



State of Oregon Department of Environmental Quality

Notice of Proposed Rulemaking

Aug. 31, 2021

Medium- and Heavy-Duty Zero Emission and NO_x Standards and
Low Emission Vehicle Standard Updates “Clean Trucks Rule 2021”

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules – Edits Highlighted
- Draft Rules – Edits Included (final clean version)

Note for Readers:

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Introduction

DEQ invites public input on a proposed program, permanent rules and rule amendments to chapter 340 of the Oregon Administrative Rules.

Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

DEQ also requests public comment on the proposed Heavy-Duty Engine and Vehicle Omnibus rules approved for adoption by the California Air Resources Board (CARB) on Aug. 27, 2020. DEQ is aware that CARB has not yet finalized the proposed rule but DEQ is requesting comment on how it may adjust its proposed rules in response to any changes adopted by CARB to ensure that the rules adopted remain consistent with California's program.

Overview

The Clean Trucks Rule 2021 proposes to adopt by reference California's Advanced Clean Trucks (ACT) Rule and Heavy-Duty Engine and Vehicle Omnibus rules (HD Omnibus). In addition, DEQ proposes to update existing Low and Zero Emission Vehicle Program rules to match revisions adopted by California since 2019. Under the ACT Rule, it would require medium- and heavy-duty vehicle manufacturers to sell zero emission vehicles (ZEVs) as a certain percentage of sales, beginning with the 2025 vehicle model year. Manufacturers must increase their zero-emission truck sales depending upon the class size of the truck. Under the HD Omnibus rules it would lower nitrogen oxides (NOx) and fine particulate matter (PM_{2.5}) emission standards for new truck engines (both diesel and non-diesel engines), in addition to other requirements for these engines.

Procedural Summary

More information

Information about this rulemaking is on this rulemaking's web page: [Clean Truck Rules 2021](#)

Public Hearings

DEQ plans to hold two public hearings. Anyone can attend the hearings by webinar or teleconference.

Public Hearing #1

Date: Sept. 16, 2021

Start time: 9:30 a.m.

Meeting link:

<https://us02web.zoom.us/j/84657257731?pwd=TIJ5QXVDbnJJZTBecTYycENqeU1ZZz09>

Webinar ID: 846 5725 7731

Phone number: 1-888-475-4499 Toll-free

Password: 802428

Public Hearing #2

Date: Sept. 16, 2021

Start time: 6 p.m.

Meeting link:

<https://us02web.zoom.us/j/81310969174?pwd=cDUxWlp5V0tkS2lkemxYQjlldGtTUT09>

Webinar ID: 813 1096 9174

Phone number: 1-888-475-4499 Toll-free

Password: 605080

Instructions on how to join webinar:

<https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/participantlinklog.pdf>

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, regular mail or at the public hearing.

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 4 p.m., on Sept. 24, 2021.

Submit comment by email

Any person can submit comments online by emailing: ctr2021@deq.state.or.us

Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

By mail

Oregon DEQ
Attn: Rachel Sakata and Eric Feeley
700 NE Multnomah St., Room 600
Portland, OR 97232-4100

At hearings

Thursday, Sept. 16, 2021, 9:30 a.m.
Thursday, Sept. 16, 2021, 6 p.m.

Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

- Signing up through this link: [Diesel and Biodiesel GovDelivery](#);
- Signing up on the rulemaking web site: [Clean Truck Rules 2021](#)

What will happen next?

After the public comment period closes, DEQ will include a written response to comments in a staff report DEQ will submit to the Environmental Quality Commission. DEQ may modify the rule proposal based on the comments or to improve the rule.

Proposed rules only become effective if the Environmental Quality Commission adopts them. DEQ's intended action is to present the proposed rules and rule changes to the EQC as soon as possible after the earliest date on which the rules could take effect. DEQ intends to submit the proposed rule changes to the EQC on or after Oct. 21, 2021.

Background

Brief History

The federal Clean Air Act (CAA) grants the US EPA original jurisdiction for establishing emission standards for new motor vehicles, including heavy-duty trucks. Section 209(a) of the federal Clean Air Act (42 USC § 7543) prohibits states (except California) or other political sub-divisions, such as local or regional governments, from establishing emission standards for new motor vehicles. Under CAA Section 177 (42 USC § 7507), however, states that choose to adopt vehicle emission standards that are more stringent than the federal standards for new vehicles may adopt standards that are identical to any standards adopted by California. Oregon has previously adopted California's emissions standards for passenger cars and trucks and, with this rulemaking, would further opt-in to California's standards by adopting new standards for medium- and heavy-duty vehicles.

Short Summary

DEQ is proposing to adopt California's Advanced Clean Trucks (ACT) and Heavy-Duty Engine and Vehicle Omnibus Rules (HD Omnibus). If adopted, DEQ's ACT rules would be applicable to vehicles in the model year that commences two years after the date of adoption. If the EQC adopts these rules in 2021, then they would be applicable to model year 2025 vehicles, which under federal rules may begin being sold on Jan. 1, 2024 for medium-duty vehicles. If adopted, DEQ's HD Omnibus rules would be applicable to engines in the model year that commences two years after the date of adoption. If the EQC adopts these rules in 2021, then they would be applicable to engine model year 2024 and/or vehicle model year 2025 depending on the specific rule section.

Advanced Clean Trucks Rule

The ACT rule requires medium- and heavy-duty vehicle manufacturers to sell ZEVs as a certain percentage of sales, beginning with the 2025 vehicle model year in Oregon (Table 1). Manufacturers must increase their zero-emission truck sales depending upon the class size of the truck.

Table 1: Manufacturer ZEV Sales Requirements Based on the Total Sales

Model year	Class 2b-3	Class 4-8	Class 7-8 Tractor
2025	7%	11%	7%
2026	10%	13%	10%
2027	15%	20%	15%
2028	20%	30%	20%
2029	25%	40%	25%
2030	30%	50%	30%
2031	35%	55%	35%
2032	40%	60%	40%
2033	45%	65%	40%
2034	50%	70%	40%
2035	55%	75%	40%

The sales numbers are based on vehicles sold and delivered to a purchaser in Oregon. It establishes a credit and deficit system, similar to the existing framework for light and medium-duty ZEV requirements. The requirements also provides flexibility for manufacturers to build ZEVs in one weight class or across all weight classes.

The rule also includes a one-time reporting requirement for certain businesses that operate one or more facilities in Oregon that own, operate or dispatch certain minimum numbers of trucks, and it requires certain state, local, and government agencies, and businesses with a certain minimum annual revenue, to report information on fleet vehicle usage and location data.

Heavy-duty Engine and Vehicle Omnibus Rule

The adoption of California’s ACT rule will result in greenhouse gas and tailpipe emissions reductions. However, not all vehicle applications or sectors will be able to make the transition to zero emission technology in the near term. The ACT rule culminates at a ZEV sales mandate between 40-75% depending on truck class. Because of this, DEQ anticipates demand for conventionally-fueled trucks will persist. To address tailpipe emissions associated with the continued sale of new non-ZEV medium- and heavy-duty trucks, California developed the Heavy Duty Engine and Vehicle Omnibus Regulation referred to here as HD Omnibus.

If adopted, these rules would apply to on-highway heavy-duty engines sold in Oregon beginning with engine model year 2024 and to on-highway medium- and heavy-duty trucks sold in Oregon beginning with model year 2025. The rules require:

- 1) Lower NOx and PM_{2.5} standards for new truck engines (both diesel and non-diesel engines)

- a. NOx standard would be 75% and 90% below the current federal standards respectively in 2024 and 2027. NOx reductions will also reduce secondary nitrate PM_{2.5} formation.
 - b. PM_{2.5} standard would be reduced by 50% primarily to prevent backsliding with potentially less efficient particulate controls to accommodate the lower NOx standard.
- 2) New, low load cycle standard which addresses emissions associated with low speeds, light payloads and other situations when emissions temperatures are not high enough to ensure proper catalyst operation
 - 3) Lower NOx idling emission standard would be reduced by 67% and 83% below the current standard respectively in 2024 and 2027
 - 4) Between 70% and 220% longer Useful Life and Warranty periods depending on vehicle size and fuel type
 - 5) Updated emissions warranty information and reporting requirements
 - 6) Updated testing procedures to demonstrate engine and aftertreatment durability and in-use performance
 - 7) A state-level credit averaging, banking and trading system that manufacturers of heavy-duty engines would need to implement in addition to the current federal system
 - 8) Phase 2 greenhouse gas emission standards updates for trucks and trailers

Low Emission Vehicle Rule for Light Duty Vehicles

DEQ is also proposing changes to its Low and Zero Emission Vehicle Program rules. DEQ proposes the EQC approve proposed rule amendments to update existing Low and Zero Emission Vehicle Program rules to match revisions adopted by California in 2019 and maintain identicality. The updates to the low emission vehicle (LEV) rules for light duty vehicles includes On-Board Diagnostic (OBD II) requirements for light-duty vehicles. These changes clarify both existing definitions and testing requirements, and also allow manufacturers to certify future vehicles that comply with the OBD II regulation. The changes would be applicable to vehicles in the model year that commences two years after the date of adoption. Thus, if the EQC adopts these rules in 2021, then they will be applicable to model year 2025 vehicles, which under federal law, may begin being sold on January 1, 2024.

Statement of need

Advanced Clean Truck Rule

What need would the proposed rule address?

Transportation accounts for approximately 40 percent of all statewide greenhouse gas emissions in Oregon.¹ This represents the largest source of emissions in Oregon, and a sector with increased emissions in recent years. While heavy-duty trucks and buses, which typically are fueled by diesel, only account for four percent of vehicles on the road nationally, they are responsible for nearly 25 percent of total transportation sector greenhouse gas emissions nationally, and 23 percent in Oregon.² Emissions from trucks are one of the fastest growing sources of greenhouse gas emissions, and the number of truck miles traveled on the nation's roads is projected to continue to grow significantly in the coming decades.

The Advanced Clean Truck rule is foundational to reducing greenhouse gas emissions because it ensures the availability of medium- and heavy-duty ZEVs in Oregon. Additionally, ZEV trucks have no tailpipe emissions which also result in a reduction of NOx and PM_{2.5} emissions.

How would the proposed rule address the need?

The proposal would require manufacturers to sell increasing numbers of medium- and heavy-duty ZEVs as a percentage of their overall truck sales in Oregon. This will result in lower pollutant emissions than we would have had if non-ZEVs had been sold instead, and a gradual replacement of non-ZEVs with ZEVs over time.

How will DEQ know the rule addressed the need?

DEQ will monitor the number of zero emission vehicles being sold in Oregon through compliance reporting by the manufacturers.

Heavy-Duty Low NOx Omnibus

¹ Oregon Greenhouse Gas Sector-Based Inventory Data, accessed on 8/24/2021. Available at: <https://www.oregon.gov/deq/air/programs/Pages/GHG-Inventory.aspx>

² Federal Highway Administration Highway Statistics 2017, accessed on 8/30/2021. Available at: <https://www.energy.gov/eere/vehicles/downloads/fotw-1101-september-30-2019-mediumheavy-trucks-were-4-vehicle-population>. 2017 National Emissions Inventory Data, available at: <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data#dataq>

What need would the proposed rule address?

Diesel engine exhaust is a complex mixture of gases and particles that both on their own, and collectively, are associated with a variety of health effects. Among other impacts, exposure to diesel engine exhaust is associated with:

- Increased risk of certain cancers, including lung and bladder cancers.
- Cardiovascular effects including an increased risk of heart attacks.
- Pulmonary effects, such as upper respiratory system irritation and decreased lung functions.
- Neurodevelopmental effects including decreased cognitive function and decreased birthweight

Diesel engines are responsible for approximately 25 percent of all NO_x emissions in the state, a precursor to the formation of ground level ozone.³ Communities across Oregon, including the Portland-metropolitan area and the Rogue Valley have experienced increasing levels of ozone in recent years. Increasing levels of ozone, or smog, leads to a wide variety of health effects including aggravated asthma, decreased lung function and chronic obstruction pulmonary disease.

DEQ analyses have also demonstrated that exhaust from vehicles including diesel trucks, disproportionately impacts low-income, and communities of color.⁴

Reducing this exposure has proven to be challenging due to the durability of diesel engines within the fleet and diesel engines dominate the on-highway medium- and heavy-duty sector. Significant improvements have historically been achieved through technological advancements brought about by the promulgation of new engine standards.

Oregon does not have the authority to create its own medium- and heavy-duty engine standards and may either adopt CARB standards under Section 177 of the Clean Air Act or remain under the federal standards for these engines. Because adopting the new California standards would lock in significant emission reductions starting with engine model year 2024 and federal action to reduce this source of emissions is not guaranteed, adopting the HD Omnibus rule would ensure that Oregon only sells the cleanest burning diesel engines available on the market.

How would the proposed rule address the need?

