TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 301 GREENHOUSE GAS REPORTING - VERIFICATION REQUIREMENTS

20.2.301.1 ISSUING AGENCY: Environmental Improvement Board.
[20.2.301.1 NMAC - N, 01/01/11]

20.2.301.2 SCOPE: All persons who own or operate an applicable source of greenhouse gas emissions in the geographic areas within the jurisdiction of the environmental improvement board, and all persons providing verification services for greenhouse gas emissions reports submitted to the department.
[20.2.301.2 NMAC - N, 01/01/11]

20.2.301.3 STATUTORY AUTHORITY: Environmental Improvement Act, NMSA 1978, Section 74-1-8(A)(4), and Air Quality Control Act, NMSA 1978, Sections 74-2-1 et seq., including specifically Sections 74-2-5(B)(1) & 74-2-(5)(C)(5)(d) & (e).
[20.2.301.3 NMAC - N, 01/01/11]

20.2.301.4 DURATION: Permanent.
[20.2.301.4 NMAC - N, 01/01/11]

20.2.301.5 EFFECTIVE DATE: January 1, 2011 except where a later date is cited at the end of a section.
[20.2.301.5 NMAC - N, 01/01/11]

20.2.301.6 OBJECTIVE: The objective of this part is to establish requirements for the verification of annual reports of greenhouse gas emissions to the department.
[20.2.301.6 NMAC - N, 01/01/11]

20.2.301.7 DEFINITIONS: The definitions included in 20.2.300 NMAC shall apply to the terms used in this part. The definitions included in 20.2.2 NMAC shall apply to the terms used in this part, unless such term is defined in 20.2.300 NMAC or in this part.

A. "Adverse verification statement" means a verification statement rendered by a verification body stating that the verification body cannot conclude that there is a reasonable level of assurance for an emissions data report.

B. "Conflict of interest" means a situation in which, because of financial or other activities or relationships with other persons or organizations, a person or body is unable or potentially unable to render an impartial verification opinion of a potential client's greenhouse gas emissions, or the person or body's objectivity in performing verification services is or might be otherwise compromised.

C. "Data check" means an independent calculation or checking of data conducted by a verifier to recreate the emissions for a discreet source included in an emissions data report.

D. "Full verification" means all verification services as provided in 20.2.301.101 NMAC.

E. "Independent Peer Reviewer" means a lead verifier within a verification body who has not participated in conducting verification services for the current reporting year who provides an independent review of verification services rendered as required in 20.2.101.117 NMAC.

F. "ISO" means the international organization for standardization.

G. "Less Intensive Verification" means the verification services provided in interim years between full verifications; less intensive verification only requires risk assessment and data checks on an owner or operator's emissions data report based on the most current sampling plan developed as part of the most current full verification services. This level of verification may only be used if the verifier can provide findings with a reasonable level of assurance.

H. "Material misstatement" means an error or omission, or a collection of errors or omissions, that results in a determination that a verification statement contains a material misstatement under subsection A of 20.2.301.116 NMAC.

I. "Positive verification statement" means a verification statement rendered by a verification body stating that the verification body can say with reasonable assurance that the submitted emissions data report is free of material misstatement and that the emissions data report conforms to the requirements of 20.2.300 NMAC and 20.2.301 NMAC.

J. **"Reasonable level of assurance"** for an emissions data report means the report satisfies subsection A of 20.2.301.101 NMAC.

K. **"Verification"** means a systematic, independent and documented process for the evaluation of an owner's or operator's emissions data report against the reporting procedures and methods for calculating and reporting GHG emissions in 20.2.300 NMAC.

L. **"Verification body"** means a firm, accredited by the accreditation body ~~and recognized by the department or its designee~~, that is able to render a verification statement and provide verification services for owners and operators subject to reporting under 20.2.300 NMAC.

M. **"Verification cycle"** means three years of verification activities. Each verification cycle must include at least one year of full verification, and may include two years of less intensive verification, if eligible.

N. **"Verification services"** means services provided during verification as specified in this part, including but not limited to reviewing an owner's or operator's emissions data report, verifying its accuracy according to the standards specified in 20.2.300 NMAC, assessing the owner's or operator's compliance with this rule, and submitting a verification opinion to the department.

O. **"Verification statement"** means the final written declaration rendered by a verification body attesting whether an owner's or operator's emissions data report is free of material misstatement and whether the emissions data report conforms to the requirements of 20.2.300 NMAC.

