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Division 272 THIRD PARTY VERIFICATION

340-272-0010

Purpose and Scope

- (1) The purpose of this division is to establish requirements for responsible entities that must engage the services of a verification body approved by DEQ to perform verification under this division for emissions data reports submitted under OAR chapter 340, division 215, reports or fuel pathway applications 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 Protection Agency authorization in OAR 340-200-0010(3), DEQ administers this division in all areas of the State of Oregon.

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

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

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 that (either or both):
- (a) It cannot say with reasonable assurance the submitted report or fuel pathway application is free of a material misstatement; or
- (b) The submitted report or fuel pathway application contains correctable errors and thus is not in conformance with the requirements to fix such errors according to OAR 340-272-0435.
- (2) "California ARB" means California Air Resources Board.
- (3) "CFP" means the Oregon Clean Fuels Program established under OAR chapter 340, divison 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 report or fuel pathway application, 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 report or fuel pathway application, application, 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) "Difference 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 annual 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 required under OAR 340-272-0300(1).
- (9) "GHG Reporting Program" means the Oregon Greenhouse Gas Reporting Program 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 entity for the current reporting year and provides an independent review of verification services provided to the responsible entity.
- (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 required for full verification, except for 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, 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 or fuel pathway application contains one or more errors, as described in OAR 240-272-0450, OAR 240-272-0455, and OAR 240-272-0460, as applicable.
- (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 requirements of OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable, to calculate or report data or submit a fuel pathway application.
- (16) "Positive verification statement" means a verification statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway application 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 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 report or fuel pathway application is free of material misstatement and has been corrected or modified 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 in the accuracy and truth of a conclusion. (21) "Related entity" means any direct or indirect parent company, direct or indirect subsidiary, company that shares ownership of a direct or indirect subsidiary, or company under full or partial common ownership or control. (224) "Reported emissions reductions" means the total of all greenhouse gas emissions reductions reported in a CFP project report. (232) "Reported Operational CI Value" means the absolute value of the operational CI submitted in a CFP fuel pathway application or annual report used for material misstatement of carbon intensity assessments. (243) "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. (254) "Responsible entity" means a person that is subject to or voluntarily agrees to be subject to the requirements of OAR 340-272-0110, OAR 340-272-0120, or both. (265) "Sector specific verifier" means a person that has met the requirements to perform such a role under OAR 340-272-0210 and has been approved by DEQ under OAR 340-272-0220 to act as a sector specific verifier in providing 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. (27X) "Subcontractor" means an individual or business firm contracting to perform part or all of another's contract. (2826) "Total reported emissions" means the total annual greenhouse gas emissions in a GHG Reporting Program emissions data report. (297) "Validation statement" means the final statement produced by a verification body attesting whether a fuel pathway application is free of material misstatement and whether it conforms to the requirements of California ARB's Low Carbon Fuel Standard. (3028) "Verification" or "third-party verification" means a systematic, independent, and documented process for evaluation of a report or fuel pathway application according to this division.

(3129) "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.

- (320) "Verification services" means services provided during full verification or less intensive verification, including but not limited to reviewing a report or fuel pathway application submitted by a responsible entity, assessing compliance with DEQ regulations, ensuring accuracy according to the standards specified by DEQ, and submitting a verification statement(s) to DEQ.
- $(3\underline{3}\underline{+})$ "Verification statement" means the final statement produced by a verification body attesting whether a report or fuel pathway application submitted by a responsible entity is free of or contains material misstatement and whether it does or does not conform to the applicable requirements.
- (342) "Verification team" means all persons working for a verification body, including all subcontractors, to provide verification services.
- (353) "Verifier" means an individual 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 provide verification services as described by this division.

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

340-272-0100

General Requirements for Verification of Reports and Fuel Pathway Applications

- (1) The annual third party verification requirements set forth in this division apply beginning in 2022 for reports with data for calendar year 2021, and in each year thereafter. Quarterly review conducted as part of annual verification services that meet the requirements of this division may begin in 2022 for reports with data for the year 2022.
- (2) Each responsible entity must:
- (a) Engage the services of a verification body to perform verification under this division;
- (b) Do the following before verification services begin:
- (A) Conduct a conflict of interest evaluation in coordination with the verification body according to OAR 340-272-0500 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 Ensure both a complete and accurate conflict of interest evaluation and conflict of interest mitigation plan, as applicable, are submitted to DEQ, and receive from DEQ approval in writing to proceed with verification services; and

- (B) Submit to DEQ the report that is to be verified and attest that the data and information submitted to DEQ in the report is true, accurate, and complete;
- (c) Ensure that a verification statement is submitted to DEQ from the verification body for each report identified under OAR 340-272-0110 and OAR 340-272-0120 by the deadline specified under section (3); and
- (d) 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;

- (3) Verification deadlines.
- (a) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from a verification body by August 31 of the year a report is submitted, for the following reports, as applicable:
- (A) Any CFP report, as applicable under OAR 340-272-0110; and
- (B) Any GHG Reporting Program emissions data report described under OAR 340-215-0044(1)
- (a) through (d), and (g), as applicable under OAR 340-272-0120.
- (b) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by DEQ from a verification body by September 30 of the year a report is submitted, for each GHG Reporting Program emissions data report described under OAR 340-215-0044(1)(e) and (f), as applicable under OAR 340-272-0120.
- (c) DEQ may extend verification deadlines in subsections (a) or (b) as necessary and will issue notice of any extensions.
- (4) Requirements for full or less intensive verification for certain responsible entities.
- (a) Responsible entities required to engage the services of a verification body to perform annual verification 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 engage the services of a verification body to provide full verification, as described by this division, in the first year that verification is required under section (1), in 2023, and then in at least every third year thereafter, if subsection (b) is applicable. Full verification is required in any year where subsection (b) does not apply.

