pathway operating conditions.
- 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. This information must cover the same period as the updated OR-GREET model required for the AFPR.
 - For renewable electricity and hydrogen pathways, refer to OAR 340-253-0450(10)(f)(C) and any fuel pathway operating conditions provided by CFP.

- For biomethane injected into a natural gas common carrier pipeline, refer to OAR 340-253-0450(10)(f)(E) 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.

Step 2: AFPR Verification

Some AFPRs meet the threshold for requiring verification by an independent third-party verification body.

When is third-party verification (3PV) required

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:

Third-party verification is required based on the number of credits and deficits generated by the facility in each jurisdiction.

- For facilities that generate fewer than 6,000 credits per year under CARB's LCFS, the LCFS fuel pathways need to be verified every three years under CARB's verification program.
- Facilities that generate 6,000 or more 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.
- 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 undergo annual verification in CFP.

When is third-party verification due

For non-provisional and provisional fuel pathway holders:

Third-party verification statement and documentation must be submitted by August 31 of the year the AFPR is submitted.

For recertification fuel pathways:

Fuel pathway holders with recertification fuel pathways must submit the updated AFPRs and verification materials from the LCFS verification within 10 days of submitting the verification statement to CARB.

How to submit third-party verification

Third-party verification statement and documentation must be submitted through CFP's AFP. This may be completed by the verification body or the fuel pathway holder. If the fuel pathway holder is submitting, please contact the CFP team at oregoncleanfuels@deq.oregon.gov to have a Request for Information (RFI) sent on the AFPR fuel pathway application to reopen it for additional materials.

Additional third-party verification requirements

- Verification activities may not begin until DEQ has approved the responsible entity's conflict of interest (COI) disclosure form. Note: 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.
- Fuel pathway holders assign their verification bodies (VBs) to the AFPRs in the OFRS AFP. Go to the 'My Facilities' tab and find the Assign VB button. When you select the Assign VB button, 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.

Step 3: DEQ Review of AFPR

CFP staff will review the AFPR and then contact fuel pathway holders with a summary of the AFPR review outcomes and any required follow up actions **or additional documentation needed**. This generally will occur after the verification statements are submitted in August and may take until the first quarter of the following year.

Step 4: CI Value Adjustment

After DEQ approves the AFPR, the certified CI may be adjusted. Adjustments may be required or optional. Adjustment is required if the operational CI exceeds the certified CI. Adjustments are optional if the operational CI is less than the certified CI, or if a

facility desires to add a Margin of Safety. If the CI value(s) are being modified, 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 years violates DEQ regulations. If you have exceeded your certified CI and do not submit such an attestation, DEQ will not issue new CI values for your facility.

All pathway holders with:

- A **verified** operational CI **lower** than the certified CI. 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.
- An **unverified** operational CI **lower** than the certified CI. 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.
- An operational CI **equal** to the certified CI. Non-provisional fuel pathway holders with an operational CI value equal to their current certified CI value may elect to add a conservative margin of safety to that value.
- An operational CI **higher** than the certified CI. Non-provisional fuel pathway holders with a verified or unverified operational CI value higher than their current certified CI value will have their previously certified CI value replaced with the higher operational CI value by CFP unless they fail to submit an attestation that they can maintain that higher CI value. They may additionally request adding a conservative margin of safety to that value. **Note:** 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 the Clean Fuels Program regulations in 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.

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 AFPRs submitted in 2024 covering 2022-2023 data, the effective date for the new CI values will be January 1, 2025.

For provisional fuel pathway holders:

Provisional status will be removed for AFPRs with at least 24 months of operational data by the end of the compliance year (December 31 of each year).

Step 5: Credit Adjustment

During the AFPR process, DEQ and fuel producers may become aware that a credit adjustment is needed, either because illegitimate credits were generated or a fuel producer is eligible for additional credits.

Violating your certified CI value by exceeding it

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 likely violating the CFP regulations, including OAR 340-253-0400 (7) and (8), especially when the exceedance of the certified CI has led to illegitimate credits being generated.
- **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 and if the violation has not been repeated.
- 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 fuel pathway holder has credits to cover the impact of the CI exceedance and necessary credit adjustment. If the fuel pathway holder does not make up for illegitimate credits generated by the parties that reported their fuel, then DEQ may then issue an action under the Authority to Suspend, Revoke, or Modify to cancel those illegitimate credits from the accounts of the reporting entities that generated them.
- 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 credits 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), and potentially 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 and the following conditions are true, then a fuel producer can receive the additional credits that would have been generated in their operational CI value had been used for reporting in the relevant reporting year. Those conditions are:

- That 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;
- One or more of the pathways in their annual fuel pathway report had volumes reported against it, and that those pathways operational CI for the reporting year was at least 1 gram lower than the certified CI used for reporting; and
- The certified fuel pathway being verified is a full pathway, not temporary or provisional pathway.

If those conditions are met, then:

- The fuel producer can request to receive the additional credits that would have been generated on the fuel pathway, and CFP will review the post-verification AFPR and fuel transaction reports to determine that number of additional credits.
- To receive the credits, the fuel producer must be registered in the reporting side of the Clean Fuels Program.
- Additional credits will only be issued to the fuel producer.

The fuel producer may distribute the credits to other parties through the normal credit transfer process if it wishes to do so.

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 request additional credits.

Translation or other formats

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