P. **"Verification team"** means all of those working for a verification body, including all subcontractors, to provide verification services for an owner or operator.

Q. **"Verifier"** means an individual employed or contracted by an accredited verification body who has been deemed competent by the verification body to carry out verification services as specified in 20.2.301 NMAC.

[20.2.301.7 NMAC - N, 01/01/11]

20.2.301.8 **SEVERABILITY:** If any provision of this part, or the application of such provision to any person or circumstance, is held invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.
[20.2.301.8 NMAC - N, 01/01/11]

20.2.301.9 **CONSTRUCTION:** This part shall be liberally construed to carry out its purpose.
[20.2.301.9 NMAC - N, 01/01/11]

20.2.301.10 **SAVINGS CLAUSE:** Repeal or supersession of prior versions of this part shall not affect any administrative or judicial action initiated under those prior versions.
[20.2.301.10 NMAC - N, 01/01/11]

20.2.301.11 **COMPLIANCE WITH OTHER REGULATIONS:** Compliance with this part does not relieve a person from the responsibility to comply with any other applicable federal, state, or local regulations.
[20.2.301.11 NMAC - N, 01/01/11]

20.2.301.12 to 20.2.301.99 [RESERVED]

20.2.301.100 **APPLICABILITY AND SCOPE OF VERIFICATION REQUIREMENTS:**

A. GHG emissions specified as reporting-only in 20.2.300 NMAC shall not be counted in total emissions for determining whether the thresholds in this section have been met or exceeded.

B. Except as provided in Subsections C through E of this section, owners or operators are required to obtain annual verification for a facility that in 2011 or any calendar year thereafter emits 25,000 metric tons CO2e or more per year in combined emissions from one or more of the source categories specified in 20.2.300 NMAC.

C. When the operation of a facility subject to the requirements of this section is changed such that the owner or operator has reported less than 25,000 metric tons of CO2e emissions for a calendar year, the owner or operator shall obtain verification of annual emissions reports for no less than three subsequent calendar years. If CO2e emissions of a facility subject to the requirements of this section again exceed 25,000 metric tons in any calendar year the provisions of Subsection B of this section apply.

D. Carbon dioxide emissions from the combustion of biomass fuels shall be included in the determination regarding verification applicability, with the following exceptions.

(1) Until such time as the department has made a determination regarding the carbon neutrality of any biomass fuels, a maximum of 15,000 metric tons of carbon dioxide emissions from the combustion of pure solid biomass fuel may be excluded from calculation of GHG emissions for comparison to the 25,000 metric ton CO2e per year verification threshold in Subsection A of this section.

(2) After such time as the department has made a determination regarding the carbon neutrality of any biomass fuels, the carbon dioxide emissions from the combustion of those fuels determined to be carbon neutral may be excluded from calculation of GHG emissions for determining whether the 25,000 metric tons CO2e per year verification threshold in Subsection A of this section has been met.

E. Notwithstanding Subsections C and D of this section, any facility for which any emissions for that year are subject to an obligation to surrender compliance instruments under 20.2.350.301 NMAC shall obtain verification of reported annual emissions, exclusive of reporting-only emissions as specified in 20.2.300 NMAC.

F. Owners or operators may exclude from the scope of verification:

(1) GHG emissions specified as reporting-only in 20.2.300 NMAC; and

(2) carbon dioxide emissions from the combustion of biomass fuels that the department has deemed carbon neutral.

G. Owners or operators of any facility not required to obtain annual verification as specified in this section may voluntarily obtain verification of their emissions report, provided that all requirements related to verification and other reporting requirements in 20.2.300 NMAC are met.

[20.2.301.100 NMAC - N, 01/01/11]

20.2.301.101 REQUIREMENTS FOR ANNUAL VERIFICATION OF EMISSIONS DATA REPORTS:

A. Verification bodies shall conduct verification processes and design verification procedures to determine whether there is a reasonable level of assurance for each separate emissions data report every year of the verification cycle. The verification team shall find that there is a reasonable level of assurance for an emissions data report only if the report:

(1) contains no material misstatement; and

(2) conforms to the requirements of 20.2.300 NMAC.

