



State of Oregon Department of Environmental Quality

# Frequently Asked Questions: Clean Fuels Program Third Party Verification Requirements

Oregon Clean Fuels Program  
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The purpose of this document is to provide answers to commonly asked questions about the Third Party Verification (3PV) requirements under the Clean Fuels Program (CFP). Click on a question in the Table of Contents below to navigate to a specific answer. If you do not see the answer to your question here, please email us at [3PVerify@deq.oregon.gov](mailto:3PVerify@deq.oregon.gov). This document will be frequently updated with new questions and answers.

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### **Questions about CFP verification**

#### **What is a "responsible entity" under the CFP, and what must they do?**

A "responsible entity" is a business that is subject to, or voluntarily agrees to be subject to, the 3PV requirements under Division 272 of the Oregon Administrative Rules. Businesses that are subject to verification must:

- Engage the services of a DEQ-approved verifier,
- Ensure that all requirements in 340-272 are met, and
- Ensure that a verification statement is received by DEQ from a verification body by the required deadline.

For the CFP, verification requirements can be found in OAR 340-253-0110 and apply to:

- Holders of certified fuel pathways and specified source feedstock suppliers and other persons with site-specific carbon intensity data that apply as a joint applicant that generate more than 6,000 total credits and deficits during the previous calendar year for the quantity of fuel produced at a given production facility
- CFP quarterly reporters that generate more than 6,000 total credits and deficits during a calendar year

Fuel pathway applications are not required to be verified but if they are, DEQ will prioritize processing the application.

Verification requirements start with calendar year 2021 data in 2022.

### **What types of reporting will need to be verified for CFP?**

There are two main types of reporting that need to be verified for CFP:

1, Quarterly transaction reporting. Quarterly reports must be verified annually. Verification is limited to the following transaction types: all liquid fuels, NGV fueling and propane fueling. Responsible entities may opt to have their quarterly reports reviewed by a verification body quarterly if desired, for early detection of issues before the verification statement is due to DEQ.

2. Annual fuel pathway carbon intensity reporting. Each annual fuel pathway report submitted must undergo verification. If the pathway is being recertified in Oregon after having been approved in California, the responsible entity must submit its California verification statement to DEQ within ten days of its comparable submittal to CARB. If the verification statement was adverse, the log of issues must also be submitted.

Fuel pathway applications are not required to be verified, but if they are, DEQ will prioritize them for approval.

### **Are there any exemptions from CFP verification?**

For quarterly reporting, entities that do not generate greater than or equal to 6000 credits and deficits during the previous calendar year are exempt, regardless of transaction type. Entities are also exempt if they only report in one or more transaction types of “export”, “gain of inventory”, “loss of inventory”, and “not used for transportation” IF they did not generate 6000 credits and deficits, this did not report any liquid fuel as “production in Oregon” or “import into Oregon”, and they did not report any NGV fueling transactions.

For annual fuel pathway carbon intensity reporting, holders of approved fuel pathways that do not generate greater than or equal to 6000 credits and deficits during the previous calendar year for the quantity of fuel produced at a given facility are exempt from verification. Fuel pathway applications are also exempt from verification, but verified pathway applications will be prioritized for approval.

### **What are the important deadlines related to reporting and verification for the CFP?**

<b>Reporting Deadlines</b>	
Quarterly Fuel Transaction Reports due	90 days after end of each quarter
Fuel Pathway Reports due	March 31

Annual Reports due	April 30
<b>Verification Deadlines</b>	
Verification Statements due	August 31

### **Where can I find a list of DEQ-approved verifiers for the program?**

Lists of approved verifiers and verification bodies are published on DEQ’s website, under “Information for Responsible Entities” for the CFP.

### **Is the threshold of 6000 credits and deficits a sum of all credits and deficits, or can credits and deficits go up to 6000 each before verification is required?**

The threshold is the sum of total credits and deficits generated. For example, if an entity generated 3000 credits and 3000 deficits during the reporting year, they would be subject to verification.

### **Does the 6000 credit and deficit threshold include electricity, or does it only apply to gaseous and liquid fuels?**

Generally, electricity is exempt from verification under CFP. However, electricity fuel producers would be subject to verification if their fuel production facility’s fuel pathway codes generate over 6000 credits during the year. For example, for a dairy biogas electricity project that has a negative carbon intensity electricity pathway in the CFP, the entity(s) claiming that electricity under the REC provisions adopted in CFP’s last rulemaking would not need to undergo verification, but the fuel production facility would.