- (b) Responsible entities required to engage the services of a verification body to perform annual verification of CFP quarterly reports under OAR 340-272-0110(3), GHG Reporting Program emissions data reports under OAR 340-272-0120(1), or both may engage the services of a verification body to provide less intensive verification in place of full verification, for up to two years out of every three year period, if:
- (A) There has not been a change in the verification body;
- (B) A positive verification statement was issued for the previous year; and
- (C) No change of operational control of the responsible entity occurred in the previous year.
- (c) A verification body may choose to provide full verification, at its discretion, in instances where the responsible entity has made changes in sources, significant changes in emissions, significant changes in data management systems, or any combination therein, occurred compared to the previous year, based on the professional judgment of the verification body.
- (A) The verification body must provide reasons why it opted for full verification to the responsible entity and to DEQ.
- (B) 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.
- (5) Verification body and verifier rotation requirements.
- (a) A responsible entity must not use the same verification body or verifier(s) to perform verification for a period of more than six consecutive years.
- (b) A responsible entity must wait at least three years before re-engaging the previous verification body or verifier(s) to perform verification.

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

340-272-0110

Requirements for Verification of CFP Reports and Fuel Pathway Applications 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 to perform verification 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.
- (A) Fuel pathway applicants that choose to engage the services of a verification body to perform verification may do so once a list of approved verification bodies and verifiers qualified to verify CFP fuel pathway applications is made available on DEQ's website according to OAR-340-272-0220(1)(d)(B).
- (B) Fuel pathway applicants submitting fuel pathway applications to DEQ that have been verified according to the requirements of this division must submit the verification statement at the same time that the application is submitted.
- (C) A fuel pathway application submitted to DEQ that includes an adverse verification statement will not be considered.
- (c) Fuel pathway applications submitted to DEQ that have been verified under California ARB's Low Carbon Fuel Standard may submit to DEQ materials relating to that verification.
- (A) Fuel pathway applications submitted to DEQ that include a positive or qualified positive validation statement under California ARB's Low Carbon Fuel Standard will be prioritized for approval by DEQ.
- (B) Fuel pathway applications submitted to DEQ that include an adverse validation statement under California ARB's Low Carbon Fuel Standard will not be considered.
- (C) Any verification statements for the fuel pathway under California ARB's Low Carbon Fuel Standard must also be submitted at the same time that the fuel pathway application and validation statement are submitted to DEQ.
- (2) Annual verification of CFP annual fuel pathway (carbon intensity or CI) reports.
- (a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification under this division, including required site visit(s), for each annual fuel pathway report submitted under OAR chapter 340, division 253, except as otherwise provided under subsection (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) Exemptions. Holders of approved fuel pathways that do not generate at least 6,000 total credits and deficits during the previous calendar year for the quantity of fuel produced at a given production facility and reported in the CFP are not subject to the requirements of this division for that year.
- (c) Verification schedule. Responsible entities that are subject to the subsection (a) requirement to engage the services of a verification body to perform verification of annual fuel pathway reports (CI) must ensure a fuel pathway verification statement for each fuel pathway report is submitted 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 California pathways recertified in Oregon. A responsible entity that 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 California ARB's Low Carbon Fuel Standard must submit its verification statement to DEQ within ten calendar days of its comparable submittal to California ARB. If the responsible entity received an adverse verification statement, it must also submit the log of issues at the same time it submits the verification statement to DEQ.
- (i) For responsible entities 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 entities 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 annual 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 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.
- (3) Annual verification of CFP quarterly reports.
- (a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body 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, except as otherwise provided under subsection (b):
- (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 CFP quarterly and annual reports.
- (B) Except as provided in subsection (b), reporters of volumes for any of the following transaction types must engage the services of a verification body to perform verification 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 total credits and deficits during the previous calendar year. For the purposes of this rule, any credits or deficits generated by persons that

are related entities or share <u>full or partial</u> 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 total 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 transactions.
- (c) Verification schedule. Responsible entities under subsection (a) required to engage the services of a verification body to perform annual verification 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 persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification, including required site visit(s), for CFP 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 entities under subsection (a) required to engage the services of a verification body to perform verification of CFP 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.266, 468A.271 & 468A.277 **Statutes/Other Implemented:** ORS 468A.010, 468A.015 & 468A.265 through 468A.277 **History:**

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

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 emissions data reports.
- (a) Applicability. The following persons must meet the requirements of this division and engage the services of a verification body for the purposes of annual verification of the entire emissions data report, including required site visit(s), for each separate emissions data report submitted under OAR chapter 340, division 215, except as otherwise provided under subsection (b):
- (A) A regulated entity that submits an emissions data report as described under OAR 340_215_0044(1) that indicates emissions equaled or exceeded 25,000 metric tons of CO2e, excluding CO2 from biomass-derived fuels; and
- (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 emissions, data, and information submitted for each individual utility with emissions that equaled or exceeded 25,000 metric tons of CO2e, excluding CO2 from biomass-derived fuels and excluding emissions associated with preference power purchased from BPA; and
- (C) A regulated entity that submitted an emissions data report that indicated emissions exceeded the threshold in paragraph (A) in the previous year, but that submits an emissions data report that indicates emissions are reduced below that applicability threshold in the current reporting year;-
- (D) All regulated entities subject to the Climate Protection Program requirements described under OAR chapter 340, division 271, regardless of emissions reported; and.
- (E) All regulated entities that are electric companies and electricity service suppliers as defined in ORS 757.600, regardless of emissions reported.
- (b) Exemptions. The following are not subject to the requirements of this division:
- (A) A regulated entitiventity that is not an electric company and not subject to requirements under OAR chapter 340, division 215 and that submits an emissions data report as described under OAR-43340-215-0044(1) that indicates emissions were less than 25,000 metric tons of CO2e, excluding CO2 from biomass-derived fuels. For the purposes of this rule, any GHG emissions in emissions data reports as described under OAR 340-215-0044(1)(c) submitted by fuel suppliers or in-state producers that are related entities or share full or partial common ownership or control must be aggregated together to determine whether or not the exemption applies;