B. The verification body must provide verification services in compliance with this part.

C. Facility owners or operators required to obtain annual verification shall be subject to full verification requirements in the first year that verification is required for an emissions data report. Upon completion of a positive verification statement under full verification requirements, the facility owner or operator may be eligible for two years of less intensive verification services as defined in 20.2.300.7 NMAC. This cycle may be repeated in subsequent three-year cycles; however, full verification requirements shall apply at least once every three years.

D. Facility owners or operators required to obtain annual verification shall obtain full verification services if any of the following apply:

(1) there has been change in the verification body from the previous year; or

(2) a verification body issued an adverse verification statement for that facility's previous year's emissions data report.

E. Owners or operators of any facility required to obtain, or voluntarily obtaining, verification of their emissions report shall complete the verification process and submit the verification report to the department no later than:

(1) August 1, 2012, for reports of emissions in calendar year 2011; and

(2) April 1 of the year following the calendar year in which the emissions occurred, for reports of emissions in calendar years after 2012.

[20.2.301.101 NMAC - N, 01/01/11]

20.2.301.102 ACCREDITATION REQUIREMENTS FOR VERIFICATION BODIES:

A. The accreditation requirements specified in this section shall apply to all verification bodies providing verification services under this rule.

B. A verification body shall be qualified to conduct verification services for the emissions reports submitted to the department as required by 20.2.300 NMAC only if:

(1) the department has determined that the verification body has demonstrated knowledge of the reporting requirements in 20.2.300 NMAC; and

(2) it is accredited to ISO 14065 through a program developed under ISO 17011 by an accreditation body that is a member of the International Accreditation Forum, Inc.

C. Prior to January 1, 2013, accreditation by the California air resources board under Title 17, California Code of Regulation, Section 95132, may be substituted for the accreditation required under paragraph 2 of Subsection B of this section.
[20.2.301.102 NMAC - N, 01/01/11]

20.2.301.103 REQUIREMENTS FOR VERIFICATION SERVICES: The following verification services must be provided for each emissions data report.

A. As part of the verification services, the verification team shall review documents submitted, assess risks of a material misstatement, develop a verification plan (that includes a sampling plan), evaluate the emissions data report against the verification requirements, and assess the materiality of errors, omissions and misstatements identified.

B. The verification team shall request any information and documents needed for verification services. Such information shall include, but is not limited to, original records and supporting data for the emissions data report.
[20.2.301.103 NMAC - N, 01/01/11]

20.2.301.104 COMPOSITION OF VERIFICATION TEAM: A verification team must include the following:

A. a lead verifier;

B. an independent peer reviewer; and

C. any subcontractor elected to provide verification services under 20.2.301.105 NMAC.
[20.2.301.104 NMAC - N, 01/01/11]

20.2.301.105 SUBCONTRACTING: The following requirements shall apply to any verification body that elects to subcontract verification services.

A. The primary verification body must assume full legal responsibility for verification services performed by subcontracted verifiers or verification bodies.

B. A verification body or verifier acting as a subcontractor to the primary verification body will not further subcontract that same work to another firm or individual.

C. A verification body or verifier acting as a subcontractor is subject to all conflict of interest requirements in 20.2.301.107 NMAC.

D. A verification body or verifier acting as a subcontractor must be identified by the primary verification body as part of the verification team.
[20.2.301.105 NMAC - N, 01/01/11]

20.2.301.106 CONFLICT OF INTEREST SUBMITTAL REQUIREMENTS FOR ACCREDITED VERIFICATION BODIES. Before the start of any work related to providing verification services to an owner or operator, a verification body must first be authorized in writing by the department to provide verification services. To obtain authorization the verification body shall submit to the department a self-evaluation of the potential for any conflict of interest that the verification body, entities related to the verification body, and members of the verification team including subcontractors, may have with the owner or operator or their related entities for which it will perform verification services. For the purposes of this section, the term member refers to staff on the verification team, in the verification body and any subcontractors. The submittal shall include all of the following.

A. Identification of whether the potential for conflict of interest is high, low, or medium based on factors specified in this section.

B. An organizational chart of the business structure of the verification body, including its related entities and brief description of the primary work done by the verification body and related entities.

C. Identification of whether any member of the verification body, entities related to the verification body, or the verification team including subcontractors has previously provided verification services for the owner or operator or its related entities and, if so, the years in which such verification services were provided.