The proposed HD Omnibus rule would reduce NO_x emissions associated with medium- and heavy-duty truck engines in Oregon by 75% in 2024 and 90% in 2027. The rule would also reduce particulate matter standards by 50% in 2024. Lower NO_x emissions would result in reduced ozone formation and in turn reduce the ongoing risk of violating the ozone ambient

³ 2017 National Emissions Inventory Data, available at: <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data#dataq> and Oregon Nonroad Diesel Equipment Survey and Emissions Inventory, available at: <https://www.oregon.gov/deq/aq/Documents/orNonroadDieselRep.pdf>

⁴ Portland Air Toxics Solutions Committee Report and Recommendations, Oregon DEQ, April 2012, accessed on 8/30/2021. Available at: <https://www.oregon.gov/deq/FilterDocs/PATS2012.pdf>

air quality standard. Lower NOx emissions would also reduce secondary particulate matter formation reducing total ambient PM2.5 associated with the transportation sector. In addition, the Phase 2 greenhouse gas rules for trucks and trailers would reduce transportation-related greenhouse gas emissions through both updated conventionally-fueled engine emission standards and trailer improvements that improve fuel efficiency.

How will DEQ know the rule addressed the need?

DEQ will monitor the number of new conventionally-fueled vehicles that are sold and registered in Oregon.

Low Emission Vehicle Rule

What need would the proposed rule address?

Oregon has opted-in to California's vehicle emissions standards, and under Section 177 of the federal Clean Air Act, states that choose to adopt vehicle standards that are more stringent than the federal standards (e.g. California), must adopt California's rules. The proposed rules would conform with California's updated vehicle emission standards. These rules would update Oregon's administrative rules in response to changes that have occurred in California by updating definitions and dates in the Oregon rules and by incorporating the updated California rules by reference.

How would the proposed rule address the need?

The proposed rules would ensure Oregon's rules are identical to California's, as required under CAA Section 177.

How will DEQ know the rule addressed the need?

DEQ will maintain identity with California rules.

Rules affected, authorities, supporting documents

Lead division

Air Quality

Program or activity

Low and zero emission vehicle program, Standards for medium- and heavy-duty trucks

Chapter 340 action

Adopt OAR				
340-257-0055	340-257-0200	340-257-0210	340-257-0220	340-257-0230
340-261-0010	340-261-0020	340-261-0030	340-261-0040	340-261-0050
340-261-0060	340-261-0070	340-261-0080	340-261-0090	
Amend OAR				
340-257-0010	340-257-0020	340-257-0030	340-257-0040	340-257-0050
	340-257-0080	340-257-0090	340-012-0054	340-012-0140

Statutory Authority - ORS				
468.020	468A.025	468A.050	468A.279	468A.360

Enter additional statutory authorities here if needed.

Statutes Implemented - ORS				
468A.010	468A.015	468A.025	468A.279	468A.360

Documents relied on for rulemaking

Document title	Document location
2020 OGWC Biennial Report to Legislature	https://static1.squarespace.com/static/59c554e0f09ca40655ea6eb0/t/5fe137fac70e3835b6e8f58e/1608595458463/2020-OGWC-Biennial-Report-Legislature.pdf

Document title	Document location
Energy Innovation and UC Berkley's 2035 Report: Transportation	Download The 2035 2.0 Report from UC Berkeley 2035 The Report (2035report.com)
CARB Heavy-Duty Engine and Vehicle Omnibus Rule Staff Report: Initial Statement of Reasons (ISOR), Appendix C-3: Further Detail on Costs and Economic Analysis	https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/appc3.pdf
Air Quality Benefits of a Future National Heavy-Duty Truck Standard, Part1, Appendix A: National and State CTI Scenario 2035 Results Summary (Manufacturers of Emission Controls Association report)	http://www.meca.org/resources/Copy_of_Appendix_A_-_National_State_CTI_Scenario_Summary.xlsx
Air Quality Benefits of a Future National Heavy-Duty Truck Standard, Part 2, Air Quality Model Analysis of a Potential Cleaner Trucks Initiative Scenario (Alpine Geophysics report to Manufacturers of Emission Controls Association), June 2020	http://www.meca.org/resources/Alphine_Modeling_Report_Part_1-2_Final_0620rev.pdf
CARB Initial Statement of Reasons for the Advanced Clean Trucks rule	https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/isor.pdf
New Jersey Advanced Clean Trucks Program and Fleet Reporting Requirements Proposed Rules	https://www.nj.gov/dep/rules/proposals/20210419a.pdf
CARB Initial Statement of Reasons for the HD OBD and OBD II Regulation	https://ww2.arb.ca.gov/sites/default/files/classic/regact/2018/hdodb18/isor.pdf?_ga=2.268788210.2006016247.1626656263-967020819.1624571359
Updated Costs and Benefits Analysis for the Proposed Advanced Clean Trucks Regulation	https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/30dayattc.pdf
Clean Trucks Analysis, Costs & Benefits of State-Level Policies to Require No- and Low-Emission Trucks (MJ Bradley & Associates study)	https://www.mjbradley.com/sites/default/files/Clean%20Trucks%20Technical%20Report%20FINAL%2009jun21.pdf

Document title	Document location
California's Advanced Clean Trucks regulation: Sales requirements for zero-emission heavy-duty trucks (ICCT study)	https://theicct.org/sites/default/files/publications/CA-HDV-EV-policy-update-jul212020.pdf
Battery Pack Prices Fall As Market Ramps Up With Market Average At \$156/kWh In 2019 (Henze article)	https://about.bnef.com/blog/battery-pack-prices-fall-as-market-ramps-up-with-market-average-at-156-kwh-in-2019/
The Concerns about Diesel Engine Exhaust, Oregon DEQ, 2015	https://www.oregon.gov/deq/FilterDocs/DieselEffectsReport.pdf
Why Regional and Long-Haul Trucks are Primed for Electrification Now. 2021	https://eta-publications.lbl.gov/sites/default/files/updated_5_final_ehdv_report_033121.pdf
Analysis of Heavy-Duty Vehicle Sales Impacts Due to New Regulation	https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P101246N.pdf

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact Summary

Under Section 177 of the federal Clean Air Act, states that choose to adopt vehicle standards that are more stringent than the federal standards for new vehicles may only adopt California's vehicle emission standards (if California has adopted more stringent standards). Oregon has previously opted-in to several of California's vehicle emissions standards and, if the EQC approves the adoption of these proposed rules, would opt-in to standards for medium- and heavy-duty trucks. DEQ proposes to adopt California's Advanced Clean Trucks (ACT) Rule and Heavy-Duty Engine and Vehicle Omnibus rules (HD Omnibus). In addition, DEQ proposes to update existing Low and Zero Emission Vehicle Program rules to match revisions adopted by California since 2019. If adopted, DEQ's ACT rules would be applicable to vehicles in the model year that commences two years after the date of adoption. If the Oregon Environmental Quality Commission (EQC) adopts these rules in 2021, then they would be applicable to model year 2025 vehicles, which under federal rules may begin being sold on January 1, 2024 for medium-duty vehicles. The HD Omnibus rules would primarily be applicable to new, on-highway heavy-duty engines that are sold in Oregon beginning with the 2024 engine model year and on-highway medium- and heavy-duty trucks and trailers that are sold in Oregon beginning with the 2025 vehicle model year.

Advanced Clean Trucks Rule

The rule requires medium- and heavy-duty vehicle manufacturers to sell zero emission vehicles (ZEVs) as a certain percentage of total sales, beginning with the 2025 vehicle model year. Manufacturers must increase their ZEV truck sales depending upon the class size of the truck.

Model year	Class 2b-3	Class 4-8	Class 7-8 Tractor
2024	5%	9%	5%
2025	7%	11%	7%
2026	10%	13%	10%
2027	15%	20%	15%
2028	20%	30%	20%
2029	25%	40%	25%
2030	30%	50%	30%
2031	35%	55%	35%
2032	40%	60%	40%
2033	45%	65%	40%
2034	50%	70%	40%
2035	55%	75%	40%

The sales numbers are based on vehicles sold and delivered to a purchaser in Oregon. It establishes a credit and deficit system, similar to the existing framework for light- and medium-duty passenger vehicle ZEV requirements. The requirements also provide flexibility for manufacturers to build ZEVs in one weight class or across all weight classes.

The rule also includes a one-time reporting requirement for fleets with a certain number of trucks with a facility in Oregon, and it requires state, local, and government agencies, or businesses with a certain annual revenue to report information on fleet vehicle usage and location data.

Heavy-duty Engine and Vehicle Omnibus Rule

If adopted these rules would apply to on-highway heavy-duty engines sold in Oregon beginning with engine model year 2024 and to on-highway medium- and heavy-duty trucks sold in Oregon beginning with model year 2025. The rules require:

- 1) Lower NO_x and PM_{2.5} standards for new truck engines (both diesel and non-diesel engines)
 - a. NO_x standard would be 75% and 90% below the current federal standards respectively in 2024 and 2027. NO_x reductions will also reduce secondary nitrate PM_{2.5} formation.
 - b. PM_{2.5} standard would be reduced by 50% primarily to prevent backsliding with potentially less efficient particulate controls to accommodate the lower NO_x standard.
- 2) New, low load cycle standard which addresses emissions associated with low speeds, light payloads and other situations when emissions temperatures are not high enough to ensure proper catalyst operation
- 3) Lower NO_x idling emission standard would be reduced by 67% and 83% below the current standard respectively in 2024 and 2027
- 4) Between 70% and 220% longer Useful Life and Warranty periods depending on vehicle size and fuel type
- 5) Updated emissions warranty information and reporting requirements
- 6) Updated testing procedures to demonstrate engine and aftertreatment durability and in-use performance
- 7) A state-level credit averaging, banking and trading system that manufacturers of heavy-duty engines would need to implement in addition to the current federal system
- 8) Phase 2 greenhouse gas updates for trucks and trailers

LEV/ZEV updates to Light Duty Vehicles

Updates to the LEV rules for light duty vehicles includes On-Board Diagnostic (OBD II) requirements for light-duty vehicles. These changes clarify both existing definitions and testing requirements, and also allow manufacturers to certify future vehicles that comply with the OBD II regulation.

Adopting California's ACT, HD Omnibus and LEV/ZEV updates, described above, would ensure that Oregon's rules for new trucks conform to California's rules. Additionally, the rules would result in greenhouse gas and tailpipe emissions reductions.

Affected parties

The parties likely affected by these rules are:

- Vehicle manufacturers. Under the rules, businesses that manufacture light, medium, and heavy duty vehicles must comply with the motor vehicle emissions standards, testing systems, reporting, and other requirements.
- Vehicle purchasers. Under the rules, manufacturers may pass on the costs of complying with the rules to purchasers. Under the rules, longer warranty requirements may increase upfront costs while decreasing longer term costs.
- Vehicle dealerships, specifically medium- and heavy-duty vehicle dealerships that sell new vehicles and conduct warranty repairs. Under the rules, warranty requirements may cause the dealerships to incur some costs.
- Businesses that manufacture engines for use by medium and heavy duty vehicle manufacturers. Under the rules, vehicle manufacturers will have to build zero emission, near zero emission, or cleaner diesel engine technology needed to produce compliant vehicles, including changing the way engines are manufactured.
- Medium- and heavy-duty truck fleets. Under the rules, owners of these fleets, businesses that operate fleets on behalf of an entity, and all government agencies with at least 5 fleet trucks will be required to report, on a one-time basis, information on their operations and fleets. There may be costs associated with gathering the information.
- The public. Under the rules, medium- and heavy-duty vehicles will be emitting fewer greenhouse gas and air toxics, and criteria pollutant emissions resulting in improved health and reduced environmental exposure impacts. Additionally, purchasers of light duty vehicles will benefit from a OBD II certification process that makes it easier for manufacturers to certify for future vehicles.

Fiscal and Economic Impact

General Assumptions

The fiscal and economic impacts of this proposal in California were developed by the CARB for its rulemakings. CARB conducted an extensive analysis for its rulemakings. DEQ closely reviewed CARB's analysis and DEQ agrees with the analyses. Since the rules that DEQ are proposing are identical to those adopted and proposed in California, DEQ concludes that the fiscal and economic impacts described by CARB for California also describe the relative effect of the likely fiscal and economic impacts that will occur in Oregon if the EQC adopts identical regulations. DEQ also is relying on the analysis done by CARB to extrapolate an estimate of emissions reductions that will be achieved in Oregon, adjusted to address the differing Oregon demographics and vehicle miles traveled.

Overall Impact of the Rules

DEQ anticipates the proposed rulemaking will have a fiscal impact. There are increased compliance costs for entities directly affected by the rules (medium- and heavy-duty manufacturers, fleet owners and operators, government agencies). However, this rulemaking also addresses the State's overall efforts to address both the effects of climate change by reducing greenhouse gases and improving air quality through the replacement or upgrade of diesel and gasoline engines with zero emission technology for medium- and heavy-duty vehicles or more stringent NOx emission requirements for heavy duty vehicles. It will result

in decreased number of hospital visits, fewer missed days of work and school, and a way to mitigate the impacts of climate change⁵.

Impacts of greenhouse gas emissions

The overwhelming scientific consensus is that global warming is primarily caused by human activity, and that major reductions in GHG emissions are urgently needed across all sectors in order to avert the worst effects of climate change. In Oregon, the transportation sector accounts for almost 40% of GHG emissions.