- (B) An emissions data report as described under OAR 340-215-0044(1)(a) that includes emissions data and information described in 40 C.F.R. part 98 subpart HH Municipal Solid Waste Landfills;
- (C) An emissions data report as described under OAR 340-215-0044(1)(d) submitted by a natural gas supplier that is an interstate pipeline; and
- (D) Any emissions data report as described under OAR 340-215-0044(1)(e) submitted by Bonneville Power Administration (BPA) acting as a third-party reporter on behalf of any consumer-owned utility, as allowable under OAR 340-215-0120(4).
- (c) Verification schedule. Responsible entities that are subject to the subsection (a) requirement to engage the services of a verification body to perform verification of emissions data reports must ensure a verification statement for each emissions data report is submitted to DEQ according to OAR 340-272-0100.
- (A) These requirements are in addition to the requirements in 40 C.F.R. 98.3(f).
- (B) An asset-controlling supplier that submitted an emissions data report to DEQ as described under OAR 340-215-0044(1)(f) that includes the same data and information reported to and verified under California ARB's Mandatory Reporting of Greenhouse Gas Emissions program may submit the same verification statement to DEQ. If an adverse verification statement is received, a current issues log must also be submitted to DEQ.
- (2) Cessation of verification requirement.
- (a) Responsible entities 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 entity that meets the verification cessation requirements for two consecutive years must notify DEQ in writing 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 entity must have the emissions data report verified according to the requirements of this division, and verification must continue until the cessation requirement is met again.

Statutory/Other Authority: ORS 468.020, 468A.050 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050 & 468A.280

History:

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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 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 CFP 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;
- (e) A certification that the person or business entity agrees to comply with and be subject to the requirements of this division in relation to all verification work for responsible entities; and
- (f) 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. Any person or business entity that wants to perform verification under this division must provide documentation that the person has met all the following criteria for approval, as applicable for the type of verification approval the applicant seeks:
- (a) The person or business entity holds an active accreditation under at least one of the following programs:
- (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 to one of the programs described in paragraphs (A), (B), or (C), and approved by DEQ;
- (b) To provide verification services for CFP reports or fuel pathway applications submitted under OAR chapter 340, division 253, the person or business entity must hold accreditation under California ARB's LCFS, or a substantially equivalent program approved by DEQ;
- (c) To provide verification services for emissions data reports submitted under OAR chapter 340, division 215, the person or business entity must hold accreditation under California ARB's MRR, ANSI, or a substantially equivalent program approved by DEQ; and
- (d) All applicants must submit additional information in the application with details of necreditatation accreditation and verification experience, 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, fuel pathway applications or specific types of CFP 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 verifier, lead verifier, or sector specific verifier, and other relevant information. A verification body must employ and or retain at least two lead verifiers, which may include retention as; lead verifiers may be subcontractors.
- (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 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 must demonstrate verification qualifications by providing information on education, experience, professional licenses, accreditations, status as 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 program to one of the programs described in subsection (a) or (b), and that is 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 CFP reports or fuel pathway applications 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 the applicant is accredited as a lead verifier by California ARB for the Low Carbon Fuel Standard program, or is designated as a lead verifier by a substantially equivalent program approved by DEQ;
- (b) To be approved as a lead verifier for verification of CFP fuel pathway applications or annual 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; and
- (c) To be approved as a lead verifier for verification of CFP 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 documentation to DEQ in the application demonstrating at least two years of professional experience related to the sector in which the individual is seeking approval.
- (8) Verification training and exam requirements.
- (a) To be approved by DEQ, applicants must take DEQ-approved general verification training, sector specific verification training, CFP specific verification training, and GHG Reporting Program specific verification training, as made available and 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.

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEO 14-2020, adopt filed 05/07/2020, effective 05/07/2020

340-272-0220

DEQ Review and Approval of Verification Bodies and Verifiers

- (1) DEQ application review and approval process for verification bodies and verifiers.
- (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 submitted applications to prescreen and ensure all requirements are met. DEQ will notify an applicant in writing which verification training(s) and exam(s) are required to be completed according to OAR 340-272-0210(8). An applicant may choose to take trainings and exams in addition to those required by DEQ.
- (c) DEQ will not consider or issue final approval until DEQ finds an application for approval as a verification body or verifier is complete and meets all applicable requirements under OAR 340-272-0210(1) and all required verification training(s) and exam(s), as deemed applicable by DEQ under subsection (b), 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 granted or denied.
- (A) DEQ may issue approval to verification bodies, verifiers, lead verifiers, and sector specific verifiers that apply and meet the criteria under OAR 340-272-0210 and successfully complete verification training(s) and exam(s) as required under OAR 340-272-0210(8).
- (B) 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) DEQ will maintain a current list of approved verification bodies, verifiers, lead verifiers, and sector specific verifiers on DEQ's website.
- (e) 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, verifier, lead verifier, or sector specific verifier at any time, following the same application procedures according to OAR 340-272-0210, and must satisfy all DEQ training and examination requirements applicable at the time of re-application.
- (2) Requirements to maintain DEQ approval.