### **What are the units of credits and deficits?**

Credits and deficits describe whether an entity is above or below the annual carbon intensity standard set by CFP. A credit represents a ton of greenhouse gas emissions below the annual carbon intensity standard, and a deficit represents a ton of greenhouse gas emissions above the annual carbon intensity standard. Credits and deficits are automatically calculated by the Oregon Fuels Reporting System. Reporting entities can find their credit and deficit balances within their annual report on the Annual Reports tab or on the Credit Balance tab within OFRS.

### **Do all fuels generate credits or deficits?**

Each fuel generates either credits or deficits depending on the carbon intensity of the fuel.

### **Does propane generate credits or deficits?**

Propane is an opt-in fuel under the Clean Fuels Program, and is currently lower than the carbon intensity standard so it generates credits.

### **General questions about verification**

## **Will DEQ reach out to regulated entities in Oregon about their verification requirements in 2022?**

Yes, DEQ will reach out to all of the CFP registered parties to ensure that the entities that are potentially subject to verification for the program understand what might be required of them. Responsible entities are ultimately responsible for complying with the provisions of OAR 340-272.

## **Can verification be deferred?**

OAR 340-272 does not contain any provisions that allow for the deferral of verification. California's Low Carbon Fuel Standard does allow for the deferral of verification for certain fuel pathways. For facilities with California pathways recertified in Oregon, the following requirements apply:

- The responsible entity must submit its California verification statement to DEQ within ten days of its comparable submittal to CARB. If the verification statement was adverse, the log of issues must also be submitted.
- If a fuel pathway holder is eligible for deferred verification under the California program, the fuel pathway holder must notify DEQ before April 30 of each year. If fuel from the facility generates 6,000 or more total credits and deficits in Oregon, then the fuel pathway holder must engage the services of a verification body to perform verification and ensure a fuel pathway verification statement for each annual fuel pathway report is submitted to DEQ according to OAR 340-272-0100.

## **Does verification require a site visit?**

Yes, site visits will be required for the first two years of the program. After that, OAR 340-272 does allow for less intensive verification under certain circumstances. If no changes have occurred in operations or emissions since the last full verification, less intensive verification can take place for two years of every three year period. Less intensive verification includes all verification services with the exception of a site visit.

## **Is DEQ planning to allow for virtual site visits if the pandemic continues?**

If virtual site visits are a need for the 2022 verification year, DEQ will provide guidance to stakeholders.

## **Are there any fees associated with verification?**

DEQ does not charge fees when responsible entities submit verification statements; however responsible entities must contract with an approved verification body to provide the required verification services. The contract between the verification body and the responsible entity will stipulate a payment for the verification services provided.

## **How does DEQ approve verifiers?**

To be approved to perform verification services under the CFP, verifiers must be accredited to perform verification activities for the California Air Resources Board's Low Carbon Fuel Standard program. When verifiers apply to participate in the CFP, program staff review applications according to the applicant's relevant accreditation, education and experience in the type of verification they want to perform. Qualified applicants move on to a series of program trainings and must pass exams related to the areas they want to perform verifications in before being approved.

## **How does DEQ approve verification bodies?**

To be approved as a verification body under the CFP, an organization must first demonstrate it has earned accreditation with CARB's Low Carbon Fuel Standard program (LCFS). Additionally, it must demonstrate a level of staff competency (including a minimum number of Oregon-approved Lead Verifiers) and provide information related to its business activities and policies.

## **Can the same verification body be used to verify reported information for both CFP and GHG Reporting?**

Yes, the same verification body may be used by the responsible entity for both programs. However, third party verification rules contain rotation requirements for verification bodies. These state that a responsible entity may not use the same verification body for more than six consecutive years and may not engage the same verification body again for three years once the six consecutive years have ended. These limits apply regardless of the program. For example, a responsible entity may use a verification body in 2024 and 2025 for CFP reporting. If they decide to use the same verification body for GHG reporting, they may do so for both programs through 2029, but the earliest they may use the same verification body again would be 2033.

## **Can the same verification body be used to verify information reported to both the CARB Low Carbon Fuel Standard Program and the Oregon CFP? If so, how often must verification bodies be rotated?**

Yes. The rotation requirements for verification bodies apply only to Oregon programs. Therefore, a responsible entity may use the verification body they have used in California for six years, beginning with the year of the first Oregon verification.

## **What are the consequences if a verification statement is returned as qualified positive or adverse?**

DEQ defines a qualified positive verification statement as one in which the verification body can say with reasonable assurance that the submitted report or fuel pathway application does not contain material misstatement and that all correctible errors have been addressed, but nonconformances may remain that do not result in material misstatement. An adverse verification statement is one in which either the verification body cannot say with reasonable assurance that the submitted report or fuel pathway application does not contain material misstatement, or that correctible errors exist that have not been addressed.