D. Identification of whether any member of the verification body, entities related to the verification body, or the verification team including subcontractors, has engaged in any non-verification services of any nature with the owner or operator or related entities, in any jurisdiction, during the previous three years. The verification body must also disclose any services listed under Subsections A through C of 20.2.301.107 NMAC it has provided to the owner or operator, regardless of when these services occurred.

E. If non-verification services have previously been provided, the following information shall also be submitted: identification of the nature and location of the work performed for the owner or operator 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 owner's or operator's greenhouse gas emissions or the accounting of greenhouse gas emissions or electricity transactions.

F. The nature of past, present or future relationships the verification body, entities related to the verification body, and members of the verification team including subcontractors have with the owner or operator or related entity including:

(1) instances when any member has performed or intends to perform work for the owner or operator;

(2) identification of whether work is currently being performed for the owner or operator and, if so, the nature of the work;

(3) whether any member has any contracts or other arrangements to perform work for the owner or operator or a related entity;

(4) identification of how much work was performed in each of the last three years, as a percentage of the verification body's total gross income for each of the last three years;

(5) identification of how much work related to greenhouse gases or electricity transactions was performed for the owner or operator or related entities in each of the last three years, as a percentage of the verification body's income for each of the last three years; and

(6) identification of how much work was performed by each subcontractor for the owner or operator in each of the last three years, as a percentage of each subcontractor's total gross income for each of the last three years.

G. 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.

H. A list of names of the verification team members that will perform verification services for the owner or operator and a description of any instances of personal or family relationships with management or employees of the owner or operator that potentially represent a conflict of interest.

I. Identification of any other circumstances or relevant information known to the verification body or owner or operator that could result in a conflict of interest, or any situation where the appearance of impartiality could undermine confidence in the verification body's ability to assess the reported emissions.

[20.2.301.106 NMAC - N, 01/01/11]

20.2.301.107 CONFLICT OF INTEREST REQUIREMENTS FOR VERIFICATION BODIES: The conflict of interest provisions of this section shall apply to the verification body, entities related to the verification body, and the verification team accredited according to the requirements of 20.2.301 NMAC to perform verification services for GHG emissions reports to the department. Member for purposes of this section means any employee or subcontractor of the verification body or entities related to the verification body. Member also includes any individual with a majority equity share in the verification body or entities related to the verification body.

A. The potential for a conflict of interest shall be deemed to be high where:

(1) the verification body and owner or operator share any management staff or board of directors membership, or any of the management staff of the owner or operator have been employed by the verification body, or vice versa, within the previous three years; or

(2) within the previous three years, any member of the verification body, any entity related to the verification body, and the verification team has provided to the owner or operator any of the following non-verification services:

(a) designing, developing, implementing, or maintaining an inventory or information or data management system for facility greenhouse gases, or, where applicable, electricity transactions;

(b) developing greenhouse gas emission factors or other greenhouse gas-related engineering analysis;

(c) designing energy efficiency, renewable power, or other projects which explicitly identify greenhouse gas reductions as a benefit;

(d) preparing or producing greenhouse gas-related manuals, handbooks, or procedures specifically for the reporting facility;

(e) appraisal services of carbon or greenhouse gas liabilities or assets;

(f) brokering in, advising on, or assisting in any way in carbon or greenhouse gas-related markets;

(g) managing any health, environment or safety functions which explicitly identify greenhouse gas reductions as a benefit;

(h) bookkeeping or other services related to the accounting records or financial statements, unless those services have been limited to financial auditing;

(i) any service related to information systems, unless those systems will not be part of the verification process, and excluding third-party auditor or registration services;

(j) appraisal and valuation services, both tangible and intangible related to GHG emissions or reductions inventories;

(k) 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 shall not be part of the verification process;

(l) any actuarially oriented advisory service involving the determination of amounts recorded in financial statements and related accounts;

(m) any internal audit service of GHG emissions management systems that has been outsourced by the owner or operator that relates to the owner's or operator's internal accounting controls, financial systems or financial statements, unless no consulting or advice was provided as part of the audit;

(n) acting as a broker-dealer (registered or unregistered), promoter or underwriter on behalf of the owner or operator;

(o) any legal services related to GHG emissions; or

(p) expert services to the owner or operator or his or her legal representative for the purpose of advocating his or her interests in litigation or in a regulatory or administrative proceeding or investigation involving GHG emissions, unless providing only factual testimony.