Higher temperatures, changing precipitation patterns, reduced snowpack, drier summers, and more frequent and damaging fires are being experienced in Oregon. Increased GHG emissions exacerbates drought, tree mortality and the frequency and magnitude of wildfire events. In 2019 alone, Oregon experienced 2,000 wildfires that burned roughly 665,000 acres of forest and rangeland. It cost the state nearly half a billion dollars to suppress these fires. Depending on the extent of GHG emissions released, average temperatures in Oregon are expected to increase by 4°F to 9°F (2.2°C to 5°C) over the course of the century. Within the next three decades, most locations in Oregon are likely to have more frequent heatwaves, often measured as consecutive days above a particular high temperature threshold. (OGWC Biennial Report, 2020). With the higher temperatures, it can result in reduced snowpack thereby limiting the amount of hydropower available when demand for electricity is high in the summertime and causing reduced streamflow that could threaten commercial and tribal fisheries. Without actions to mitigate these effects, human health and safety, infrastructure, economic growth, crop production, water supplies, and fish and wildlife populations will continue to be at risk.

Impacts of truck and vehicle engine emissions

Gasoline- and diesel-powered vehicles harm human health and the environment via emissions of pollutants such as fine particulate matter, air toxics, sulfur oxides and nitrogen oxides, a precursor to the formation of ground level ozone. These emissions disproportionately impact low-income communities and communities of color. Communities across Oregon, including the Portland-metropolitan area and the Rogue Valley have experienced increasing levels of ozone in recent years. Increasing levels of ozone – or smog – leads to a wide variety of health effects including aggravated asthma, decreased lung function and chronic obstruction pulmonary disease. Exposure to diesel engine exhaust is associated with a variety of effects, including increased risk of certain cancers, including lung and bladder cancers, cardiovascular effects including an increased risk of heart attacks, and pulmonary effects, such as upper respiratory system irritation and decreased lung functions. DEQ estimates 176 premature deaths, 24, 910 lost work days, and annual costs from exposure to diesel engine exhaust costs Oregonians \$3.5 billion every year.⁶ The ACT and HD Omnibus rules reduce NOx and PM emission associated with diesel emissions. As a result of these reductions, an analysis by MJ Bradley estimates Oregon can expect to see fewer premature deaths, reduced mortality, fewer hospital and emergency room visits and

⁵ Oregon Clean Trucks Program, MJ Bradley and Associates, 2021

⁶ The Concerns about Diesel Engine Exhaust, Oregon DEQ, 2015

fewer missed days of work and school, resulting in over \$1.8 billion in reduced health costs by 2050.⁷

Previous experience with truck regulation implementation suggests that there is some risk of what is referred to as a “pre-buy/no-buy” effect where the demand for vehicles increases prior to the new emission standard and decreases following the implementation of the new regulation. A recent EPA study on this issue characterizes the historic impact as “short lived, with the period of significance not extending beyond 8 months pre and post regulation,” and in some cases the effect is not observed at all.⁸

Overall, and for the reasons described above, the fiscal impact of Oregon adopting these proposed rules is expected to have a direct impact on truck manufacturers, fleet owners, and the public. The proposed rules are also anticipated to provide air quality benefits, reduce exposure to harmful air quality pollutants and provide overall greenhouse gas reductions to achieve the state’s goals to address global warming.

Statement of Cost of Compliance

State agencies

The ACT rule requires manufacturers to deliver ZEV trucks for sale in Oregon and submit annual information on its sales reporting, credit transfer information and credit declaration.

State agencies who own or operate at least five medium- or heavy-duty vehicles will experience a fiscal impact as a result of the fleet reporting requirement in the ACT rule. Based on CARB’s analysis of the reporting time required, which DEQ anticipates will be similar in Oregon, the amount of time and effort to report will vary based on the number of facility categories and vehicles owned. State agencies are likely to have this information already collected but the time needed to train individuals on the regulatory requirements, compile information from various offices within the agency, and submit the information will still be a burden on the agencies. Depending upon the size of the facilities and vehicle fleet, CARB estimates it could take up to 20 hours to complete the reporting requirements.

The Heavy Duty Omnibus rules would require that new, conventionally-fueled medium- and heavy-duty trucks sold in Oregon meet lower engine emission standards. DEQ would need to conduct outreach to all manufacturers and dealerships doing business in Oregon to inform them of the requirements and verify dealership compliance with the requirements over time with the assistance of other state agency partners, such as the Oregon Department of Transportation.

State agencies who continue to purchase conventionally-fueled medium- and heavy-duty trucks may experience a fiscal impact as a result of an increased cost of the newer, lower emission engine and aftertreatment technology that may be passed on to vehicle purchasers from the manufacturers. CARB’s analysis indicates that the net cost impact of these rules on

⁷ Oregon Clean Trucks Program, MJ Bradley and Associates, 2021

⁸ Analysis of Heavy-Duty Vehicle Sales Impacts Due to New Regulation, USEPA, May 2021

the purchase price of trucks with engine model 2031 or later may range from and increase of 5.2% to 9.5% (\$5,557 to \$8,841) for diesel trucks and 0.4% to 8.8% (\$433 to \$4,589) for trucks with spark ignition engines (2018 dollars). The 2031 model year was used since this would reflect the full implementation of the lengthened warranty. Net cost impact is expected to be lower than the 2031 estimates for engine model year 2024 through 2030.

Under the LEV OBD II rule impacts on state agencies are expected to be the same as the impacts on the public, described above.

DEQ will see a fiscal impact as a result of the rules. DEQ will need to review and verify the fleet reports to ensure compliance with the ZEV sales targets and pursue enforcement actions as needed. DEQ also anticipates it will need to conduct a variety of outreach activities to ensure all regulated entities are aware of the fleet reporting requirements and to provide support to these entities regarding what information they must provide. Additionally, the fleet reporting requirement will require DEQ to collate this information or modify an existing reporting system to handle the reporting.

Local governments

Impacts on local governments are expected to be the same as the impacts on state agencies with regards to the fleet reporting requirements in the ACT rule. The fuel tax revenue impacts could also affect local government revenues and programs that rely on that funding source.

Under the LEV OBD II rule impacts on local governments are expected to be the same as the public.

Public

Benefits of the regulations

The ACT regulation will result in more medium- and heavy-duty ZEVs in use in Oregon. With more ZEVs on the road replacing conventional trucks, it will reduce emissions of greenhouse gases and other air quality pollutants. Overall, the increased ZEV availability and use furthers Oregon's goals to reduce greenhouse gas emissions to 45 percent below 1990 levels in 2035 and to an 80 percent reduction below 1990 levels in 2050.

The HD Omnibus regulation will result in relatively minor reductions in greenhouse gas emissions, primarily due to the reduction of carbon monoxide which would lead to corresponding decreases in more potent greenhouse gases like methane. The primary benefits of the HD Omnibus rules are significant reduction in criteria air pollutants.

CO₂ emissions reductions

One of the key benefits to these rules is the anticipated reduction in CO₂ emissions. As discussed earlier, impacts as a result of greenhouse gas emissions are significant and these rules will address some of the threats posed by increased GHG emissions. Overall, the estimated cumulative emissions reductions in Oregon as a result of the ACT rule is expected to be between 1.8 MMT and 2.4 MMT by 2040. This is based on CARB's analysis and

other studies looking at the effects of the ACT rule in Oregon.⁹ DEQ estimates the cumulative CO₂ reductions from 2024 through 2040 to be 2.4 MMT. An International Council on Clean Transportation (ICCT) study looked at modeling results for Oregon and determined it would result in avoided CO₂ emissions of 1.8 million tons total for the period of 2020-2040. This analysis also applied Oregon specific numbers on the anticipated sales of ZEV trucks in Oregon and the resulting benefits.

A study by MJ Bradley and Associates looked at the combined effects of adopting the ACT and HD Omnibus in Oregon. It estimated Oregon's reduction of GHG emissions would be 49.7 million metric tons ("MMT") amounting to a monetized value of \$8.1 billion over the next 30 years.¹⁰ While these assumptions are higher than other analyses included in this fiscal analysis, the differences are likely due to the models used to run the assumptions including the how Oregon's electric grid mix was characterized and whether it factored in Oregon's decarbonization efforts as a result of HB 2021(2021).

Criteria air pollutant emissions reductions

DEQ utilized CARB's analysis and methodology to estimate the emissions reductions and scaled them to fit Oregon's demographics and vehicle usage. Analyzing the impacts of the ACT rule only, DEQ estimates the NO_x reductions in 2040 to be 3.9 tpd and 0.12 tpd in PM_{2.5} reductions. Based on CFP scenario modeling on the effects of the ACT rule, DEQ estimates the reduction from 2025 to 2035 is a PM reduction of 180 metric tons, reduction in NO_x of 699 metric tons, based on the Greenhouse Gases, Regulated Emissions, and Energy Use in Technologies model (GREET) tailpipe emission factors. ICCT study estimates the reduction in NO_x emissions from 2020-2040 is 12,506 tons per year and for PM_{2.5} is 130 tons per year.

The HD Omnibus regulation could result in a 17.5% reduction (2,570 tons/year) of on-highway NO_x emissions and a 4% reduction (29 tons/year) in on-highway PM_{2.5} by 2035 in Oregon according to a report from the Manufacturers of Emission Controls Association. One model (Alpine Geophysics) predicted ozone in the Portland metropolitan area would be reduced by as much 3 parts per billion in 2028 if these rules were implemented.

The MJ Bradley and Associates study looked at the combined effects of adopting the ACT and HD Omnibus in Oregon. The study estimated it would reduce NO_x emission by 223,200 metric tons and PM_{2.5} by 1,290 metric tons. It could result in potentially avoiding 156 premature deaths, 118 hospital visits, and 83,579 minor health complications, such as acute bronchitis and exacerbated asthma, by 2050.

Environmental Justice

⁹ DEQ utilized CARB's extensive analysis, research and methodology to estimate the emissions reductions. While CARB's information is California specific, DEQ determined a scaled approach to fit Oregon's demographics and vehicle usage is appropriate in characterizing the potential impacts in Oregon. Combined with other studies that evaluate Oregon-specific scenarios it provides a range of potential anticipated reductions.

¹⁰Oregon Clean Trucks Program, MJ Bradley and Associates, 2021

Medium- and heavy-duty trucks are often utilized near distribution centers, ports, warehouses, and major roadways. These facilities are often located in densely populated urban areas, particularly near or in low-income and black, indigenous and people of color communities. In addition, the 2012 Portland Air Toxics Solutions report clearly describes how people in these communities are disproportionately impacted by higher concentrations of air toxics associated with on-road, heavy-duty engines compared with high-income white communities in the study area.¹¹ The ACT rule facilitates the adoption of ZEV trucks in communities suffering from these disproportionate impacts.

Other considerations

The ACT rule is expected to result in more ZEV trucks in Oregon. Because ZEV trucks require less maintenance than their diesel counterparts, there may be some associated job losses as diesel engine mechanics are no longer needed. However, these job losses could be mitigated by the increase in new job opportunities in the clean technology sector. This would include the need for electric charging infrastructure providers and ZEV maintenance electricians.

Anticipated costs of the regulation

Under the ACT rule, there are no direct costs to the public, since the requirement is only on medium- and heavy-duty vehicle manufacturers to sell ZEV vehicles. However, there may be indirect costs on purchasers, dealers, and the public. Manufacturers could pass on the costs to truck purchasers who could pass those costs on to customers and costs of goods being transported. There may be some manufacturers who choose not to sell in Oregon as a result of the regulations. For truck purchasers the upfront purchase costs of ZEVs are higher than those of conventional vehicles due to the higher battery costs and the need to install charging infrastructure. These costs are described in more detail in the “Large businesses” section below. It is anticipated that the initial purchase price of medium- and heavy-duty ZEVs will fall over time as technology advances, battery costs decline and an economy of scale is achieved.

The LEV OBD II rules are expected to have an impact on vehicle prices. Under the OBD II rules, auto manufacturers will have to conduct data reporting. CARB has calculated the anticipated costs of compliance with the requirements to be \$0.34 per vehicle. These costs include the reporting required for Over-the-air (OTA) software reprogramming. It is expected that auto manufacturers will pass on this cost on to consumers. Thus, the public may experience a small increase in the cost of a new vehicle. DEQ is utilizing CARB’s analysis of these costs, since CARB extensively researched the costs of implementing the modifications to the OBD program, and DEQ believes it accurately reflects the costs of compliance in Oregon. Overall, the rules are expected to provide benefits to the public, in that they will result in more durable engines and vehicles. While there may be some additional cost to build these improved engines and emissions controls that may be passed on to the consumer, the result may be an overall savings for vehicle owners due to the need for fewer repairs.

¹¹ Portland Air Toxics Solutions Committee Report and Recommendations, Oregon DEQ, April 2012, accessed on 8/30/2021. Available at: <https://www.oregon.gov/deq/FilterDocs/PATS2012.pdf>

Large businesses - businesses with more than 50 employees

Large businesses, specifically truck manufacturers and truck dealers selling new vehicles, would be affected by the proposed rules. Per CARB's analysis on the effect of the ACT rules on large businesses, it is anticipated Oregon's rules would affect the same entities. CARB estimates ten large truck manufacturers sell vehicles affected by the rules, and DEQ concludes that is also true for Oregon. Other businesses that could be affected include electric utilities. Under the ACT rule there will be more electric vehicle deployment resulting in an increased demand for electricity and ultimately increased revenue for electric utilities.