- (a) Except as provided under subsection (c) below, a verification body, verifier, lead verifier, or sector specific verifier must notify DEQ within 30 calendar 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 verifier staffing changes within 30 <u>calendar</u> 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 <u>calendar</u> 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 non-conformance, including a copy of any written notification of nonconformance from the agency or body that administers the program, and information about any corrective actions taken by the verification body or verifier. 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.
- (e) Verification bodies and verifiers must provide in a reasonably timely manner any and all information that DEQ reasonably requires for the purpose of evaluating continued compliance with the requirements of this division, including the criteria for approval.
- (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 verifier or verification body that is subject to a DEQ action to modify, suspend, or revoke an approval to perform verification may contest DEQ's action by providing DEQ with a written request for a hearing within 20 <u>calendar</u> days of being notified of DEQ's action.
- (A) The hearing will be conducted as a contested case under ORS 183.413 through 183.470 and OAR chapter 340, division 11.
- (B) Any DEQ action taken in subsection (a) will remain in place pending the outcome of the contested case.
- (c) A verification body or verifier that has had approval to perform verification revoked may re-apply according to OAR 340-272-0210 after the applicant demonstrates 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.

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

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 CFP report or fuel pathway application submitted under OAR chapter 340, division 253 or emissions data report submitted under OAR chapter 340, division 215.
- (2) Requirements for responsible entities.
- (a) Responsible entities 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 OAR 340-272-0220 to perform verification under this division for the type of verification services applicable to the responsible entity.
- (b) A responsible entity that has been notifed by DEQ or by it's 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 entity must ensure that the verification services provided on its behalf meet the requirements of this division.
- (d) Records retention and availability requirements.
- (A) Responsible entities 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 entities 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.
- (C) Responsible entities must maintain documentation to support any revisions made to the initial report or fuel pathway application submitted to DEQ as a result of verification. Documentation for all submittals must be retained by the responsible entity in paper or electronic format for a period of at least seven years.
- (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); and
- (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) If a verification body receives a final determination frin from DEQ under OAR 340-272-0220(3) that is described in paragraphs (A) through (C) below, then the verification body must provide written notification all responsible entities with which it is currently engaged to provide verification services or that have received verification services from it within the past six months of DEQ's final determination within ten <u>calendar</u> days of receiving such final determination, and the verification body may not continue to provide verification services until the verification body receives DEQ approval to recommence such services under OAR 340-272-0220:
- (A) Any modification relevant to the verification services provided;
- (B) Suspension of DEQ approval of the verification body or any of its verifiers, lead verifiers, sector specific verifiers, or subcontractors; or
- (C) Revocation of DEQ approval of the verification body or any of its verifiers, lead verifiers, sector specific verifiers, or subcontractors.
- (d) Records retention.
- (A) Verification bodies that provide verification services under this division must retain documentation relating to verification in paper or electronic 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) Report(s) or fuel pathway application(s) submitted by the responsible entity to DEQ for which verification services are being provided;
- (ii) Contracts for verification;
- (iii) Verification plan(s);
- (iv) Sampling plan(s);

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

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

<u>340-272-0350</u>

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 a report or fuel pathway application by a verification body on behalf of a responsible entity under this division.
- (b) DEQ may issue an adverse verification statement for a report or fuel pathway application 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 fuel pathway 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) If a verification body submits a positive or qualified positive verification statement to DEQ, DEQ may require the applicable responsible entity to have a report or fuel pathway application re-verified by a different verification body within 90 calendar days if:
- (A) DEQ finds a high level of conflict of interest existed between a verification body and a responsible entity;

- (B) DEQ finds a potential conflict of interest has arisen between the responsible entity and the verification body or any verifier engaged by the responsible entity 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 entity to perform verification have occurred, and impacted the verification services provided, or impacted the verification statement(s) submitted to DEQ;
- (D) An error is identified that affects the emissions in an emissions data report(s) submitted under OAR chapter 340, division 215, or the credit or deficit calculations in a CFP report(s) or fuel pathway application(s) 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) If DEQ identifies an error and determines that the error does not affect the emissions in an emissions data report, or the credit or deficit calculations in a CFP report or fuel pathway application, a correction may be made by the responsible entity without DEQ set aside of the positive or qualified positive verification statement.
- (c) A verification body may not continue to provide verification services to a responsible entity, and the responsible entity must have any report(s) or fuel pathway application(s) verified by a different verification body, upon receiving notification from the verification body with which it is currently engaged to provide verification services of either of the following:
- (A) A modification to DEQ approval of the verification body or any members of the verification team that is relevant to the verification services being performed; or
- (B) Suspension or revocation of DEQ approval of the verification body or any members of the verification team.
- (d) A responsible entity that must have a report or fuel pathway application verified by a different verification body according to subsection (c) may contact DEQ to request an extension if it believes it cannot meet the applicable verification deadline under OAR 340-272-0100(3) and it must receive written approval from DEQ of any extended deadline(s).

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

340-272-0355

DEQ Data Requests and Audits

- (1) DEQ data requests and audits of responsible entities.
- (a) Upon written request by DEQ, the responsible entity must provide the data used to generate a report or fuel pathway application including all data made available to the verification team engaged by the responsible entity to perform verification, within 14 calendar days of DEQ's request.
- (b) Upon written notification by DEQ, the responsible entity 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 entity, 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 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

340-272-0405

Notice of Verification Services

- (1) Before a verification body commences any verification services for the responsible entity, the responsible entity 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(7) and that verification services may proceed.
- (a) If the conflict of interest evaluation submitted by the responsible entity 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 determined the potential for conflict of interest is acceptable in writing.

