

Secretary of State
NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Transportation, Driver and Motor Vehicle Services Division
Agency and Division

735

Administrative Rules Chapter Number

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RULE CAPTION

Relating to Compliance with U.S. Standards for Vehicle Safety and Emissions

Not more than 15 words that reasonably identify the subject matter of the agency's intended action.

RULEMAKING ACTION

ADOPT: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: 735-022-0090

REPEAL:

ORS 184.616, 184.619, 802.010 and 803.045

Stat. Auth.

40 CFR Part 86, and 49 CFR Part 571

Other Authority

ORS 803.045

Stats. Implemented

RULE SUMMARY

DMV has seen an increase in the number of applications to title and register motorcycles and mopeds that are manufactured abroad and imported to the United States for sale. DMV has determined that a number of these vehicles do not comply with federal vehicle standards.

Non-compliant vehicles that are not manufactured to comply with federal vehicle safety and emissions standards are not eligible to receive Oregon title and registration. DMV believes that some manufacturers or distributors of imported vehicles are falsifying the Manufacturers Certificate of Origin (MCO) by including a statement that the vehicle complies with federal vehicle standards, when in fact the vehicle does not comply. Purchasers of these non-compliant vehicles are then able to obtain title and registration which allows them to be used on Oregon highways in violation of state and federal law. This alarming trend could put vehicle consumers and other users of the road at risk of personal injury and contribute to air pollution and greenhouse gas emissions.

In order to keep these non-compliant vehicles off Oregon roads, DMV has adopted a policy which includes new procedures for verifying proof of compliance with federal vehicle standards. The policy, which became effective May 1, 2009, specifies that before issuing title and registration DMV will conduct visual inspections of some vehicles. To implement this policy, DMV proposes to amend OAR 735-022-0090 (Proof of Compliance with Federal Vehicle Standards) to clarify that DMV will not issue title and registration if DMV has reason to believe the vehicle is non-compliant. DMV proposes to implement this rule amendment retroactively to May 1, 2009, the effective date of the policy.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

July 21, 2009

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

Signature

Lauri Kunze

Printed name

Date

* The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division
Agency and Division

735
Administrative Rules Chapter Number

In the Matter of the Amendment of OAR 735-022-0090 (Proof of Compliance with Federal Vehicle Standards)

Rule Caption: Relating to Compliance with U.S. Standards for Vehicle Safety and Emissions

Statutory Authority: ORS 184.616, 184.619, 802.010 and 803.045 **Statutes Implemented:** ORS 803.045

Other Authority: 40 CFR Part 86, and 49 CFR Part 571

Need for the Rule(s): DMV has seen an increase in the number of applications to title and register motorcycles and mopeds that are manufactured abroad and imported to the United States for sale. DMV has determined that a number of these vehicles do not comply with federal vehicle standards.

Non-compliant vehicles that are not manufactured to comply with federal vehicle safety and emissions standards are not eligible to receive Oregon title and registration. DMV believes that some manufacturers or distributors of imported vehicles are falsifying the Manufacturers Certificate of Origin (MCO) by including a statement that the vehicle complies with federal vehicle standards, when in fact the vehicle does not comply. Purchasers of these non-compliant vehicles are then able to obtain title and registration which allows them to be used on Oregon highways in violation of state and federal law. This alarming trend could put vehicle consumers and other users of the road at risk of personal injury and contribute to air pollution and greenhouse gas emissions.

In order to keep these non-compliant vehicles off Oregon roads, DMV has adopted a policy which includes new procedures for verifying proof of compliance with federal vehicle standards. The policy, which became effective May 1, 2009, specifies that before issuing title and registration DMV will conduct visual inspections of some vehicles. To implement this policy, DMV proposes to amend OAR 735-022-0090 (Proof of Compliance with Federal Vehicle Standards) to clarify that DMV will not issue title and registration if DMV has reason to believe the vehicle is non-compliant. DMV proposes to implement this rule amendment retroactively to May 1, 2009, the effective date of the policy.

Documents Relied Upon and where they are available:

40 CFR Part 86 http://www.access.gpo.gov/nara/cfr/waisidx_08/40cfr86_08.html

49 CFR Part 571 http://www.access.gpo.gov/nara/cfr/waisidx_08/49cfr571_08.html

Fiscal and Economic Impact, including Statement of Cost of Compliance: As noted in the Statement of Need, this rule is intended to decrease the number of non-compliant vehicles illegally titled and registered in Oregon. This will have a negative fiscal impact on persons who attempt, and are not able, to title and register non-compliant vehicles. The rule may also have a negative impact on vehicle dealers, consumers and other persons who unknowingly purchase non-compliant vehicles and are unable to obtain title and registration to these vehicles. There is no way for DMV to determine how many vehicles may be affected by this rule and no way to estimate the fiscal or economic impact on vehicle dealers and purchasers because it is based on individualized purchases and the cost of each vehicle will vary. As a result, the potential magnitude of the fiscal impact cannot be quantified at this time.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): There is no fiscal or economic impact to state or local government agencies or businesses, including small businesses except as set forth above. There is no fiscal or economic impact to the general public, except on those persons who purchase a non-compliant vehicle and are unable to title and register the vehicle.
2. Cost of compliance effect on small business (ORS 183.336): None.
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Few if any.
 - b. Projected reporting, recordkeeping and other admin activities required for compliance, including costs of professional services: None.
 - c. Equipment, supplies, labor and increased administration required for compliance: None.

How were small businesses involved in the development of this rule? Small businesses were not involved in the development of these rules. Although the rules apply to small businesses, the changes do not affect how they do business with DMV.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: DMV did not assemble an additional advisory committee for this rulemaking. The amendment implements current law, ORS 803.045, and is likely to impact very few persons.

Authorized Signer

Lauri Kunze

Printed name

Date