(3) the reporting operation has offered inducements to the verification body, subcontractors or verification team members for a positive opinion;

(4) members of the verification body, verification team members, or subcontractors have been deterred from acting objectively or exercising professional skepticism by threats, actual or perceived, from the reporting operation.

(5) members of the verification body, verification team members, subcontractors or family of subcontractors or team members have a financial interest in the reporting operation or its operator.

B. The potential for a conflict of interest shall also be deemed to be high where any staff member of the verification body, entity related to the verification body, or the verification team has provided verification services for the owner or operator for six consecutive years or within three years of the termination of a previous GHG verification contract with the owner or operator. If a verification body or verification team member has been providing verification services for an owner or operator in a greenhouse gas reporting or reductions program other than one in the jurisdiction of the environmental improvement board within the past three years, those years of services will count towards the six consecutive year limit in this subsection.

C. The potential for a conflict of interest shall be deemed high where the independent peer reviewer for the verification team has provided verification or non-verification services for the owner or operator during the current reporting year.

D. The potential for a conflict of interest shall be deemed to be low where no potential for a conflict of interest is found under this section and any non-verification services provided by all members of the verification body and the verification team to the owner or operator within the last three years are valued at less than five percent of the verification body's revenue.

E. The verification body shall deem the potential for a conflict of interest to be medium if the potential for a conflict of interest is not deemed to be either low or high as specified in Subsections A through D of this section.

F. If a verification body deems the potential for conflict of interest to be medium and wishes to provide verification services for the owner or operator, then:

(1) the verification body shall submit, in addition to the self-evaluation, a plan to avoid, neutralize, or mitigate the potential conflict of interest situation; and

(2) the department shall evaluate the conflict of interest mitigation plan and determine whether verification services may proceed, as provided in subsection G of 20.2.301.107 NMAC.

G. Conflict of Interest Determinations. The department shall review the self-evaluation submitted by the verification body and determine whether the verification body is authorized to perform verification services for the owner or operator.

(1) The department shall notify the verification body in writing when the conflict of interest evaluation information submitted under 20.2.301.106 NMAC is deemed complete. Within 45 days after deeming the evaluation information complete, the department shall determine whether the verification body is authorized to proceed with verification and shall so notify the verification body.

(2) If the department determines the verification body or any member of the verification team has any threats specified in Subsections A through C of this section, the department shall find a high potential conflict of interest and verification services may not proceed.

(3) If the department determines that there is a low potential conflict of interest, verification services may proceed.

(4) If the department determines that the verification body and verification team have a medium potential for a conflict of interest, the department shall evaluate the conflict of interest mitigation plan and may request additional information from the applicant to complete the determination. In determining whether verification services may proceed, the department may consider factors including, but not limited to, the nature of previous work performed, the current and past relationships between the verification body and its subcontractors with the owner or operator, and the cost of the verification services to be performed. If the department determines that these factors when considered in combination with the mitigation plan demonstrate a low level of potential conflict of interest, then the department will authorize the verification body to provide verification services.

(5) Notwithstanding other provisions of this section, any conflict of interest created by individual employee of the verification body or of the owner or operator of the reporting entity may be mitigated as specified in Subsection F of 20.2.301.107 NMAC, by describing in the mitigation plan how the individual will be isolated from the verification team and verification activity.

H. Monitoring Conflict of Interest Situations.

(1) After commencement of verification services, the verification body shall monitor and immediately make full disclosure in writing to the department regarding any potential for a conflict of interest situation that arises. This disclosure shall include a description of actions that the verification body has taken or proposes to take to avoid, neutralize, or mitigate the potential for a conflict of interest.

(2) The verification body shall 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 days of any change in arrangements or relationships with the owner or operator for which the verification body has provided verification services that may create a medium or high threat of conflict of interest, the verification body shall notify the department of the change and provide a description of the nature of the change. The department will make a conflict of interest determination under Subsection G of this section.

(3) The verification body shall report to the department any changes in its organizational structure, including mergers, acquisitions, or divestitures that may have created a medium or high threat of conflict of interest for one year after completion of verification services within 30 days and submit an evaluation of how the change(s) impacts the potential for conflict of interest.

(4) The department may invalidate a verification finding if a medium or high threat of a conflict of interest has arisen for the verification body or any member of the verification team and, in the case of a medium threat, the threat has not been adequately mitigated. In such a case, the owner or operator shall be provided 180 days to have their emissions report verified by a different verification body.