- (b) Except as provided in subsection (a), the verification body may begin verification services for the responsible entity after the notice of verification services 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. The site visit may not take place prior to the applicable regulatory deadline for the reporting type to be verified, except under the conditions listed in OAR 340-272-0420(2)(a).
- (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. The list must include any verifiers in training who will participate on the verification team.;
- (b) Documentation that the verification team has the skills required to provide verification services for the responsible entity and type of report or fuel pathway application requiring verification. When required by DEQ, the notice must include a demonstration that the verification team includes at least one individual approved by DEQ as a sector specific verifier that is not also the independent reviewer, but may be the lead verifier; and
- (c) General information about the responsible entity, 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 entity 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) The responsible entity must ensure the verification body submits an updated notice of verification services to DEQ immediately if any of the information under section (2) changes after the notice of verification services is submitted to DEQ. When an updated notice of verification services is submitted to DEQ, 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.

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

<u>340-27</u>2-0410

Scoping Verification Services

- (1) Before beginning work on a verification, the responsible entity 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 entity.
- (3) Before conducting any site visits, the verification team must create a verification plan that meets the requirements of OAR 340-272-0415 and a draft sampling plan that meets the requirements of OAR 340-272-0425.

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

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

<u>340-272-0415</u>

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 entity;
- (b) Dates of proposed site visits;
- (c) Types of proposed document and data reviews and, for CFP reports submitted under OAR chapter 340, division 253, how quarterly review is planned in the context of an annual verification requirement, as applicable; 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 reports and fuel pathways applications submitted under OAR chapter 340, division 253 must also include the following information from the responsible entity:
- (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 entity is subject to, other renewable or low carbon fuels markets the responsible entity participates in, and other mandatory or voluntary auditing programs the responsible entity is subject to, as applicable;
- (b) Information regarding the training or qualifications of personnel involved in developing the report(s) or fuel pathway application(s);
- (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 sitespecific data;
- (d) Information about the data management system and accounting procedures used to capture and track data for each fuel pathway application and each type of CFP 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 entity:
- (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.

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

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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 reports and fuel pathway applications submitted under OAR chapter 340, division 253 must meet the requirements of this section:
- (a) Site visits must occur after all data and CFP reports for the previous calendar year have been attested to and submitted to DEQ, except that a site visit may be conducted as part of a quarterly review if:
- (A) No aspects of the data management systems or accounting practices change following the site visit; and
- (B) There are no significant changes to the fuel production process or facility when the verification is for an annual fuel pathway report;
- (b) At least one DEQ-approved lead verifier on the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit to each facility during each year full verification is required under OAR 340-272-0100(4). If the responsible entity keeps records supporting a report or fuel pathway application subject to verification under this division in a location that is different from the fuel production facility, then such verifier(s) must at a minimum make one site visit to the location where those records are stored;
- (c) A separate site visit is required if a responsible entity elects to engage the services of a verification body to provide verification services for verification of a fuel pathway application; and
- (d) The following must be conducted during a site visit:

- (A) Review supporting evidence used to develop CFP reports submitted to DEQ;
- (B) Review and understand the data management systems and accounting practices used by the responsible entity to acquire, process, track, and report CFP data. Evaluate the uncertainty and effectiveness of these systems; and
- (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 CFP 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, temporary measurement method requirements, and the monitoring plan 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 emissions data 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 to each facility for which an emissions data report is submitted during each year full verification is required under OAR 340-272-0100(4). The headquarters or other location of central data management must be visited when the responsible entity is an electricity supplier or fuel supplier, including natural gas suppliers; and
- (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 entity are identified appropriately;
- (B) Review and understand the data management systems used by the responsible entity to track, quantify, and report greenhouse gas emissions and, when applicable, electricity and fuel transactions. Evaluate the uncertainty and effectiveness of these systems; and

- (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 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.

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

<u>340-272-0425</u>

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 entity and type of report or fuel pathway application. The analysis must review the inputs for the development of the submitted report(s) and fuel pathway application(s), the rigor and appropriateness of data management systems, and the coordination within the responsible entity's organization to manage the operation and maintenance of equipment and systems used to develop submitted report(s) and fuel pathway application(s);
- (b) The sampling plan must be revised to describe tasks completed as information becomes available and potential issues emerge with material misstatement or nonconformance; and
- (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 reports and fuel pathway applications 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 fuel pathway application;
- (b) The sampling plan must include a qualitative narrative of uncertainty risk assessment in the following areas:
- (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 CFP fuel pathway applications or annual fuel pathway reports;
- (E) CI calculations, as applicable;
- (F) Fuel pathway code allocation methodology, as applicable; and
- (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 information described in paragraphs (A) through
- (C) of this subsection. The sampling plan list must be updated and finalized before 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; and

- (d) Specified source feedstocks included in CFP fuel pathway applications and annual fuel pathway 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 CFP 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 entity, 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 CO2e) for the responsible entity 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 entity including risk of incomplete reporting;
- (b) The sampling plan must include a qualitative narrative of uncertainty risk assessment in the following areas:
- (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; and
- (c) After the verification team completes the strategic analysis and risk assessment, the sampling plan must be revised to include a list with the information described in paragraphs (A) through
- (C) of this subsection. The sampling plan list must be updated and finalized before 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 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

DEQ 14-2020, adopt filed 05/07/2020, effective 05/07/2020

340-272-0430

Data Checks

- (1) Verification services must include data checks that meet the requirements of this rule.
- (2) All data checks must meet the following requirements:
- (a) Data checks must be used to determine the reliability of the submitted report or fuel pathway application 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 report or fuel pathway application;
- (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 report or fuel pathway application is free of material misstatement;
- (d) Data checks must be used to ensure that there is reasonable assurance that the report or fuel pathway application conforms to the requirements of OAR chapter 340, division 253 or OAR chapter 340, division 215, as applicable; and
- (e) Results calculated by the verification team must be compared with the data in the report or fuel pathway application 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 reports and fuel pathway applications 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 fuel pathway application or CFP 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 entity 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; and
- (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 CFP report or fuel pathway application.
- (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;
- (C) Reviewing calculation methodologies used by the responsible entity for conformance with OAR chapter 340, division 215; and
- (D) Reviewing meter and fuel analytical instrumentation measurement accuracy and calibration for consistency with the requirements of OAR chapter 340, division 215, 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; and
- (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.