The impacts outlined below reflect the costs of complying in Oregon as a result of adopting California's rules. These rules involve a number of different components:

Total cost of ownership for ZEV vehicles:

Currently, medium- and heavy-duty ZEVs are more expensive to purchase than gasoline or diesel trucks, however, the overall total cost of ownership is less than conventional trucks due to reduced fuel and maintenance costs. According to CARB's analysis, model year 2024 ZEV trucks are forecasted to be between \$14,000 and \$87,000 higher than that of a conventional vehicle. Other information from the Engine Manufacturer's Association suggests the initial purchase price for a heavy-duty truck could be at least 2-3 times higher than that of a conventional truck. There are a number of costs included besides the vehicle and battery costs, but also costs to build out and install the infrastructure necessary to charge the vehicles, upgrade existing charging infrastructure to ensure it can meet charging capacity needs, fueling, workforce training, and maintenance. Electrical costs may be as much as 10% higher for some fleets in locations with high demand charges compared to other commercial customers.¹² In addition to these higher costs, potential purchasers would also need to pay taxes on the trucks, such as a Federal Excise Tax that adds 12% to the purchase price. These higher upfront costs may be a barrier for potential purchasers and create challenges for manufacturers trying to comply with the sales requirements in the ACT.

However, the costs of the purchase price of the truck are anticipated to decrease over time and there are lower operating costs for ZEV trucks. A study by Lawrence Berkeley National Laboratory looked at the total cost of ownership for long-haul trucks. Using existing battery prices and assuming a 375-mile range, they estimated the electric truck has a 13% per mile lower total cost of ownership. There is an estimated 3-year payback with a net savings of \$200,000 over the lifetime of the truck (15 years).¹³ Part of this is due to decreasing battery costs over time. Overall, battery costs have dropped by 87 percent since 2010, and continue to drop (Henze 2019). Manufacturing efficiencies from economies of scale with existing technologies and development of new battery technologies have facilitated the decrease in battery prices. Fuel savings are expected to be higher with electricity versus diesel or gasoline. A study by MJ Bradley and Associates looked at the overall fuel costs and estimated gasoline and diesel fuel prices to continue to increase by almost a dollar each from

¹² Clean Trucks Analysis, MJ Bradley and Associates, 2021

¹³ Why Regional and Long-Haul Trucks are Primed for Electrification Now, Lawrence Berkeley National Laboratory, 2021, [Microsoft Word - FinalFinal EHDV report Final 15MarForUpload_AK.docx \(lbl.gov\)](#)

2020 to 2050.¹⁴ Additionally, electrical costs for fleets may decrease over time, as utilities shift from demand charging rates to a subscription-based charging rate the overall cost of charging down. Cost parity for electric HDTs will approach upfront price parity with diesel trucks in the mid- to late-2030s (UC Berkeley 2035 Transportation study).

There may also be costs associated with infrastructure to install charging stations to support ZEV trucks. Costs could range from \$355,000 to provide enough charging capacity for six heavy-duty trucks or up to \$350,000 per charging stations that must be located near fleet terminals and depots.¹⁵ Other costs could include the upgrade of existing charging stations to meet the charging needs of the larger trucks; this may be less per vehicle depending upon the number of charging stations installed, the location, and capacity of existing electrical needs. However, these costs are approximate as not all fleets may choose to install charging infrastructure or may utilize other funding mechanisms to offset their costs. For example, large efforts are underway to spend capital on public charging, which can serve some charging needs for Class 2b-3 ZEVs. This includes approvals for Oregon utilities to spend nearly \$20 million on Level 2 and DC fast charging stations and the recent \$26 billion federal Infrastructure Investment and Jobs Act that will provide funding for EV related items including charging infrastructure. Charging infrastructure costs could be mitigated by Oregon's Clean Fuels Program, where credits generated by charger owners, fleet operators, and transit agencies, could be sold to fund electric vehicle and future infrastructure investments.

Other indirect financial concerns related to ZEV truck adoption include the potential for fleets or purchasers to not buy these vehicles due to a truck's smaller carrying capacity to make room for the larger battery size and additional weight the battery would add to the vehicle. However, the LNBL study determined only a small fraction of trucks regularly utilize their maximum payload and the increased battery weight will be offset by the electric drive train which is lighter than a diesel drive train (elimination of the diesel engine, cooling system, transmission and accessories)¹⁶

There may be some fleets that choose to relocate out of state due to the costs of operating in Oregon or manufacturers who opt not to sell in Oregon. Ultimately this is a business decision for both affected fleets and manufacturers. The ACT regulation offers many flexibilities for manufacturers to comply and does not require fleets to purchase ZEV vehicles. Fleets can purchase the vehicles that best suit their business needs which may or may not include ZEVs. However, the ACT regulation will result in an increased number of ZEVs for purchase and provide additional options for purchasers and fleets. Additionally, businesses that can transition to ZEV fleets more easily may want to take advantage of savings through the lower total cost of ownership for ZEVs or accumulating credits under Oregon's Clean Fuels Program as mentioned above.

¹⁴ Clean Trucks Analysis, MJ Bradley and Associates, 2021

¹⁵ Memo from Keith Wilson, Titan Freight, dated July 27, 2021

¹⁶ Why Regional and Long-Haul Trucks are Primed for Electrification Now, Lawrence Berkeley National Laboratory, 2021, [Microsoft Word - FinalFinal EHDV report Final 15MarForUpload_AK.docx \(lbl.gov\)](#)

There is additional risk to vehicle manufacturers in the event that they have to sell vehicles below cost to purchasers to meet the requirements of the regulation. Those costs could be passed on to conventional diesel or gasoline powered trucks in their manufacturing line and in effect result in higher costs to purchasers of those vehicles. Alternatively, manufacturers may not be able to pass on the costs to other vehicles or choose to absorb the costs themselves.

Compliance reporting

Manufacturers will also bear some burden in having to report information regarding the sales of vehicles to determine compliance with the ACT. Because manufacturers are already having to report this information to CARB under existing Phase 2 GHG regulations and requirements for ACT will initiate with the 2025 model year, the costs to manufacturers should be small as they are familiar with the reporting format and will only have to compile Oregon specific data.

Fleet reporting requirement

Oregon estimates there could be up to 1,440 large entities (companies, trucking fleets, and public entities) operating in Oregon that could be subject to the one-time reporting requirement¹⁷. It is anticipated these entities will be using information already collected by the entity for normal vehicle operations. DEQ estimates the time expended by each entity will be similar to those calculated by CARB, estimated on average to be a total of four hours to retrieve and report both company-specific information and vehicle information.

Cost of HD Omnibus

Total cost of ownership is impacted in two ways with the HD Omnibus rules. Manufacturers are likely to pass the increased costs of improved engine and aftertreatment technology on to businesses who purchase new trucks which would likely increase the baseline purchase price. However, there is an opposite effect in that longer warranty periods are likely to decrease engine and aftertreatment technology repair costs because of the use of more durable parts or coverage under warranty. As described above, CARB's analysis suggests the net impact of these effects would range from a cost-per-vehicle increase of \$433 to \$8,841 depending on fuel type and weight class.

There would also be impacts on large businesses that manufacture trucks and engines in the state. It is anticipated that the majority of those impacts would be reflected with an increase in the baseline purchase prices of their products. Additional administrative costs associated with the state-specific credit averaging, banking and trading program are expected.

Cost as a result of LEV Regulations

¹⁷ These estimates based on 2020 ODOT registrations of vehicles 14,000 lbs or greater & California's assessment of affected fleet entities and scaled to meet Oregon's demographics and vehicle usage. It assumes fleet sizes of 5 or greater. The ODOT registrations do not account for fleet sizes for vehicles between 8,500 lbs – 14,000 lbs.

For the LEV rule updates to the OBD II regulation, the changes add streamlining and flexibility features, and is anticipated to be a positive fiscal impact on large businesses, particularly manufacturers who manufacture and certify medium-duty diesel engines and vehicles that comply with the OBD II regulation. The rules do include costs associated with reporting required with software reprogramming but CARB anticipates these costs will be passed through to consumers.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 - Cost of Compliance for Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

ACT Rule

Under the proposed ACT rules, no small businesses would incur compliance costs to sell MHD ZEV trucks because they are exempt from the requirements. However, some small businesses may incur a small compliance cost as a result of the one-time fleet reporting requirement. The number of entities potentially affected by this requirement could be 772 small businesses (Truck transportation and brokers) based on industry information¹⁸. These entities would be a business or entity operating as a broker (someone who for compensation, arranges or offers to arrange the transportation of property by a motor carrier) that dispatches 5 or more MHD vehicles. A small manufacturer, such as one with fewer than 500 annual medium- and heavy-duty vehicle sales, chooses to opt in, then they can participate in the program to earn credits for vehicles sold in Oregon. As a result, these opt-in businesses would see a positive fiscal impact because of their ability to sell credits to other manufacturers who wish to offset their deficits.

Small businesses may see indirect impacts as a result of the rule if they choose to purchase ZEV trucks. These impacts are described in the impacts to large businesses section above.

HD Omnibus

A search of Oregon impacted business was conducted within the ReferenceUSA database using the North American Industrial Classification System (NAICS). Industry codes searched were truck transportation (484) and engine and vehicle manufacturers (3363 and 3361). A total of 1,335 business were identified with the vast majority being small businesses.

Additionally, businesses that repair truck engines and/or aftertreatment technology, though not directly subject to the proposed rule, may see an increase in the number of repairs associated with longer warranty periods. In general, it is assumed that the cost of warranty repairs is ultimately covered by manufacturers.

LEV Rule

¹⁸ ReferenceUSA database using the North American Industrial Classification System (NAICS)

Under the LEV rules, small businesses that manufacture, purchase or service medium-duty engines could be affected.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

Under the proposed ACT rules, no additional activities are required of small businesses to comply with the proposed rules. Only large businesses are regulated.

Under the HD Omnibus rule, projected administrative costs are likely limited for small business. Some businesses that repair truck engines or aftertreatment technology may see an increase in repair work that could lead to increased administrative costs.

Under the LEV rules, a small business could incur costs due to the collection of data required to report the information for medium-duty vehicles subject to OBD II certification. CARB estimates this could involve up to 8 hours per week to report.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

ACT Rule

Under the proposed ACT rules, no additional activities are required of small businesses to comply with the proposed rules. Only large businesses are regulated. The ACT rules may result in benefits to small business as a result of more ZEVs being available. Infrastructure buildout, including the need for electricians, construction companies, EVSE suppliers, and maintenance companies could create a demand for jobs and services by small businesses.

HD Omnibus Rule

Under the HD Omnibus no anticipated increases are expected for small businesses under this rule other than those already described related to the increased purchase price of new medium- and heavy-duty trucks described under the large businesses section above.

LEV Rule

Under the LEV rules, a small business could incur costs due to administration required to report the information for medium-duty vehicles subject to OBD II certification. CARB estimates this could involve up to 8 hours per week to report.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ consulted with small businesses and included organizations that represented small businesses on the Clean Trucks Rule Advisory Committee that advised DEQ on the cost of compliance for small businesses.

Documents relied on for fiscal and economic impact

Document title	Document location
2020 OGWC Biennial Report to Legislature	https://static1.squarespace.com/static/59c554e0f09ca40655ea6eb0/t/5fe137fac70e3835b6e8f58e/1608595458463/2020-OGWC-Biennial-Report-Legislature.pdf
Energy Innovation and UC Berkley's 2035 Report: Transportation	Download The 2035 2.0 Report from UC Berkeley 2035 The Report (2035report.com)
CARB Heavy-Duty Engine and Vehicle Omnibus Rule Staff Report: Initial Statement of Reasons (ISOR), Appendix C-3: Further Detail on Costs and Economic Analysis	https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/appc3.pdf
Air Quality Benefits of a Future National Heavy-Duty Truck Standard, Part1, Appendix A: National and State CTI Scenario 2035 Results Summary (Manufacturers of Emission Controls Association report)	http://www.meca.org/resources/Copy_of_Appendix_A_-_National_State_CTI_Scenario_Summary.xlsx
Air Quality Benefits of a Future National Heavy-Duty Truck Standard, Part 2, Air Quality Model Analysis of a Potential Cleaner Trucks Initiative Scenario (Alpine Geophysics report to Manufacturers of Emission Controls Association), June 2020	http://www.meca.org/resources/Alphine_Modeling_Report_Part_1-2_Final_0620rev.pdf
CARB Initial Statement of Reasons for the Advanced Clean Trucks rule	https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/isor.pdf
New Jersey Advanced Clean Trucks Program and Fleet Reporting Requirements Proposed Rules	https://www.nj.gov/dep/rules/proposals/20210419a.pdf
CARB Initial Statement of Reasons for the HD OBD and OBD II Regulation	https://ww2.arb.ca.gov/sites/default/files/classic/regact/2018/hdodb18/isor.pdf?_ga=2.268788210.2006016247.1626656263-967020819.1624571359

Document title	Document location
Updated Costs and Benefits Analysis for the Proposed Advanced Clean Trucks Regulation	https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/30dayattc.pdf
Clean Trucks Analysis, Costs & Benefits of State-Level Policies to Require No- and Low-Emission Trucks (MJ Bradley & Associates study)	https://www.mjbradley.com/sites/default/files/Clean%20Trucks%20Technical%20Report%20FINAL%202009jun21.pdf
California's Advanced Clean Trucks regulation: Sales requirements for zero-emission heavy-duty trucks (ICCT study)	https://theicct.org/sites/default/files/publications/CA-HDV-EV-policy-update-jul212020.pdf
Analysis of Heavy-Duty Vehicle Sales Impacts Due to New Regulation (EPA 2021)	https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P101246N.pdf
Battery Pack Prices Fall As Market Ramps Up With Market Average At \$156/kWh In 2019 (Henze article)	https://about.bnef.com/blog/battery-pack-prices-fall-as-market-ramps-up-with-market-average-at-156-kwh-in-2019/
The Concerns about Diesel Engine Exhaust, Oregon DEQ, 2015	Report Template - from HQ (oregon.gov)
Portland Air Toxics Solutions Committee Report and Recommendations, Oregon DEQ, 2012	https://www.oregon.gov/deq/FilterDocs/PATS2012.pdf

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and provided feedback on the overall analysis provided by DEQ. Some committee members thought DEQ was overestimating the emissions benefits characterized as a result of the ACT and HD

Omnibus rules; others suggested DEQ underestimated the emissions benefits based on existing studies. One committee member also disagreed with DEQ's approach to its fiscal analysis in that DEQ should not rely on California's analysis for the ACT and HD Omnibus rules due to the different vehicle mixes and sales rates between states. Other committee members agreed with DEQ's approach and thought utilizing California's analysis was appropriate. One committee member also wanted to see the percentage of greenhouse gas emissions reductions as a result of the ACT.