(5) If the verification body or its subcontractor(s) are found to have violated the conflict of interest requirements of this section, the department may ~~rescind its accreditation for any appropriate period of time. Additionally, the department may separately revoke its recognition of an accredited verification body under 20.2.301.124 NMAC.~~notify the accreditation body.

[20.2.301.107 NMAC - N, 01/01/11]

20.2.301.108 NOTICE OF VERIFICATION SERVICES: Prior to commencing verification services for a facility owner or operator, the verification body shall submit a notice of verification services to the department. Verification activities shall not proceed for 21 days or until the verification body receives written approval to proceed from the department, whichever is earlier. If the department does not respond to the verification body within 21 days, the verification body may begin to conduct verification activities.

[20.2.301.108 NMAC - N, 01/01/11]

20.2.301.109 PRELIMINARY ACTIVITIES:

A. The verification team shall discuss with the owner or operator the scope and objective of the verification services and obtain information from the owner or operator necessary to develop a verification plan. Such information shall include but is not limited to:

(1) information to allow the verification team to develop a general understanding of facility or entity boundaries, operations, emissions sources, electricity transactions, as applicable;

(2) information about the data management system used to track GHG emissions, electricity transactions, and other required measurement data as applicable;

(3) information regarding the training or qualifications of personnel involved in developing the GHG emissions data report;

(4) description of the specific methodologies used to quantify and report GHG emissions, electricity transactions, and other required data as applicable;

(5) records of measured data related to emissions and operations for the prior and current period;

(6) inventory of sources and their associated emissions for the reporting period; and

(7) any prior verification reports, if applicable.

B. In developing the verification plan, the verifier shall:

(1) gain an understanding of the organization and the processes that emit greenhouse gases;

(2) conduct a risk assessment to evaluate inherent, control and detection risk;

(3) conduct preliminary analytical testing to identify anomalies in the data;

(4) conduct a sensitivity analysis to assess the relative contribution of each source in the inventory to the reported annual emissions; and

(5) consider any other relevant developments at the facility, in the regulations, or legal environment.

[20.2.301.109 NMAC - N, 01/01/11]

20.2.301.110 SAMPLING PLAN: As part of the verification procedures, the verification team shall develop a sampling plan that, when combined with the other verification procedures, provides sufficient and appropriate evidence to allow the verifier to arrive at a conclusion. The sampling plan shall be designed to achieve the specified verification objective.

A. The sampling plan shall consider:

(1) statistical versus non-statistical approaches;

(2) design of the sample, including the population characteristics;

(3) stratification (categorization of population into subgroups);

(4) emission weighted selection;

(5) sample size; and

(6) sample selection.

B. As relevant information becomes available during the course of verification activities, the verification team shall modify the sampling plan as necessary to address emerging potential issues of material misstatement or nonconformance with the requirements of this rule.

[20.2.301.110 NMAC - N, 01/01/11]

20.2.301.111 VERIFICATION PLAN:

A. Accounting for requirements set by this part, the verification plan shall document:

(1) the scope of the verification;

(2) the level of assurance;

(3) the verification standard;

(4) the verification criteria;

(5) the objectives of the verification;

(6) the timing of the verification, including site visits;

(7) the nature of the communications required;

(8) the resources required to conduct the verification, including the role of verification team members; and

(9) the nature, timing and extent of the verification procedures, including the sampling plan.

B. The verification body shall retain the verification plan in paper, electronic, or other format for a period of not less than seven years following the submission of each verification statement.

[20.2.301.111 NMAC - N, 01/01/11]

20.2.301.112 SITE VISITS: In years for which full verification services are required under Subsection C of 20.2.301.101 NMAC, at least one member of the verification team shall at a minimum make one onsite site visit to each facility for which an emissions data report is submitted. The verification team member(s) shall also conduct an onsite visit of the headquarters or other location of central data management, if different from the facility location. During the site visit, the verification team member(s) shall perform all of the following tasks.

A. Observe whether all sources at the site are represented in the emissions report as specified in 20.2.300 NMAC as applicable to the owner or operator.

B. Assess whether the source inventory is identified, categorized, and reported appropriately. Collect evidence as to explanations for data anomalies identified in the verification plan.

C. Understand the data trail used by the owner or operator to measure, quantify, and report greenhouse gas emissions and, when applicable, electricity transactions.