In both cases, the responsible entity will be notified by its verification body of the intended recommendation, and the entity will have the opportunity to fix any issues that have been identified.

If the verification body intends to issue an adverse verification statement, it must alert both the responsible entity and DEQ ahead of the submission, and the responsible entity must be given at least 14 days to make any needed corrections to its pathway application or reporting submission to DEQ.

DEQ has the authority to pursue appropriate enforcement action under OAR 340-012. DEQ will review verification statements on a case-by-case basis before any such action is decided, and a decision will be determined by the size and nature of the discrepancy and whether the entity has sufficiently addressed it.

## **If any errors are identified during verification, can my verification body tell me how to fix them?**

No. Verification teams are not allowed to advise responsible entities on how to calculate or report emissions or how to fix errors, improve management systems, etc. If you have questions about these types of issues, please contact [3PVerify@deq.oregon.gov](mailto:3PVerify@deq.oregon.gov).

## **What is a correctable error, and what should I do if one is identified during verification?**

A correctable error is an error identified by the verification team that impacts data in the submitted report or fuel pathway application, which results from a nonconformance with the applicable rule. Not every error identified will be classified as a correctable error. For example, differences that are the result of differing but reasonable methods of truncation, rounding, or averaging, where there is no specific procedure described by DEQ's program rules, are not considered errors and therefore do not need to be corrected.

For identified errors that are classified as correctable, the responsible entity needs to correct these before the verification statement is submitted in order to avoid the issuance of an adverse verification statement. The responsible entity must submit a revised report or fuel pathway application to DEQ as part of this process.

## **What is the difference between a nonconformance and a material misstatement?**

A material misstatement is a discrepancy, omission, misreporting or aggregation of the three that leads the verification team to believe that the reported data, report or fuel pathway application contains one or more errors, as described by program rules. In general, a material misstatement is a difference of plus or minus 5% in operational carbon intensity, reported fuel quantities or reported emissions.

A nonconformance is a failure to meet the applicable requirements of the Clean Fuels, greenhouse gas or third party verification rules to calculate or report data or submit a fuel pathway application.

## **What should I do if was impacted by a loss of data during the reporting period?**

If you have been impacted by a loss of data, please contact us at [3PVerify@deq.oregon.gov](mailto:3PVerify@deq.oregon.gov). DEQ may be able to approve an alternate method of data substitution. Your verification team will check to make sure that you have properly followed the missing data substitution requirements of your program, if you have used a reasonable temporary data collection procedure, or that an alternate method was approved by DEQ.

## **What documentation should I expect to receive from my verification body at the end of the verification process?**

At the end of verification, you can expect to receive a full verification report from your verification body. The verification report should include the verification team list, information on facility boundaries and data sources, a description of accounting procedures and data management, a copy of the verification plan, a description of the data checks the verification body conducted, the log of issues, any qualifying

comments the verification body would like to make about its findings, and a copy of the verification statement.

## **How long do I need to keep records related to verification?**

Responsible entities must retain records related to verification for at least seven years. These include:

- Information used to calculate emissions, fuel quantities, and fuel and electricity transactions
- Any other information required by the record retention requirements of the Clean Fuels or GHG Reporting program rules
- Any other data and information necessary for verification services to be completed
- Documentation that supports any revisions made to the initial report or fuel pathway application submitted to DEQ as the result of verification

Records may be retained on paper or in electronic format.

## **When should I contact DEQ with questions?**

You are of course welcome to reach out to us at any time, but there are a few key situations in which this is best practice. These include:

- If you think an upcoming verification deadline cannot be met
- If you were impacted by a loss of data during the verification year and would like DEQ to approve an alternate method to replace this
- If there were any changes in your organization- for example, a new hire or acquisition, that might impact the results of the conflict of interest disclosure
- If you are having trouble working with your verification body- for example, if they are unresponsive or offering you specific advice on how to fix your reporting
- If you have technical questions related to reporting or verification.

The best way to reach us with verification questions is by emailing us at [3PVerify@deq.oregon.gov](mailto:3PVerify@deq.oregon.gov).

## **Where can CFP rules be found?**

OAR-340-253 contains the requirements of the CFP and is available here:

[Oregon Secretary of State Administrative Rules](#)

## **Where can 3PV rules be found?**

OAR-340-272 contains Oregon's 3PV requirements and is available here:

[Oregon Secretary of State Administrative Rules](#)

## **Questions about conflict of interest disclosure**

### **What verification forms will DEQ provide on its website, and who is responsible for submitting them?**

DEQ will provide the following forms on its 3PV website:

Conflict of interest disclosure: Administered through Adobe Sign and submitted by the responsible entity. Available under "Information for Responsible Entities" for the appropriate program.