The committee discussed the overall estimated costs of the regulation, specific to costs of the vehicle. There was acknowledgement of the overall higher upfront costs of trucks as a result of the rules in the early years of the regulation, but there was disagreement about the actual costs of the truck over the lifetime of the vehicle. Some committee members thought DEQ underestimated the costs of trucks, whereas other members thought the purchase price would come down as battery costs decreased. In addition, some committee members thought the overall costs were mitigated as a result of reduced maintenance and fuel costs and would result in cost savings. The committee also discussed the impact of costs as a result of needing to install charging infrastructure to support these vehicles, and the consumers of electricity.

The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon. Indirectly, small businesses that choose to purchase medium- or heavy-duty vehicles affected by the ACT or HD Omnibus rules could experience a small impact as a result of higher initial purchase or warranty costs but these will be mitigated over the life of the vehicle.

The committee did not have any specific comments on the fiscal analysis for the LEV OBD II rule. The committee also determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

Housing cost

DEQ determined the proposed rules will have no direct impact on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel because the proposed rules only affect vehicle manufacturers, dealers and vehicle purchasers. However, there is the potential for an indirect effect on housing development costs because the rules could influence the price of materials and/or services used in housing construction. For example, manufacturers and businesses subject to the proposed Clean Trucks Rule may increase truck prices. Housing related businesses that purchase medium- and heavy-duty trucks may then increase the price they charge for products and services which may in turn increase housing development costs. Because these impacts are indirect, and depend on the individual decisions of multiple businesses before resulting in housing cost increases, DEQ is unable to estimate the amount of these indirect costs.

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so. Some of the proposed rules, such as the LEV and Phase II GHG standards for medium- and heavy-duty vehicles are not substantially different from existing federal requirements. However, adopting these rules simplifies the harmonization of the existing LEV program already adopted by DEQ and the proposed adoption of California's HD Omnibus rules. Adoption of the HD Omnibus rules also gives DEQ the ability to enforce the regulations due to existing litigation at the federal level that could affect implementation of the program.

The proposed rules that are more stringent include California's program for ZEVs which have no counterpart at the federal level. This program is designed to stimulate the production and use of emission-free or low emission medium- and heavy-duty vehicles such as battery electric, plugin hybrid and fuel-cell vehicles.

The proposed HD Omnibus rules are more stringent than the current federal standards for NO_x and PM as well as several other provisions including a low load testing cycle and longer warranty requirements. The rules are designed to reduce the primary and secondary impacts of NO_x emissions including ozone and secondary particulate formation, address the low speed and light load phases of the truck duty cycle and reduce the impact of engine deterioration. There is an indication that new federal standards are under development however there is no current timeline for federal action and no certainty that new national standards would be adopted or whether those new standards would align with the new California standards.

DEQ recommends that the EQC adopt these rules that are more stringent than federal rules in order to achieve the public health and environmental benefits of these rules as described and referenced above in this notice, and based on the scientific, economic and technological analyses as described and referenced above in this notice.

What alternatives did DEQ consider if any?

DEQ considered whether or not to pursue this rulemaking action. However, not doing so would be contrary to state policy to reduce emissions from all types of vehicles, and to achieve its long-term greenhouse gas emission reduction goals.

Land use

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with state wide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
 - Resources, objects, or areas identified in the statewide planning goals, or
 - Present or future land uses identified in acknowledge comprehensive plans

DEQ determines whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules are not expected to significantly affect land use under OAR 660-030-005 because the proposed amendments are not reasonably expected to have significant effects on either: (a) resources, objectives or areas identified in the statewide planning goals; or (b) present or future land uses identified in acknowledged comprehensive plans.

EQC Prior Involvement

DEQ shared information about this rulemaking with the EQC through the monthly Director's report and through an informational item on the May 21, 2021 EQC agenda.

Advisory Committee

Background

DEQ convened the Clean Trucks Rule 2021 Advisory Committee. The committee included representatives from engine manufacturers, environmental organizations, trucking companies, utilities, private and public fleets and met two times. The committee's web page is located at

<https://www.oregon.gov/deq/Regulations/rulemaking/Pages/ctr2021.aspx> .

The committee members were:

Rulemaking Name Advisory Committee	
Name	Representing
Sergio Lopez	Verde
Aimee Okotie-Oyekan	NAACP of Eugene
Vee Paykar	Climate Solutions
Ranfis Villatoro	Blue Green Alliance
Patricio Portillo	NRDC
Mary Peveto	Neighbors for Clean Air
Amy Schlusser	Green Energy Institute
Sean Waters	Daimler
Timothy French	Truck & Engine Manufacturers Association
Matthew Spears	Cummins
Jana Jarvis	Oregon Trucking Association
Greg Alderson	PGE
Juan Serpa Munoz	EWEB
Jeff Owen	TriMet
Alan Bates	City of Portland
Keith Wilson	Titan Freight
Nate Hill	Amazon
Alison Bird	FedEx
Michael Graham	Clean Cities

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
 - Rulemaking
 - LEV/ZEV Program
 - VW
 - Greenhouse Gas Program
 - Oregon Clean Fuels

These subscribers were notified on how to participate in the advisory committee process.

- Added advisory committee announcements to DEQ’s calendar of public meetings at [DEQ Calendar](#).

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee provided feedback on the rules. A few committee members raised concerns about DEQ’s planned schedule to adopt the rules by the end of the year and thought DEQ should wait at least a year until CARB finalizes the HD Omnibus, see what additional revisions CARB might propose to the ACT rule, and future anticipated federal action to address medium- and heavy duty vehicle emissions. Other members recommended DEQ should not wait for these actions and should adopt the rules now to ensure emissions benefits could be realized immediately.

Advanced Clean Trucks Rule

The committee discussed whether advance crediting should begin with the 2024 model year or the 2021 model year as finalized in CARB’s rulemaking. Some committee members felt 2024 was sufficient to provide an early incentive to manufacturers as opposed to providing an additional boost to those manufacturers who had already planned to produce these vehicles. One committee member thought by not adopting CARB’s rules exactly it would violate the “identity” provision in Section 209 of the Clean Air Act.

The committee also discussed components of the fleet reporting requirement. DEQ suggested requiring fleet owners or brokers with 50 or more vehicles to report. Some committee members felt the 50 vehicle threshold was too high and would only capture a small percentage of the fleets in Oregon. They suggested lowering the threshold to 20 or 5 vehicles to better capture a representation of fleet activity in Oregon.

HD Omnibus Rule

The committee discussed an exemption for diesel-fueled transit buses until a compliant engine becomes available or through 2027 since manufacturers have declined to commit to producing a compliant engine in 2024 and beyond. Some committee members felt that DEQ should not exempt these transit buses thereby making it functionally illegal to sell diesel-fueled transit buses in Oregon under the proposed rule. They felt that exposure to the emissions from these buses tends to fall disproportionately on poor and/or black, indigenous and people of color communities. Another committee member described how other Section

177 states that have adopted CARB heavy-duty engine standards in the past also adopted CARB exemptions. They believed that Oregon should do the same and exempt these diesel-fueled transit buses. One committee member thought that Oregon should also adopt the California Innovative Clean Transit Rule in order to more quickly transition transit bus fleets across the state to zero emission.

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On Aug. 30, filing notice with the Oregon Secretary of State for publication in the September 2021 Oregon Bulletin;
- Notifying the EPA via GovDelivery;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Clean Truck Rules 2021](#);
- Emailing approximately 23,113 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ Public Notices
 - LEV/ZEV Program
 - Diesel and Biodiesel
 - Greenhouse Gas Program
 - Oregon Clean Fuels
- Emailing the following key legislators required under [ORS 183.335](#):
 - Representative Pam Marsh
 - House Speaker Tina Kotek
 - Senator Lee Beyer
 - Senate President Peter Courtney
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, regular mail or at the public hearing.

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 4 p.m., on Sept. 24, 2021.

Submit comment by email

Any person can submit comments by sending an email. Commenters should include “Rulemaking Comment” in the email subject line. Submit emails to: ctr2021@deq.state.or.us.

Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

By mail

Oregon DEQ
Attn: Rachel Sakata and Eric Feeley
700 NE Multnomah St., Room 600
Portland, OR 97232-4100

At hearings

Thursday, Sept. 16, 2021, 9:30 a.m.
Thursday, Sept. 16, 2021, 6:00 p.m.

Public Hearing

DEQ plans to hold two public hearings. Anyone can attend the hearings by webinar or teleconference.

Public Hearing #1

Date: Sept. 16, 2021
Start time: 9:30 a.m.

Meeting link:

<https://us02web.zoom.us/j/84657257731?pwd=TIJ5QXVDbnJJZTBECkYycENqeU1ZZz09>

Webinar ID: 846 5725 7731

Phone number: 1-888-475-4499 Toll-free

Password: 802428

Public Hearing #2

Date: Sept. 16, 2021
Start time: 6:00 p.m.

Meeting link:

<https://us02web.zoom.us/j/81310969174?pwd=cDUxWlp5V0tkS21kemxYQjlkdGtTUT09>

Webinar ID: 813 1096 9174

Phone number: 1-888-475-4499 Toll-free

Password: 605080

Instructions on how to join webinar:

<https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/participantlinklog.pdf>

DEQ will consider all comments and testimony received before the closing date. DEQ will summarize all comments and respond to comments in the Environmental Quality Commission staff report.

Accessibility Information

You may review copies of all documents referenced in this announcement electronically. To schedule a review of all websites and documents referenced in this announcement, call Rachel Sakata, DEQ (503-863-4271).

Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format, or any other arrangements necessary to accommodate a disability. To make these arrangements, contact DEQ, Portland, at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011, ext. 5696; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. Hearing impaired persons may call 711.



Draft Rules – Edits Highlighted

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

Division 12 ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0054

Air Quality Classification of Violations

(1) Class I:

- (a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;
- (b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit that includes permit conditions required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;
- (c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;
- (d) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from DEQ;
- (e) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;
- (f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;
- (g) Exceeding a Plant Site Emission Limit (PSEL);
- (h) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;

- (i) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;
- (j) Exceeding a hazardous air pollutant emission limitation;
- (k) Failing to comply with an Emergency Action Plan;
- (l) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established under New Source Review/Prevention of Significant Deterioration (NSR/PSD);
- (m) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;
- (n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;
- (o) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;
- (p) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit or with an emission limitation or a performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;
- (q) Causing emissions that are a hazard to public safety;
- (r) Violating a work practice requirement for asbestos abatement projects;
- (s) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;
- (t) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;

- (u) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;
- (v) Failing to hire a licensed contractor to conduct an asbestos abatement project;
- (w) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);
- (x) Failing to install certified vapor recovery equipment;
- (y) Delivering for sale a noncompliant vehicle by a ~~vehicle~~~~n-automobile~~ manufacturer in violation of Oregon Low Emission and Zero Emission Vehicle rules set forth in OAR 340 division 257;
- (z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;
- (aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements or to meet credit retirement and/or deficit requirements under ~~set forth in~~ OAR 340 division 257;
- (bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;
- (cc) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (dd) Failing to comply with any of the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010;
- (ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);
- (ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a regulated party's true compliance obligation denominated in deficits under such program;
- (gg) Making misstatements about material information or knowingly or recklessly providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450;
- (hh) Failing to timely submit a complete and accurate annual compliance report under OAR 340-253-0100(8);

(ii) Failing to timely submit a complete and accurate emissions data report under OAR 340-215-0044 and OAR 340-215-0046; (jj) Submitting a verification statement to DEQ prepared by a person not approved by DEQ under OAR 340-272-0220 to perform verification services;

(kk) Failing to timely submit a verification statement that meets the verification requirements under OAR 340-272-0100 and OAR 340-272-0495;

(ll) Failing to submit a revised application or report to DEQ according to OAR 340-272-0435; ~~or~~

(mm) Failing to complete re-verification according to OAR 340-272-0350(2); or

(nn) Delivering for sale a new noncompliant on-highway heavy-duty engine, truck or trailer in violation of rules set forth under OAR 340 division 261.