D. Understand and evaluate the associated data controls used by the owner to ensure the completeness and accuracy of the data.

[20.2.101.112 NMAC - N, 01/01/11]

20.2.301.113 AVAILABILITY OF INFORMATION AND DOCUMENTATION: Owners or operators shall make available to the verification team all information and documentation used to calculate and report emissions, electricity transactions, and other information required under 20.2.300 NMAC, as applicable.

[20.2.301.113 NMAC - N, 01/01/11]

20.2.301.114 DATA CHECKS: To determine the reliability of the submitted emissions data report, the verification team shall use data checks as defined in 20.2.301.7 NMAC. The verification team shall conduct data checks throughout the verification process and shall focus first on the largest and most uncertain estimates of emissions and electricity transactions.

A. In establishing the verification plan, the verification team shall use professional judgment to determine the number of data checks required for the team to conclude with reasonable assurance whether the reported emissions are free of material misstatement and the emissions data report otherwise conforms to the requirements of this rule.

B. The verification team shall choose emissions sources for data checks based on their relative sizes and risks of material misstatement as indicated in the verification plan;

C. The verification team, through the conformance assessment, shall ensure that the appropriate methodologies and emission factors have been applied for the emissions sources for sampled data covered under 20.2.300 NMAC.

[20.2.301.114 NMAC - N, 01/01/11]

20.2.301.115 EMISSIONS DATA REPORT MODIFICATIONS: If as a result of review by the verification team and prior to completion of a verification statement the owner or operator chooses to make improvements or corrections to the submitted emissions data report, a revised emissions data report must be submitted to the department as specified by Section 20.2.301.118 NMAC. The owner or operator shall maintain documentation to support any revisions made to the initial emissions data report. Documentation for all emissions data report submittals shall be retained by the owner or operator for seven years pursuant to Subsection R of Section 20.2.300.102 NMAC.

[20.2.301.115 NMAC - N, 01/01/11]

20.2.301.116 MATERIALITY AND CONFORMANCE ASSESSMENT CRITERIA: The verifier shall determine if the annual emissions report is prepared in such a way that it satisfies Subsection A of 20.2.301.101 NMAC.

A. A verification team shall determine that an emission data report contains a material misstatement if either Paragraph 1 or 2 is true.

(1) Based on the verification team's own determination of the level of emissions subject to verification based on the sampling plan, the verification team concludes that total reported emissions are less than 95 percent accurate using equation 301-1:

$$PA = 100 - (SOU/TRE * 100)$$ **Equation 301-1**

Where:

PA = Percent accuracy
SOU = The net result of summing overstatements and understatements resulting from errors, omissions and misreporting
TRE = Total reported emissions

(2) The individual or aggregate effect of one or more errors, omissions or misstatements identified in the course of verification make it probable that the judgment of a reasonable person regarding the total reported emissions would have been changed or influenced by the error, omission or misrepresentation.

B. To assess conformance with this rule the verification team shall review the methods and factors used to develop the emissions data report for adherence to the requirements of 20.2.300 NMAC.

C. The verification team shall keep a log of any issues identified in the course of verification activities that may affect determinations of material misstatement and nonconformance, and how those issues were resolved.

[20.2.301.116 NMAC - N, 01/01/11]

20.2.301.117 COMPLETION OF VERIFICATION: Completion of verification services shall include the following.

A. Verification Statement. Upon completion of the verification services required by this part, the verification body shall complete a verification statement for each emissions data report, and provide that statement to the owner or operator and the department according to the schedule specified in Subsection E of 20.2.301.101 NMAC. Before that statement is completed, the verification body shall have the verification services and findings of the verification team independently reviewed and approved by an independent peer reviewer.

B. The verification body shall provide either a positive or adverse verification statement to the reporter and to the department based on its findings during the verification process.

C. The lead verifier in the verification team shall attest on the verification statement that the verification team has carried out all verification services as required by this rule, and the independent peer reviewer shall attest to his or her independent review on behalf of the verification body and his or her concurrence with the verification findings. If the independent peer reviewer does not determine that the verification team has carried out all verification services as required by the rule or if the independent peer reviewer rejects the verification team's findings, then the verification body cannot issue a positive verification statement.