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

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340-272-0435

Documentation of Differences and Modifications to Reports and Fuel Pathway Applications

(1) While conducting verification services and data checks, the verification team must:

(a) Determine correctable errors using professional judgment, including whether differences are

not errors but result from truncation, rounding, or averaging; and

- (b) Document the source of any difference identified, 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.
- (2) As a result of data checks conducted by the verification team and before completion of a verification statement(s), the responsible entity must fix all correctable errors that affect the data in the submitted report or fuel pathway application, and submit a revised report or fuel pathway application to DEQ.
- (a) Failure to fix all correctable errors identified before the completion of the verification services and submit a revised report or fuel pathway application to DEQ will result in an adverse verification statement.
- (b) Failure to fix misreported data that do not affect credit or deficit calculations in CFP 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 emissions data reports submitted under OAR chapter 340, division 215 represents a nonconformance but does not, absent other errors, result in an adverse verification statement.

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

Statutes/Other Implemented: ORS 468A.050, 468A.265 through 468A.277, 468A.280, ORS 468A.010 & 468A.015

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340-272-0440

Findings

- (1) To verify that the report or fuel pathway application 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, and, as applicable:
- (a) The verification team must determine whether there is reasonable assurance that the CFP report or fuel pathway application 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; or

- (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 report or fuel pathway application 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 468.020, 468A.050, 468A.266, 468A.271, 468A.277 &

468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through

468A.277 & 468A.280

History:

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340-272-0445

Log of Issues

- (1) Ther-verification team must keep a log 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 entity regarding the original or subsequent submitted reports, or by DEQ. The log of issues must contain the following:
- (a) Identification of the regulatory section related to the material misstatement, nonconformance, or potential nonconformance, if applicable, and indication if the issues were corrected by the responsible entity before completing the verification services;
- (b) Documentation of any other concerns with the preparation of the report or fuel pathway application, which must also be communicated to the responsible entity during the course of verification services; and
- (c) Indication of whether each issue has a potential bearing on material misstatement, nonconformance, or both, and whether an adverse verification statement may result if not addressed.
- (2) If quarterly review is conducted before an annual verification for CFP reports submitted under OAR chapter 340, division 253, any issues identified that may affect determinations of material misstatement or nonconformance must be documented 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 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

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340-272-0450

Material Misstatement Assessments for CFP Fuel Pathways and Quarterly Fuel Transactions Submitted under OAR Chapter 340, Division 253

- (1) The verification team must conduct separate assessments of material misstatement on each calculated operational CI value and each quarterly fuel transaction quantity for each fuel pathway code (expressed in units from the applicable sections of OAR chatper chapter 340 division 253). Material misstatement assessments are not conducted for quarterly review.
- (2) Assessments of material misstatement of carbon intensity must meet all the requirements of this section.
- (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 includes any discrepancy as described in paragraph (A) of this subsection, omission as described in paragraph (B) of this subsection, or misreporting as described in paragraph (C) of this subsection subsection, 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 gCO2e/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 gCO2e/MJ, whichever absolute value expressed in gCO2e/MJ is greater.
- (A) Discrepancies 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 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 includes 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 substantially equivalent model approved by DEQ for the specific fuel pathway 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.

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

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

Absolute error threshold (CI) = | Difference in CI | \geq 2 g CO2e/MJ

- (3) Assessments of material misstatement of quarterly fuel quantity for each fuel pathway code must meet all the requirements of this section.
- (a) Each aggregated quarterly fuel quantity for each 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 includes any discrepancy as described in paragraph (A) of this subsection, omission as described in paragraph (B) of this subsection, or misreporting as described in paragraph (C) of this subsection, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported fuel quantity for each 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 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 include any fuel quantity the verifier concludes must be part of a quarterly report, but was not included.
- (C) Misreporting includes 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 for each fuel pathway code.

(d) The following equation for percent error must be used to determine whether any quarterly fuel quantity for each 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.

Percent error (fuel quantity) =

- $(\sum (\frac{\text{Discrepencies}}{\text{Discrepancies}} + \text{Omissions} + \text{Misreporting}) \div \text{Reported quarterly fuel transaction quantity for fuel pathway code}) \times 100\%$
- (e) 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 468.020, 468A.266, 468A.271 & 468A.277 **Statutes/Other Implemented:** ORS 468A.010, 468A.015 & 468A.265 through 468A.277 **History:**

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340-272-0455

Material Misstatement Assessments for CFP Project Reports Submitted under OAR Chapter 340, Division 253

- (1) The verification team must conduct separate assessments of material misstatement of project data for each CFP project report submitted under OAR chapter 340, division 253. The assessments of material misstatement of project data must meet all of the requirements of this rule.
- (2) Material misstatement of project data includes any discrepancy as described in subsection (a) of this section, omission as described in subsection (b) of this section, or misreporting as described in subsection (c) of this section, 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 entity's reported emissions reductions.
- (a) Discrepancies 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 include any emissions, excluding any emissions reductions, the verifier concludes must be part of a project report, but were not included.
- (c) Misreporting includes 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) = $(\sum (\frac{\text{Discrepencies}}{\text{Discrepancies}} + \text{Omissions} + \text{Misreporting}) \div \text{Reported emissions reduction}) \times 100\%$

- (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 468.020, 468A.266, 468A.271 & 468A.277 **Statutes/Other Implemented:** ORS 468A.010, 468A.015 & 468A.265 through 468A.277 **History:**

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340-272-0460

Material Misstatement Assessments for Emissions Data Submitted under OAR Chapter 340, Division 215

- (1) The verification team must conduct separate assessments for material misstatement of total reported emissions for each emissions data report submitted under OAR chapter 340, division 215. The assessments of material misstatement of emissions data must meet all of the requirements of this rule.
- (2) Material misstatement of emissions data includes any discrepancy as described in subsection
- (a) of this section, omission as described in subsection (b) of this section, or misreporting as described in subsection (c) of this section, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the total reported emissions (metric tons of CO2e) in a GHG Reporting Program emissions data report contains errors greater than five percent.
- (a) Discrepancies 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 include any emissions the verifier concludes must be part of an emissions data report, but were not included.
- (c) Misreporting includes 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.