(2) Class II:

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP attachment, or registration without first obtaining such permit or registration, unless otherwise classified;

(b) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;

(c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

(e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;

(f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;

(g) Failing to timely submit a certification, report, or plan as required by rule, permit or permit attachment, unless otherwise classified;

(h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;

(i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;

- (j) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;
- (k) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).
- (l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;
- (m) Failing to provide timely, accurate or complete notification of an asbestos abatement project;
- (n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;
- (o) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620;
- (p) Failing to comply with an Oregon Low Emission and Zero Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;
- (q) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is a producer or importer of blendstocks, as defined in OAR 340-253-0040;
- (r) Failing to register as an aggregator or submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c);
- (s) Failing to keep records under OAR 340-253-0600 when the records relate to obtaining a carbon intensity under OAR 340-253-0450;
- (t) Failing to keep records related to obtaining a carbon intensity under OAR 340-253-0450;
- (u) Failing to timely submit a complete and accurate quarterly report under OAR 340-253-0100(7); ~~or~~
- (v) Violating any requirement under OAR Chapter 340 division 272, unless otherwise classified; [or](#)
- [\(w\) Failing to comply with the reporting, notification, or warranty requirements for new engines, trucks, and trailers set forth in OAR Chapter 340, division 261.](#)

(3) Class III:

- (a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;
- (b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;
- (c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;
- (d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;
- (e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project;
- (f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (g) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is an importer of finished fuels, as defined in OAR 340-253-0040; or
- (h) Failing to keep records under OAR 340-253-0600, except as provided in subsection (2)(s).

[Note: Tables and Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.045

Statutes/Other Implemented: ORS 468.020 & 468A.025

History:

[DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020](#)

[DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019](#)

[DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018](#)

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 1-2014, f. & cert. ef. 1-6-14

DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06

Renumbered from 340-012-0050, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 19-1998, f. & cert. ef. 10-12-98

DEQ 22-1996, f. & cert. ef. 10-22-96

DEQ 21-1994, f. & cert. ef. 10-14-94

DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 2-1992, f. & cert. ef. 1-30-92
DEQ 31-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89
DEQ 22-1988, f. & cert. ef. 9-14-88
DEQ 22-1984, f. & ef. 11-8-84
DEQ 5-1980, f. & ef. 1-28-80
DEQ 78, f. 9-6-74, ef. 9-25-74

340-012-0140

Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) \$12,000 Penalty Matrix:

(a) The \$12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act, unless otherwise classified.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission [and Zero Emission Vehicle](#) rules (OAR 340-257) by a [vehicle](#) manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

- (E) Any violation of a water quality statute, rule, permit or related order by:
- (i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.
 - (ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.
 - (iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.
 - (iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.
 - (v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.
- (F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.
- (G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.
- (H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.
- (I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.
- (J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.
- (K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.
- (L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.
- (M) Any violation of a hazardous waste statute, rule, permit or related order by:
- (i) A person that is a large quantity generator or hazardous waste transporter.

(ii) A person that has or should have a treatment, storage or disposal facility permit.

(N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a solid waste disposal permit.

(ii) A ~~person~~-city with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as an importer of blendstocks,

(S) Any violation classified under OAR 340-012-0054 (1) (ee), (ff), or (gg).

(T) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions greater than or equal to 25,000 metric tons per year or by a person that has not reported greenhouse gas emissions to DEQ during the past five years, or by a person for which DEQ has insufficient information to accurately estimate emissions.

(U) Any violation of the Third Party Verification rules under OAR Chapter 340, division 272.

[\(V\) Any violation of the rules for Emission Standards for New Heavy-Duty Trucks under OAR Chapter 340 division 261 by engine, truck or trailer manufacturers and dealers.](#)

(b) The base penalty values for the \$12,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$12,000;

(ii) Moderate — \$6,000;

(iii) Minor — \$3,000.

(B) Class II:

(i) Major — \$6,000;

(ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

(C) Class III: \$1,000.

(3) \$8,000 Penalty Matrix:

(a) The \$8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix, unless otherwise classified.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.

(F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.

(H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.

(L) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as a credit generator, an aggregator, or a registered fuel producer unless the violation is otherwise classified in this rule.

(M) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 metric tons per year.

(b) The base penalty values for the \$8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

(a) The \$3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person not listed under another penalty matrix.

(C) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

- (v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.
- (vi) A person that has or should have a WPCF individual stormwater UIC system permit.
- (vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.
- (G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.
- (H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.
- (I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.
- (J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.
- (K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator, unless listed under another penalty matrix.
- (L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.
- (M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.
- (N) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.
- (O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.
- (P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.
- (Q) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 by a person registered as an importer of finished fuels unless the violation is otherwise classified in this rule.

(R) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 5,000 metric tons per year.

(b) The base penalty values for the \$3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

(a) The \$1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.

(H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.

(I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.

(J) Any violation of a statute, rule or order relating to the opportunity to recycle.

(K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.

(L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.

(M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.

(b) The base penalty values for the \$1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$1,000;

(ii) Moderate — \$500;

(iii) Minor — \$250.

(B) Class II:

(i) Major — \$500;

(ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

Statutory/Other Authority: ORS 468.020 & 468.090 - 468.140

Statutes/Other Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035

History:

[DEQ 14-2020, amend filed 05/07/2020, effective 05/07/2020](#)

[DEQ 199-2018, amend filed 11/16/2018, effective 01/01/2019](#)

[DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018](#)

DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DEQ 1-2014, f. & cert. ef. 1-6-14

DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06

Renumbered from 340-012-0042, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 19-1998, f. & cert. ef. 10-12-98

DEQ 9-1996, f. & cert. ef. 7-10-96

DEQ 4-1994, f. & cert. ef. 3-14-94

DEQ 21-1992, f. & cert. ef. 8-11-92

DEQ 33-1990, f. & cert. ef. 8-15-90

DEQ 15-1990, f. & cert. ef. 3-30-90

DEQ 4-1989, f. & cert. ef. 3-14-89

Chapter 340

Division 257

OREGON LOW EMISSION AND ZERO EMISSION VEHICLES

340-257-0010

Purpose

The purpose of this division is to establish an Oregon Low Emission and Zero Emission Vehicle program that implements California vehicle emission standards under section 177 of the federal Clean Air Act. This program establishes criteria and procedures for the manufacture, distribution and sale of new motor vehicles [and trucks](#) in Oregon as listed in OAR 340-257-0050.

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.279 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0020

Applicability and Effective Date

(1) This division is in effect as of January 1, 2006 [as it](#) ~~and~~ applies to and establishes requirements for automobile manufacturers, Oregon motor vehicle dealers, and all 2009 and subsequent model year passenger cars, light-duty trucks, medium-duty vehicles, and

medium-duty passenger vehicles registered, leased, rented, delivered for sale or sold in the State of Oregon, except as provided in OAR 340-257-0060 Exemptions.

(2) This division is in effect as of January 1, 2022 as it applies to and establishes requirements for medium- and heavy-duty truck manufacturers, Oregon truck dealers, and all 2025 and subsequent model year medium-duty trucks, and heavy-duty trucks produced and delivered for sale in the State of Oregon, except as provided in OAR 340-257-0060 Exemptions.

(3) A one-time fleet reporting requirement, effective upon adoption of this rule, which will allow DEQ to collect information to understand the use of medium- and heavy-duty vehicles, applies to persons as described in OAR 340-257-0200.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0030

Definitions and Abbreviations

The definitions in OAR 340-200-0020, the definitions in CCR, Title 13, sections incorporated by reference in OAR 340-257-0050, and the definitions in this division apply to this division. If the same term is defined in different passages, the definitions in this division apply first, followed by definitions in CCR Title 13 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

(1) "Administrative/office building" means a building or structure used primarily for day-to-day activities that are related to administrative tasks, such as financial planning, recordkeeping, billing, personnel, physical distribution, and logistics, within a business.

(2) "Assembled vehicle" means a motor vehicle that:

(a) Is an assembled vehicle under ORS 801.130; or

(b) Is a replica vehicle under ORS 801.425.

(c) Will be used for occasional transportation, exhibitions, club activities, parades, tours, testing its operation, repairs or maintenance and similar uses; and

(d) Will not be used for general daily transportation.

(3) "ATPZEV" means advanced technology partial zero emission vehicle as defined in CCR, Title 13, section 1962.1(i).

(4) "Broker" means a person who has broker authority from the Federal Motor Carrier Safety Association and, for compensation, arranges, or offers to arrange, the transportation of property by an authorized motor carrier.

~~(53)~~ "CARB" means California Air Resources Board.

~~(64)~~ "CCR" means California Code of Regulations.

~~(75)~~ "Custom vehicle" means a motor vehicle that:

(a) Is a street rod under ORS 801.513; or

(b) Was manufactured to resemble a vehicle at least twenty-five (25) years old and of a model year after 1948; and

(A) Has been altered from the manufacturer's original design; or

(B) Has a body constructed from non-original materials.

(8) "Distribution center/warehouse" means a location used primarily for the storage of goods that are intended for subsequent shipment.

~~(96)~~ "Emergency vehicle" means a vehicle as defined in ORS 801.260 that is equipped with lights and sirens as required under ORS 820.350 and 820.370 and that is any of the following:

(a) Operated by public police, fire or airport security agencies.

(b) Designated as an emergency vehicle by a federal agency.

(c) Designated as an emergency vehicle by the Director of Transportation.

~~(107)~~ "Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in CCR, Title 13, section 1961(c) and 1961.1(b).

~~(118)~~ "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in CCR, Title 13, section 1961(c) and 1961.1(b).

~~(129)~~ "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1(b).

(130) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the loaded weight of a single vehicle.

(14) "Hotel/motel/resort" means a commercial establishment offering lodging to travelers and, sometimes, to permanent residents

(151) "Independent low volume manufacturer" is defined in CCR, Title 13, section 1900(b)(8).

(162) "Intermediate volume manufacturer" is defined in CCR, Title 13, section 1900(b)(9)..

(173) "Large volume manufacturer" is defined in CCR, Title 13, section 1900(b)(10).

(184) "Light-duty truck" is any 2000 and subsequent model year motor vehicle certified to the standards in CCR, Title 13, section 1961(a)(1), rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property, is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(19) "Manufacturer" means any person who assembles new on-road motor vehicles, or imports such vehicles for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles, but shall not include any dealer with respect to new motor vehicles received in commerce. In general, this term includes any person who manufactures or assembles an on-road vehicle or other incomplete on-road vehicle for sale in Oregon or otherwise introduces a new onroad motor vehicle into commerce in Oregon. This includes importers who import on-road vehicles for resale and persons that assemble glider vehicles. This does not include persons who supply parts to the importer or vehicle manufacturer of record.

(20) "Medical/hospital/care" means an institution engaged in providing, by, or under the supervision of, physicians, inpatient diagnostic, and therapeutic services or rehabilitation services by, or under the supervision of, physicians.

(2145) "Medium duty-passenger vehicle" (MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which

(a) Is an "incomplete truck" i.e., is a truck that does not have the primary load carrying device or container attached; or

(b) Has a seating capacity of more than 12 persons; or

(c) Is designed for more than 9 persons in seating rearward of the driver's seat; or

(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition.

(~~2216~~) "Medium duty vehicle" means any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 8,500 pounds or less; any 1992 through 2006 model-year heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in section 1960.1(h)(2) having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; and any 2000 and subsequent model heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in Section 1961(a)(1) or 1962.1 having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

(~~2317~~) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture is the date of completion of the chassis.

(24) "Motor carrier" means a person that transports passengers or property for compensation. A motor carrier, or person who is an employee or agent of a carrier is not a broker when it arranges or offers to arrange the transportation of shipments that it is authorized to transport and that it has accepted and legally bound itself to transport.

(25) "Multi-building campus/base" means a property typically operated by a single person with several buildings, often serving multiple purposes.

(~~2618~~) "Non-methane organic gas" (NMOG) is the sum of non-oxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "California Non-Methane Organic Gas Test Procedures," which is incorporated herein by reference.

(~~2719~~) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases from passenger cars and light duty trucks in any model year subject to this regulation delivered for sale in Oregon.

(28) "NZEV" means "near-zero-emission vehicle" as defined at 13 CCR § 1963(c).

(29) "Operating authority number" means the motor carrier's registration, as required by 49 U.S.C. 13902, 49 CFR part 365m 49 CFR part 368, and 49 CFR 392.9a to operate a commercial motor vehicle to transport goods or passengers for hire across state lines.

(~~320~~) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(~~321~~) "PZEV" means partial zero emission vehicle.

(32) “Restaurant” means a business establishment where the primary purpose is serving meals or refreshments that may be purchased.

(33) “Service center” means a facility that supports a business operation that generates revenue by providing a specific service or product, or a group of services or products, to a customer.

~~(3422)~~ "Small volume manufacturer" is defined as set forth in CCR, Title 13, section 1900(b)(22), and incorporated herein by reference.

(35) “Store” means an establishment that sells goods or a variety of goods and services to the general public.

(36) “Truck/equipment yard” means an establishment that primarily stores or dispatches trucks and equipment, such as a garage or parking lot.

~~(3723)~~ “TZEV” means transitional zero emission vehicle.