D. The verification body shall provide to the owner or operator a detailed verification report. The verification report shall at minimum include the detailed comparison of the data checks with the submitted emissions data report, errors, omissions and misstatements identified during the course of the verification, any corrections made to the original annual emissions report as a result of the verification, and observations about the data management systems that are connected to the errors, omissions and misstatements identified, as well as any qualifying comments on findings during verification services. The detailed verification report shall be made available to the department upon request.

[20.2.301.117 NMAC - N, 01/01/11]

20.2.301.118 DISPUTE RESOLUTION: Prior to the verification body providing an adverse verification statement pursuant to Subsection B of 20.2.301.117 NMAC, the owner or operator shall be provided at least 21 days to modify the emissions data report to correct any material misstatement or nonconformance found by the verification team. The modified report and verification statement must be submitted to the department before the applicable verification deadline, unless the owner or operator makes a request to the department as follows.

A. If the owner or operator and the verification body cannot reach agreement on modifications to the emissions data report that result in a positive verification statement, the owner or operator may petition the department to make a final decision as to the verifiability of the submitted emissions data report.

B. If the department determines that the emissions data report does not meet the standards and requirements specified in this article, the owner or operator shall have the opportunity to submit within 60 days of the date of this decision any emissions data report revisions that address the department's determination, for re-verification of the emissions data report. In re-verifying a revised emissions data report, the verification body and verification team shall be subject to the requirements in 20.2.301.118 NMAC through 20.2.301.120 NMAC.

C. Upon provision of the verification statement to the department, the emissions data report shall be considered final and no changes shall be made except as provided in 20.2.301.115 NMAC or 20.2.301.118 NMAC. All verification requirements of this rule shall be considered complete upon provision of the verification statement.

[20.2.301.118 NMAC - N, 01/01/11]

20.2.301.119 RESPONSIBILITY FOR INFORMING ACCREDITATION BODY OF DISPUTE: In addition to initiating the dispute resolution process specified in 20.2.301.118 NMAC, the owner or operator and verification body shall inform the applicable accreditation body specified in Paragraph 2 of Subsection B of 20.2.301.102 NMAC of the dispute.
[20.2.301.119 NMAC - N, 01/01/11]

20.2.301.120 VOIDING OF POSITIVE VERIFICATION STATEMENT: The department may make void the positive verification statement submitted by the verification body if:

A. the department finds a high level of conflict of interest existed between a verification body and an owner or operator; or

B. an emissions data report that received a positive verification statement fails an audit by the department.

[20.2.301.120 NMAC - N, 01/01/11]

20.2.301.121 AVAILABILITY OF DATA: Upon request by the department, the owner or operator shall provide the data used to generate an emissions data report, including all data available to a verification body. The department may also review the full verification report given by the verification body to the owner or operator. The full verification report shall be provided to the department upon request.
[20.2.301.121 NMAC - N, 01/01/11]

20.2.301.122 VERIFICATION SERVICES AUDIT: Upon written notification by the department, the verification body shall make itself available for a verification services audit.
[20.2.301.122 NMAC - N, 01/01/11]

20.2.301.123 DURATION OF VERIFICATION SERVICES BY ONE VERIFICATION BODY: Facility owners or operators subject to annual verification shall not use the same verification body for a period of more than six consecutive years. If a facility owner or operator is required or elects to contract with another verification body, they may contract verification services from the previous verification body only after not using the previous verification body for at least three years. If a verification body or verification team member has been providing verification services for an owner or operator in a greenhouse gas reporting or reductions program other than the department's within the previous three years, those years of services will count towards the six consecutive year limit in this section.
[20.2.301.123 NMAC - N, 01/01/11]

20.2.301.124 ~~REVOCATION OF RECOGNITION~~ENFORCEMENT: The department may review, and for good cause, including unmitigated high conflict of interest, ~~revoke recognition of a recognized~~refuse to accept the verification report of a verification body. The department shall notify the accreditation body of the ~~revocation~~ refusal and the reasons ~~for the revocation~~therefor. If a recognized verification body is suspended in any other mandatory or voluntary GHG reporting or trading program, verification reports from that verification body will not be ~~allowed to provide any verification services~~accepted until that suspension ends. If a ~~recognized~~ verification body has its accreditation revoked under any other mandatory or voluntary GHG reporting or trading program, verification reports from that verification body will no longer be ~~allowed to provide verification services~~ accepted under this part until the verification body~~it~~ is reaccredited.
[20.2.301.124 NMAC - N, 01/01/11]