Notice of verification services form: Administered through Adobe Sign and submitted by the verification body. Available under both “Information for Verification Bodies” and “Information for Verifiers” for the appropriate program. If any information in the notice of verification services form changes after the conflict of interest disclosure has been approved by DEQ, the responsible entity must make sure a new form is submitted by their verification body.

Verification statement: Administered through Adobe Sign and submitted by the verification body. Available under both “Information for Verification Bodies” and “Information for Verifiers” for the appropriate program. If the verification is for a CFP fuel pathway application, annual fuel pathway report or CFP quarterly reports, the verification statement must also be uploaded to the Oregon Fuels Reporting System using the “Verification Statement” action on the “RptReviews” tab.

### **What is DEQ’s process for collecting information on potential conflicts of interest between the responsible entity and verification body?**

Conflicts of interest are defined in OAR 340-272-0500. DEQ collects information about conflicts of interest in two different but related ways. First, the verification body must provide information on how it handles potential conflicts of interest as part of its application to the third party verification program. Second, a conflict of interest disclosure form regarding the relationship between the responsible entity and the verification body is submitted by the responsible entity before verification activities begin for the year. Responsible entities are encouraged to work with their verification bodies on this disclosure but are responsible for submitting it.

### **What is an “insignificant service” for the purposes of conflict of interest disclosure?**

The rule does not define an insignificant service other than in relation to other types of services listed. Therefore, best practice would be to disclose any services provided that are not listed as high conflict of interest services and not otherwise specifically exempted.

### **Does any amount of “insignificant” services create a high conflict of interest?**

When disclosing insignificant services, OAR 340-272-0500 (6)(c)(C) asks for an “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”. So while there is no set amount of insignificant service that automatically triggers high conflict of interest, the amount of services provided still factors in to DEQ’s evaluation. According to the rule, “DEQ may, at its discretion, determine that a high conflict of interest exists when a member of the verification team provided services within the previous five years, but the services were not services that result in a potential for a high conflict of interest according to section (2). If DEQ makes such a determination, it must explain in writing why it believes the work performed creates a high conflict of interest.”

### **Does the responsible entity need to disclose the dollar value of all services provided by the verification body?**

The purpose of this provision (contained in the medium conflict of interest provisions of OAR 340-272-0500) is to establish whether any other work that may have been performed by members of the verification team could present a conflict of interest. If the members of the verification team do not provide other services for the verification body (for example, preparing greenhouse gas inventories or consulting on regulatory compliance), DEQ relies on the professional judgement of the verification body and responsible entity in determining whether to include dollar values of services provided by other parts

of the verification body. DEQ may always request this information on an as-needed basis if it has concerns about the conflict of interest disclosure.

## **How are potential conflicts of interest mitigated?**

There are three categories of conflict of interest potential: high, medium and low. If the potential for conflict of interest is high, mitigation of the risk is not possible and the responsible entity will need to work with a different verification body. If the potential for conflict of interest is low, no mitigation is required. If the potential for conflict of interest is medium, the responsible entity must attach a mitigation plan to its conflict of interest disclosure. A mitigation plan contains the following, as applicable to the conflict of interest situation:

- A demonstration that any individuals with potential conflicts have been removed and insulated from working on or discussing the project;
- 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
- Any other circumstance that specifically addresses other sources for potential conflict of interest.

## **In what situations is an updated conflict of interest form submittal required? In what situations is it not required?**

The responsible entity should submit an updated conflict of interest form if:

- It is a new verification year (you can use the same information from last year's form if nothing has changed)
- There has been any change in organizational structure to the responsible entity or verification body that may introduce new potential conflicts (mergers, acquisitions or divestitures)
- A new person will join the verification team, who was not included on the initial disclosure
- Any other potential conflict of interest situations arise that were not included on the initial disclosure
- Any information on the Notice of Verification Services form has changed since the conflict of interest disclosure was submitted

Conflict of interest must be monitored by both the verification body and the responsible entity for a period of one year following completion of verification, and a new form submitted if new conflicts are introduced during this time. Conflict of interest monitoring requirements can be found in OAR 340-272-0500 (8).

A new form does not need to be submitted if an individual leaves the verification team.

## **How do I know if my conflict of interest disclosure form was submitted successfully?**

Adobe Sign will send an email to the form submitter confirming the form was submitted. If you do not receive this notification, email us at [3PVerify@deq.oregon.gov](mailto:3PVerify@deq.oregon.gov) to confirm receipt.

## **Alternative formats**

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