(38) “Vehicle awaiting sale” means vehicles in the possession of dealers, financing companies or other entities that do not intend to operate the vehicle in Oregon or offer the vehicle for hire for operation in Oregon, and that are operated only to demonstrate functionality to potential buyers or to move short distances while awaiting sale for purposes such as maintenance or storage.

~~(3924)~~ "ZEV" means zero emission vehicle.

[NOTE: View a copy of the California Non-Methane Organic Gas Test Procedures by clicking on the “Tables” link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 196-2018, amend filed 11/15/2018, effective 11/15/2018

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2011, f. & cert. ef. 4-29-11

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0040

Requirement to Meet California Vehicle Emission Standards

(1) Starting with the 2009 model year and for each model year thereafter no person may lease, rent out, license, deliver for sale, or sell any vehicle unless such vehicle is certified to

the California emission standards as required under~~pursuant to~~ OAR 340-257-0050(1) and (2), except as provided in 340-257-0060, Exemptions.

(2) Starting with the 2025 model year and for each model year thereafter no person may produce and deliver for sale any vehicle unless such vehicle is certified to the California emission standards as required under OAR 340-257-0050(1) and (3), as applicable, except as provided in 340-257-0060, Exemptions.

~~(3)~~ All vehicle manufacturers must comply with the fleet average emission requirements and the warranty, recall, and other applicable requirements contained in this division.

~~(4)~~ All motor vehicle dealers must comply with the sales and reporting requirements contained in this division.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

History:

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0050

Incorporation by Reference

(1) For purposes of applying the incorporated sections of the California Code of Regulations in sections (2) and (3), unless otherwise specified in this division or the application is clearly inappropriate, "California" means "Oregon," "Air Resources Board (ARB)" or "California Air Resources Board (CARB)" means Department of Environmental Quality or Environmental Quality Commission depending on context, and "Executive Officer" means the DEQ director or director's designee.

(2) Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer of new 2009 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles must comply with each applicable standard specified in the following sections of the California Code of Regulations (CCR), Title 13, which are incorporated by reference herein. References to provisions of CCR, Title 13 in this division are to such provisions effective on the California effective dates listed in this section:

(a) Section 1900: Definitions. California effective date 11/1/2021 [anticipated].

(b) Section 1956.8(g) and (h): Exhaust Emission Standards and Test Procedures — 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California effective date 12/5/14.

(c) Section 1960.1: Exhaust Emission Standards and Test Procedures — 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles. California effective date 12/31/12.

(d) Section 1961: Exhaust Emission Standards and Test Procedures — 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 12/31/12.

(e) Section 1961.1: Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 8/7/12.

(f) Section 1961.2: Exhaust Emission Standards and Test Procedures — 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 11/1/2021 [anticipated].

(g) Section 1961.3: Greenhouse Gas Emission Standards and Test Procedures — 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 9/28/18.

(h) Section 1962: Zero-Emission Vehicle Standards for 2005 through 2008 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. California effective date 2/13/2010.

(i) Section 1962.1: Zero-Emission Vehicle Standards for 2009 through 2017 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 1/1/16.

(j) Section 1962.2: Zero-Emission Vehicle Standards for 2018 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 1/1/16.

(k) Section 1962.3: Electric Vehicle Charging Requirements. California effective date 8/7/12.

(l) Section 1965: Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles. California effective date 11/1/2021 [anticipated].

(m) Section 1968.2: Malfunction and Diagnostic System Requirements — 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date ~~7/25/16~~ 11/1/2021 [anticipated].

(n) Section 1968.5: Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines. California effective date 7/25/16.

(o) Section 1976: Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions. California effective date 10/8/15.

(p) Section 1978: Standards and Test Procedures for Vehicle Refueling Emissions. California effective date 10/8/15.

(q) Section 2035: Purpose, Applicability and Definitions. California effective date 11/1/2021 [anticipated].

[\(r\) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California effective date 11/1/2021 \[anticipated\].](#)

(~~s~~) Section 2037: Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles. California effective date 12/5/14.

(~~t~~) Section 2038: Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such. California effective date 8/7/12.

(~~u~~) Section 2039: Emission Control System Warranty Statement. California effective date 12/26/90.

(~~v~~) Section 2040: Vehicle Owner Obligations. California effective date 12/26/90.

(~~w~~) Section 2046: Defective Catalyst. California effective date 2/15/79.

(~~x~~) Section 2109: New Vehicle Recall Provisions. California effective date 12/30/83.

(~~y~~) Section 2111: Applicability. California effective date 11/1/2021 [anticipated].

(~~z~~) Section 2112: Definitions. California effective date 11/1/2021 [anticipated].

(~~aa~~) Appendix A to Article 2.1. California effective date 8/16/2009.

(~~ba~~) Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California effective date 11/1/2021 [anticipated].

(~~cb~~) Section 2114: Voluntary and Influenced Recall Plans. California effective date 11/1/2021 [anticipated].

(~~de~~) Section 2115: Eligibility for Repair. California effective date 11/1/2021 [anticipated].

(~~ee~~) Section 2116: Repair Label. California effective date 11/1/2021 [anticipated].

(~~ff~~~~ee~~) Section 2117: Proof of Correction Certificate. California effective date 11/1/2021 [anticipated].

(~~gg~~~~ff~~) Section 2118: Notification. California effective date 11/1/2021 [anticipated].

(~~hh~~~~gg~~) Section 2119: Record keeping and Reporting Requirements. California effective date 11/1/2021 [anticipated].

(~~ii~~~~hh~~) Section 2120: Other Requirements Not Waived. California effective date 1/26/95.

(~~jj~~~~ii~~) Section 2122: General Provisions. California effective date 12/8/2010.

(~~kk~~~~jj~~) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California effective date 11/1/2021 [anticipated].

(~~ll~~~~kk~~) Section 2124: Availability of Public Hearing. California effective date 1/26/95.

(~~mm~~~~ll~~) Section 2125: Ordered Recall Plan. California effective date 11/1/2021 [anticipated].

(~~nn~~~~mm~~) Section 2126: Approval and Implementation of Recall Plan. California effective date 11/1/2021 [anticipated].

(~~oo~~~~nn~~) Section 2127: Notification of Owners. California effective date 11/1/2021 [anticipated].

(~~pp~~~~oo~~) Section 2128: Repair Label. California effective date 11/1/2021 [anticipated].

(~~qq~~~~pp~~) Section 2129: Proof of Correction Certificate. California effective date 11/1/2021 [anticipated].

(~~rr~~~~qq~~) Section 2130: Capture Rates and Alternative Measures. California effective date 11/1/2021 [anticipated].

(~~ss~~~~rr~~) Section 2131: Preliminary Tests. California effective date 11/1/2021 [anticipated].

(~~tt~~~~ss~~) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.

(~~uu~~~~tt~~) Section 2133: Record keeping and Reporting Requirements. California effective date 11/1/2021 [anticipated].

(~~vv~~~~uu~~) Section 2135: Extension of Time. California effective date 1/26/95.

(~~ww~~~~vv~~) Section 2141: General Provisions. California effective date 11/1/2021 [anticipated].

(~~xxww~~) Section 2142: Alternative Procedures. California effective date 11/1/2021 [anticipated].

(~~yyxx~~) Section 2143: Failure Levels Triggering Recall. California effective date 11/1/2021 [anticipated].

(~~zzyy~~) Section 2144: Emission Warranty Information Report. California effective date 11/1/2021 [anticipated].

(~~aaa~~zz~~~~) Section 2145: Field Information Report. California effective date 11/1/2021 [anticipated].

(~~bbb~~aaa~~~~) Section 2146: Emissions Information Report. California effective date 11/1/2021 [anticipated].

(~~ccc~~bbb~~~~) Section 2147: Demonstration of Compliance with Emission Standards. California effective date 11/1/2021 [anticipated].

(~~ddd~~eee~~~~) Section 2148: Evaluation of Need for Recall. California effective date 11/1/2021 [anticipated].

(~~eee~~ddd~~~~) Section 2149: Notification of Subsequent Action. California effective date 11/1/2021 [anticipated].

(~~fff~~eee~~~~) Section 2235: Requirements. California effective date 8/8/12.

(3) Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer of new 2025 and subsequent model year medium-duty and heavy-duty vehicles must comply with each applicable standard specified in the following sections of the California Code of Regulations (CCR), Title 13, which are incorporated by reference herein. References to provisions of CCR, Title 13 in this division are to such provisions effective on the California effective dates listed in this section:

(a) Section 1963 Advanced Clean Trucks Purpose, Applicability, Definitions, and General Requirements. California effective date 3/15/21.

(b) Section 1963.1 Advanced Clean Trucks Deficits Section. California effective date 3/15/21.

(c) 1963.2 Advanced Clean Trucks Credit Generation, Banking, and Trading Section. California effective date 3/15/21.

(d) 1963.3 Advanced Clean Trucks Compliance Determination Section. California effective date 3/15/21.

[\(e\) 1963.4 Advanced Clean Trucks Reporting and Recordkeeping Section. California effective date 3/15/21.](#)

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

[DEQ 196-2018, amend filed 11/15/2018, effective 11/15/2018](#)

[DEQ 13-2013, f. & cert. ef. 12-19-13](#)

[DEQ 6-2011, f. & cert. ef. 4-29-11](#)

[DEQ 6-2006, f. & cert. ef. 6-29-06](#)

[DEQ 10-2005\(Temp\), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06](#)

[340-257-0055](#)

[Enforcement of Advanced Clean Trucks Requirements](#)

[The requirements in sections \(1\) through \(3\) apply to all vehicle manufacturers that are subject to the rules adopted by reference in OAR 340-257-0050\(3\).](#)

[\(1\) Audit of Records. A manufacturer must make records of vehicle sales into Oregon available to the DEQ within 30 days of a request for audit to verify the accuracy of the reported information. Submitting false information is a violation of this regulation.](#)

[\(2\) Authority to Suspend, Revoke, or Modify. If the DEQ finds that any ZEV or NZEV credit was obtained based on false information, the credit will be deemed invalid and DEQ may suspend, revoke or modify the credit, as DEQ determines is appropriate.](#)

[\(3\) Violation for Failure to Meet Credit and Deficit Requirements. Any manufacturer that fails to retire an appropriate amount of ZEV or NZEV credits as specified in CCR Title 13, section 1963.3\(c\), adopted by reference in OAR 340-257-0050\(3\)\(d\), and that does not make up deficits within the specified time allowed by CCR Title 13, section 1963.3\(b\), shall be in violation of these rules. The violation shall be deemed to accrue when the deficit is not balanced by the end of the specified time allowed by CCR Title 13, section 1963.3\(b\). For the purposes of calculating the number of violations that have occurred or the amount of the civil penalty under OAR chapter 340, division 12, the number of vehicles not meeting the DEQ's standards or procedures shall be equal to one half of the manufacturer's outstanding deficit.](#)

[Statutory/Other Authority:](#) ORS 468.020, 468A.025 & 468A.360

[Statutes/Other Implemented:](#) ORS 468.010, 468A.015, 468A.025 & 468A.360

340-257-0080

ZEV Sales Requirement

(1) Effective model year 2009 through 2017, each manufacturer must comply with the ZEV sales requirement contained in CCR, Title 13, section 1962.1, including early credit and banking provisions.

(2) Effective model year 2018 and each subsequent model year, each manufacturer must comply with the ZEV sales requirement contained in CCR, Title 13, section 1962.2 including early credit and banking provisions.

[\(3\) Effective model year 2025 and each subsequent model year, each manufacturer must comply with the ZEV sales requirement contained in CCR, Title 13, section 1963.1.](#)

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 172-2018, minor correction filed 04/16/2018, effective 04/16/2018

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0090

ZEV Credit Bank and Reporting

(1) Beginning model year 2009, each intermediate volume and large volume manufacturer of ZEVs, ATPZEVs, PZEVs, and TZEVs may open an account in the ZEV Credit Bank operated by DEQ.

(2) In order to generate and deposit credits for vehicles delivered for sale in Oregon during the 1999 through 2005 model years, a manufacturer must open an account with the ZEV Credit Bank and submit an appropriate Notice of Generation to DEQ on or before September 1, 2006.

(3) Manufacturers wishing to claim ZEV credits must use the format and process contained in CARB's Manufacturer's Advisory Correspondence (MAC) 2011-02 for reporting and tracking ZEV deliveries and placements, unless this division specifies different requirements. DEQ will follow CARB's procedures contained in that MAC for tracking and recording ZEV sales and credits.

(4) Except as provided in section (2) of this rule, annually each manufacturer must submit to DEQ a Notice of Credit Generation or Notice of Credit Transfer to or from another manufacturer. Credits generated or acquired must be reported to DEQ on or before September 1 following the close of the model year in which the qualifying vehicle was produced and delivered for sale in Oregon.

(5) To deposit credits into the ZEV Credit Bank, a manufacturer must submit a Notice of Credit Generation to DEQ. The Notice of Generation must include the following:

(a) For ZEVs delivered for sale in Oregon:

(A) Manufacturer's ZEV Credit Bank account identifier;

(B) Model year of vehicle qualifying for credit;

(C) CARB Executive Order number;

(D) ZEV Tier type (NEV, 0, I, II, III for California, III for Section 177 states);

(E) Vehicle identification number (only through model year 2017); and

(F) Date the vehicle was delivered for sale in Oregon.

