



## Policy Memorandum

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To: **ALL PROJECT DEVELOPERS AND VERIFICATION BODIES**  
Date: **SEPTEMBER 1, 2015**  
Re: **GUIDANCE ON THE ASSESSMENT OF REGULATORY COMPLIANCE**

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Per the Reserve's Program Manual (Section 2.4.6 and 3.3.8) and its protocols, projects must be in material compliance with all applicable laws, including environmental regulations, in order to be credited for GHG reductions or removals. Project developers are required to disclose to the verifier all instances of non-compliance of the project with any law. To confirm regulatory compliance, the verifier must assess 1) whether a violation is related to the project or project activities and 2) whether the violation is material. This memo clarifies how the verifier shall assess regulatory compliance and clarifies how the concept of materiality shall be applied to regulatory compliance.

Before assessing materiality, the verifier must first assess whether a violation is related to the project or project activities. A violation should be considered to be "caused" by project activities if it can be reasonably argued that the violation would not have occurred in the absence of the project activities. It is important to note that the scope of regulatory compliance may be different for different project types. There are many activities and pieces of equipment at a dairy operation, in a forest or at a coal mine that are completely unrelated to project activities occurring at the same site. But activities at a composting facility, nitric acid facility or ODS destruction facility are inherently more connected to the project.

It is also important to review the timing of the violation. Many facilities do not receive documentation of a violation until well after the violation has actually occurred. If a violation was to affect CRT crediting, it would be for the time period when the violation occurred, which is not necessarily when notice of the violation is received.

Once the verifier has determined that the violation is related to the project or project activities and the reporting period being verified, he/she shall then assess the materiality of the violation.

The concept of materiality is found throughout the Reserve's program. Generally, the term is used to indicate something significant (material) as opposed to insignificant (immaterial). The Verification Program Manual discusses materiality with respect to verifying an emissions report in terms of a materiality threshold (Section 1.6.3), a quantitative materiality threshold (Section 1.6.4), and a qualitative materiality threshold (Section 1.6.5). The Verification Program Manual also discusses materiality as it relates to regulatory compliance (Section 3.5.1.7).

This memo shall clarify that the materiality thresholds described in the Verification Program Manual to assess an emissions report are not appropriate to use when assessing the materiality of regulatory violations. The Reserve introduced the concept of materiality to regulatory compliance in order to differentiate between violations that could bring into question the integrity of the project and violations that are strictly administrative or due to acts of nature. Violations that are administrative (such as an expired permit without any other associated violations or tardiness in filing documentation) are not considered material and do not affect CRT crediting. Any other type of violation that is project-related is generally considered material.

Moving forward, any violation that is found by the verifier to be caused by the project or project activities shall be brought to the Reserve as soon as possible for assessment on a case-by-case basis. Verifiers should continue to use professional judgment to assess the violation and gather the necessary information and documentation they feel is required to make a determination of materiality. The Reserve shall utilize this information and the recommendation of the verifier to make such a determination.

This guidance is effective immediately and replaces the guidance provided in Section 3.5.1.7 of the Verification Program Manual regarding materiality and the type of non-compliance events that affect CRT crediting.