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

(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 468.020, 468A.050 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050 & 468A.280

History:

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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 report or fuel pathway application, then the verification team must confirm that the reported data or reported emissions for that source were calculated:
- (a) Using any missing data procedures as required under OAR chapter 340, division 215 or OAR chapter 340, division 253, as applicable; and
- (b) That a reasonable temporary data collection procedure was used for the source; or
- (c) That DEQ approved an alternative method.
- (2) If a source selected for a data check was affected by a loss of data used for the reported data in the report or fuel pathway application, 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 468.020, 468A.050, 468A.266, 468A.271, 468A.277 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

History:

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340-272-0470

Review of Operations and Emissions for Emissions Data Reports Submitted under OAR Chapter 340, Division 215

- (1) Verification services for verification of GHG Reporting Program emissions data reports submitted under OAR chapter 340, division 215 must include review that meets all of the requirements of this rule.
- (2) Facility operations must be reviewed to identify applicable greenhouse gas emissions sources, and the review must:
- (a) Be conducted by the verification team;
- (b) 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; and
- (c) Review the reported current primary and any secondary (if reported) NAICS codes to ensure they accurately represent the NAICS-associated activities for the facility. The review of these NAICS codes and associated activities must be documented in the sampling plan. If the reported NAICS code(s) is determined to be inaccurate and the responsible entity does not submit a revised emissions data report to correct the current NAICS code(s), the result will be an adverse verification statement.
- (3) 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. Documentation retained by the responsible entity to support claims of specified sources of electricity, as required under OAR 340-215-0042(6) must be reviewed to ensure it is sufficient to support the claim. Verifiers must use professional judgment to determine whether the records retained authenticate the claim.
- (4) Information regarding increases or decreases in emissions, as required under OAR 340-215-0044(4) must be reviewed to ensure it is reported in conformance with the requirements of that division, however, the narrative description itself is not subject to the verification requirements of this division.
- (5) Supporting documentation retained by the responsible entity to authenticate the purchase of gaseous or liquid biomass-derived fuels or hydrogen, as required under OAR 340-215-0042(4) must be reviewed to ensure it is sufficient to authenticate the purchase. Verifiers must use professional judgment to determine whether the records retained authenticate the purchase and fuel type.
- (a) For biomethane and hydrogen reported under OAR 340, division 215 the verifier must:

- (A) Examine all nomination, invoice, scheduling, allocation, transportation, storage, in-kind fuel purchase and balancing reports from the producer to the reporting entity and have reasonable assurance that the reporting entity is contractually receiving the identified fuel;
- (B) Determine that the biomethane met pipeline quality standards;
- (C) Review documentation that confirms the gas was contractually delivered to Oregon;
- (D) Review attestations regarding environmental attributes confirming that no other party can make a claim on attributes that are being reported under OAR 340 division 215;
- (E) If book and claim accounting methodology was used to report contractual deliveries of gas, the verifier must also review documentation to confirm the reported quantity of gas was injected into a pipeline connected to Oregon within the emissions data year; and
- (F) If an electronic tracking system approved by DEQ is used for book and claim, the verifier must review records from the tracking system showing the retirement of all environmental attributes of that fuel that are being reported under this division.

Statutory/Other Authority: ORS 468.020, 468A.050 & 468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050 & 468A.280

History:

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340-272-0495

Independent Review and Completion of Verification Services

- (1) Verification statement. The verification body must complete a verification statement(s) upon completion of verification services, provide its statement to the responsible entity, and submit its statement to DEQ by the applicable verification deadline specified under OAR 340-272-0100(3). Each positive, qualified positive, or adverse verification statement must describe the findings of the verification; and
- (a) For every qualified positive verification statement, the verification body must explain the nonconformances contained within the report or fuel pathway application and cite the sections(s) in OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, that corresponds to the nonconformance and why the nonconformances do not result in a material misstatement; and
- (b) For every adverse verification statement, the verification body must explain all nonconformances or material misstatements leading to the adverse verification statement and cite the sections(s) in OAR chapter 340, division 215, or OAR chapter 340, division 253, as applicable, that corresponds to the nonconformance(s) and material misstatement(s).
- (2) Independent review. The verification body must have the verification services and findings of the verification team independently reviewed by an independent reviewer before

each verification statement is completed. The independent reviewer must be employed by the verification body and must be a lead verifier not involved in verification services for the responsible entity during that reporting year or for that fuel pathway application period, but does not need to be a sector specific verifier. The independent reviewer must:

- (a) 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) Maintain independence from the verification services by not making specific recommendations about how the verification services should be performed; and
- (c) 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 body issues the verification statement.
- (3) As part of completing verification services, the verification body must:
- (a) Provide the responsible entity with the following:
- (A) A detailed verification report, that must at a minimum include:
- (i) A list of all verification team members that provided verification services, including identification of verifiers, lead verifiers, sector specific verifiers, <u>verifiers in training</u> 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 CFP 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); and
- (b) Have a final discussion with the responsible entity explaining the verification team's findings, and notify the responsible entity 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 report or fuel pathway application to be free of material misstatement, and whether the report or fuel pathway application 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 their independent review on behalf of the verification body and his or her their concurrence that the findings are true, accurate, and complete.
- (5) Procedures for potential adverse verification statement and petition process.
- (a) Before the verification body submits an adverse verification statement to DEQ, the verification body must notify the responsible entity of the potential of an adverse verification statement, and the responsible entity must be provided at least 14 <u>calendar</u> days to make modifications to correct any material misstatements or nonconformance found by the verification team. When a verification body has provided notification to a responsible entity under this subsection:
- (A) The responsible entity 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 applicable verification deadline specified in OAR 340-272-0100(3), even if the responsible entity makes a request to DEQ according to subsection (b); and

- (C) The verification body must provide notice to DEQ of the potential for an adverse verification statement at the same time it notifies the responsible entity, and include in its notice to DEQ the current issues log.
- (b) When a verification body has provided notice under subsection (a) and the responsible entity and the verification body cannot reach agreement on modifications that result in a positive or qualified positive verification statement because of a disagreement on the requirements of this division, the responsible entity may petition DEQ before the verification deadline and before the verification statement is submitted to make a final decision as to the verifiability of the submitted report or fuel pathway application. When the responsible entity files such petition with DEQ:
- (A) The responsible entity must submit all information it believes is necessary for DEQ to make a determination with its petition;
- (B) The responsible entity and the verification body must submit to DEQ within ten <u>calendar</u> days any additional information requested by DEQ;
- (C) DEQ will review the information submitted and, based on the requirements of this division and that information, will make a determination on whether modifications are necessary in order for the verification body to issue a positive or qualified positive verification statement, or if such a statement could be issued without modifications; and
- (D) DEQ will notify both the responsible entity and the verification body of its determination.

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

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through 468A.277 & 468A.280

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340-272-0500

Requirements for Conflict of Interest Evaluation

- (1) Conflict of interest evaluation. Before verification services may begin, each responsible entity 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, verifiers, lead verifiers, sector specific verifiers, independent reviewers, <u>verifiers in training</u>, 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 entity and the verification body share any management staff or board of directors membership, or any of the senior management staff of the responsible entity 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 entity any of the services in paragraph (A) (B), or (C) of this subsection, as applicable, within the previous five years:
- (A) High conflict of interest services provided to any responsible entity:
- (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 entity;
- (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 entity;
- (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 entity 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;
- (xii) 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;
- (xiii) Acting as a broker-dealer (registered or unregistered), promoter or underwriter on behalf of the responsible entity;
- (xiv) Any legal services; or
- (xv) Expert services to the responsible entity, a trade or membership group to which the responsible entity belongs, or a legal representative for the purpose of advocating the responsible entity 's interests in litigation or in a regulatory or administrative proceeding or investigation.
- (B) Additional high conflict of interest services provided to a responsible entity 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 entity;
- (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 entity.
- (C) Additional high conflict of interest services provided to a responsible entity 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 greenhouse gas analysis for air quality permitting or land use review that includes facility specific information; or
- (iii) Preparing or producing greenhouse gas-related manuals, handbooks, or procedures specifically for the responsible entity.
- (c) Any member of the verification body or verification team has provided verification services for the responsible entity except within the time periods in which the responsible entity is allowed to use the same verification body or team members as specified under OAR 340-272-0100(5); or
- (d) Any member of the verification body provides any type of monetary or non-monetary incentive to a responsible entity to secure a verification contract, influence verification documentation, or influence verification 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(5).
- (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 entity; 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 entity. If a medium potential for conflict of interest is identified and the responsible entity intends to engage the verification body for verification, the responsible entity 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 working on or discussing 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 entities. A responsible entity 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 entity 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 entity 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 entity 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 entity'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 entity 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 entity or related entities;
- (ii) Identification of whether work is currently being performed for the responsible entity or related entities, and if so, the nature of the work;

- (iii) How much work was performed for the responsible entity 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 entity or a related entity; and
- (v) How much work related to greenhouse gases the verification team has performed for the responsible entity 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 entity, and a description of any instances of personal or family relationships with management or employees of the responsible entity that potentially represent a conflict of interest;
- (e) Identification of any other circumstances known to the responsible entity 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 that to the best of my knowledge and belief, the information provided in this 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 entity and will notify the responsible entity 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. DEQ may, at its discretion, determine that a high conflict of interest exists when a member of the verification team provided services within the <u>prervious previous</u> 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.
- (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 entity 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 entity must each:
- (A) 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 entity have taken or propose to take to avoid, neutralize, or mitigate the potential for a conflict of interest;
- (B) 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 calendar days of the verification body or any verification team member entering into any contract with the responsible entity or related entity for which the body has provided verification services, the responsible entity 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 entity must re-verify its reports or fuel pathway applications, and if modification, suspension, or revocation of DEQ approval of the verification body or any verification team member is warranted; and
- (C) Notify DEQ, within 30 <u>calendar</u> days, of any conflicts of interest that arise after verification services begin and until one year after verification services are completed. When such notification is made:
- (i) If DEQ determines that a disclosed emerging potential conflict is medium risk and the responsible entity and verification body agree to mitigate this risk in a manner acceptable to DEQ, the verification body may continue to provide verification services to the responsible entity and will not be subject to suspension or revocation of DEQ approval; and
- (ii) 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 entity-, and may be subject to suspension or revocation of approval.
- (b) Each verification body must report to DEQ any changes in its organizational structure, including mergers, acquisitions, or divestitures, that occur within one year after completion of any verification services.

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

468A.280

Statutes/Other Implemented: ORS 468A.010, 468A.015, 468A.050, 468A.265 through

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