(b) For model years through 2017, ZEVs placed in service in Oregon, all information listed under subsection (6)(a) of this rule, plus the following:

(A) Date the vehicle was placed in service, and

(B) Whether the vehicle was placed in service with an option to purchase or lease the vehicle.

(c) For ATPZEVs and PZEVs delivered for sale in Oregon:

(A) Vehicle certification class (ATPZEV or PZEV);

(B) Manufacturer's ZEV Credit Bank account identification;

(C) Model year of vehicle(s);

(D) For ATPZEVs, the Federal test group;

(E) The CARB Executive Order number;

(F) Number of vehicles delivered;

(d) For TZEVs delivered for sale in Oregon:

(A) Manufacturer's ZEV Credit Bank account identifier;

(B) Model year of vehicle qualifying for credit;

(C) CARB Executive Order number;

(D) Date the vehicle was delivered for sale in Oregon, and

(6) The number of the credits generated and deposited for each qualifying vehicle must be the number of qualifying vehicles multiplied by the applicable multiplier specified in CCR, Title 13, sections 1962, 1962.1 or 1962.2 as appropriate, except the multiplier applied to vehicles produced and delivered for sale in Oregon from January 1, 1999 to January 13, 2004 will be the highest applicable multiplier used by the CARB for the period January 1, 1999 to January 13, 2004.

(7) A vehicle equivalent credit does not constitute or convey a property right.

(8) A manufacturer with an account in the ZEV Credit Bank may acquire credits from another manufacturer with an account in the ZEV Credit Bank. However, if the credits are to be used for future compliance with the ZEV sales requirement at CCR Title 13, section 1962.1, the transaction must be recorded in the ZEV Credit Bank and certified by both parties to the transaction.

(9) A manufacturer may deposit into its account in the ZEV Credit Bank a number of credits equal to its California credit balance at the beginning of the 2009 model year. The transferred credit balance will be multiplied by the number of new motor vehicles registered in Oregon, and divided by the number of new motor vehicles registered in California. The proportion of new motor vehicles in Oregon and California will be determined by the average number of vehicles registered in model years 2003 through 2005, or by the average number of vehicles registered in model year 2009. The deposit may be made only after all credit obligations for model years 2008 and earlier have been satisfied in California.

(10) Each manufacturer with a ZEV Credit Bank account under this rule must report to DEQ the following information:

(a) By May 1, 2009, the total number of PC and LDT1 vehicles produced and delivered for sale in Oregon and California for 2003 through 2005 model years; or

(b) By May 1, 2009, the total projected number of PC and LDT1 vehicles to be produced and delivered for sale in Oregon and California during model year 2009 and, by March 1, 2010, the actual number of 2009 model year PC and LDT1 vehicles produced and delivered for sale in Oregon and California; and

(c) By May 1, 2009, provide DEQ with the total number of banked California credits after all 2008 model year and earlier obligations have been met.

(11) A manufacturer electing to deposit credits under section (9) of this rule must offer for sale in Oregon in model years 2009 through 2011 any PZEV, ATPZEV or ZEV, except Type III ZEVs, that it offers for sale in California during the same period.

(12) Beginning with the model year 2022, any manufacturer that produces on-road vehicles over 8,500 pounds GVWR may generate, bank, and trade ZEV and NZEV credits as required under 13 CCR Section 1963.2.

[NOTE: View a copy of CARB's Manufacturer's Advisory Correspondence (MAC) 2011-02 by clicking on the "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

History:

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 196-2018, amend filed 11/15/2018, effective 11/15/2018

DEQ 173-2018, minor correction filed 04/16/2018, effective 04/16/2018

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2011, f. & cert. ef. 4-29-11

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0200

Fleet Reporting Applicability

(1) Except as provided in section (2), the following persons must submit to DEQ all of the information described in OAR 340-270-0210. As used in this rule, all operations conducted by persons under common ownership or control shall be aggregated and considered to be one person to determine fleet reporting applicability.

(a) Any person that owns or operates a business with gross annual revenues greater than \$50 million in the United States for the 2021 tax year, including revenues from all subsidiaries, subdivisions, or branches, and that operated a facility in Oregon in 2021 that had one or more vehicles over 8,500 pounds GVWR operated in Oregon in 2021.

(b) Any person that owns or operates a facility in Oregon and that, in the 2021 calendar year, owned or operated 5 or more vehicles with a GVWR greater than 8,500 pounds.

(c) Any person that operated a facility in Oregon and that, in the 2021 calendar year, dispatched 5 or more vehicles with a GVWR greater than 8,500 pounds into or throughout Oregon.

(d) Any Oregon government agency, including State and local government, that operated five or more vehicles over 8,500 pounds GVWR in Oregon in 2021.

(e) Any Federal government agency that operated five or more vehicles over 8,500 pounds GVWR in Oregon in 2021.

(2) The following vehicles and persons are exempt from the reporting requirements and should not be counted or reported for the purposes of the applicability requirements in section (1) or the reporting requirements in OAR 340-257-0210:

(a) Military tactical vehicles and military tactical facilities owned or operated by the United States Department of Defense or any of the United States military services;

(b) Vehicles awaiting sale; and

(c) Emergency vehicles.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

340-257-0210

General Requirements

(1) All persons required to report under this rule must report information to the Department no later than June 30, 2022.

(2) Subsidiaries, parent companies, or joint ventures may independently report information for each vehicle over 8,500 pounds. Alternatively, the corporate parent or joint venture business may report on behalf of its subsidiaries, as long as the information for all vehicles over 8,500 pounds is reported for each subsidiary, corporate parent, and joint venture.

(3) A person subject to OAR 340-257-0200 through 340-257-0220 and that has brokerage or motor carrier authority, or both, must submit a report, even if no vehicles are owned by the person.

(4) Information pertaining to vehicles that are under common ownership or control may be submitted separately by each fleet owner.

(5) A person that is a fleet owner may report vehicle data as the fleet was comprised on any date of the person's choosing, so long as that date falls between January 1, 2021, and December 31, 2021.

(6) All information submitted to DEQ shall be public information, unless the person submitting the information asserts a confidentiality claim as provided in OAR 340-214-0130 the information is entitled to confidential treatment as required under the Oregon Public Records Law, ORS 192.311 through 192.478.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

340-257-0220

Fleet Reporting Requirement

A person required to report under this rule as identified in OAR 340-257-0200 must report the information as required by and according to the requirements of each section of this rule. Such reporting must include information for each and every operation under common ownership or control.

(1)(a) Name (i.e., if a business, the registered business name) and all business names that the person does business as (i.e., all “dba” or “doing business as” names);

(b) Mailing address including street name or PO box, city, state, and zip code;

(c) Name of the responsible official;

(d) Responsible official’s email address;

(e) Responsible official’s phone number;

(f) Name of corporate parent or governing body, as applicable;

(g) Federal Taxpayer Identification Number of corporate parent or other persons with which the reporting person has vehicles under common ownership or control;

(h) For a government agency, the jurisdiction (federal, state, or local);

(i) Federal Taxpayer Identification Number;

(j) Primary six-digit North American Industry Classification System code;

(k) For a non-governmental person, the total annual revenue for the person in the United States for 2021;

(l) Broker authority under the Federal Motor Carrier Safety Administration;

(m) The operating authority numbers, including motor carrier identification number, United States Department of Transportation number, and International Registration Plan number;

(n) The number of persons with whom the reporting person had a contract to deliver items or to perform work in Oregon using vehicles over 8,500 pounds GVWR in 2021;

(o) The estimated number of subhaulers, vehicles operated by subhaulers, and the number of vehicles operated by subhaulers that operated under the reporting person’s motor carrier authority; and

(p) The number of vehicles with a GVWR over 8,500 pounds the reporting person owned and operated in Oregon in 2021 that do not have a vehicle home base in Oregon.

(2) For each person required to report, they shall report general information about the vehicle home base. Vehicles that accrue a majority of their annual miles in Oregon but are not assigned to a particular location in Oregon must be reported as part of the person’s

headquarters or another location where the vehicles' operation is managed. The person must report for each vehicle home base:

(a) Facility address including street name, city, state, and zip code;

(b) Facility type category, using one of the following categories:

(i) Administrative/office building;

(ii) Distribution center/warehouse;

(iii) Hotel/motel/resort;

(iv) Manufacturer/factory/plant;

(v) Medical/hospital/care;

(vi) Multi-building campus/base;

(vii) Restaurant;

(viii) Service center;

(ix) Store;

(x) Truck/equipment yard; or

(xi) Any other facility type;

(c) Name of responsible official;

(d) Responsible official's email address;

(e) Whether the facility is owned or leased by the person;

(f) What type of fueling infrastructure is installed at the facility;

(g) Whether the refueling infrastructure at the facility was initially installed on or after January 1, 2010; and

(h) The types of trailers the reporting person pulls, if it has tractors assigned or domiciled at this facility.

(3) For each vehicle home base, a person may report the information grouped by vehicle body type, and weight class bins and fuel type. A person may complete responses for each individual vehicle and include the vehicle's body type, weight class bin, and fuel type. If applicable, a person shall separately report vehicles dispatched under their brokerage authority. When responding, each vehicle shall only be counted once for each response. A person shall report:

(a) Number of vehicles in each vehicle group;

(b) The percent of the vehicles in each vehicle group with operating characteristics including, but not limited to: daily mileage, usage patterns, refueling, trailer towing, and other such characteristics as specified by the Department;

(c) The average annual mileage for a typical vehicle in this vehicle group;

(d) The average length of time a typical vehicle in this vehicle group is retained by the reporting entity after acquisition;

(e) Whether the reporting person is the fleet owner for this group of vehicles, or if they are dispatched under the reporting person's brokerage authority; and

(f) The start and end date of the analysis period selected by the reporting person as required under section (5).

(4) A person must choose a period of time, for example annual or quarterly data averaged for work days during the period selected to determine responses. For example, if an entity selects annual data to determine vehicle daily mileage, the person must average the annual mileage accrued based on the number of workdays that year.

(a) A shorter analysis period may be used if the reporting person deems it more representative of periods of high vehicle utilization when answering questions about typical daily operation. For example, if a reporting person with seasonal workload fluctuations determines that a week or month during the busy season is representative, average the data records for that week or month when determining a response.

(b) If an alternative analysis period is used, the reporting person must be prepared to describe their reasoning at the request of the Department.

(5) For information reported as required under OAR 340-257-0210(3)(a) through (f) for a vehicle group at one location, a reporting person may repeat that information for the same vehicle group at another vehicle home base if the reporting person determines that the operation at the second location is substantially similar to that at the first location.

(6) A broker shall provide information about vehicle usage that is dispatched under contract, such as if a broker hires a truck to move a load, only the miles driven under that contract are required for the response. If known, the broker may voluntarily report information about the miles driven outside the contract.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

340-257-0230

Fleet Reporting Recordkeeping

(1) A person required to report as identified in OAR 340-257-0200 shall maintain all of the following records related to such reporting for a period of five years after the reporting deadline:

(a) For owned on-road vehicles, mileage records and dates from records, such as maintenance logs, vehicle logs, or odometer readings, or other records with the information that the reporting person used to prepare the information the person submitted as required under OAR 340-257-0210;

(b) For on-road vehicles not owned, but dispatched by the person, dispatch records and dates, contracts, or other records with the information that the reporting person used to prepare the information the person submitted as required under OAR 340-257-0210;

(c) Vehicle registration for each owned vehicle operated in Oregon; and

(d) Contracts with persons, or contracts with subhaulers, or other records with the information that the reporting person used to prepare the information the person submitted as required under OAR 340-257-0210.

(2) A person subject to OAR 340-257-0200 through 340-257-0220 must respond to requests for clarification of reported information within 14 days of receiving the request from DEQ.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

Chapter 340
Division 261
EMISSION STANDARDS FOR NEW HEAVY-DUTY TRUCKS

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340-261-0010

Purpose

[The purpose of this division is to establish Oregon heavy-duty engine and vehicle standards that incorporate California engine and vehicle emission standards as required under section 177 of the federal Clean Air Act. These standards establish criteria and procedures for the manufacture, testing, distribution and sale of new on-highway medium- and heavy-duty trucks and engines in Oregon as listed in OAR 340-261-0050.](#)

Stat. Auth.: [ORS 468.020, 468A.025, 468A.050, 468A.279 & 468A.360](#)

Stats. Implemented: [ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360](#)

340-261-0020

Applicability

[This division is in effect as of January 1, 2022 and applies to and establishes requirements for medium- and heavy-duty truck, engine and trailer manufacturers, Oregon truck dealers, all 2024 and subsequent model year on-highway heavy-duty engines, and all 2025 and subsequent model year trucks and trailers delivered for sale or sold in the State of Oregon, except as provided in OAR 340-261-0060 Exemptions.](#)

Stat. Auth.: [ORS 468.020, 468A.025 & 468A.360](#)

Stats. Implemented: [ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360](#)

340-261-0030

Definitions and Abbreviations

[The definitions in OAR 340-200-0020, the definitions in the sections of CCR, Titles 13 and 17, incorporated by reference in OAR 340-261-0050, and the definitions in this rule apply to](#)

this division. If the same term is defined in different passages, the definitions in this rule apply first, followed by definitions in the CCR Title 13 sections incorporated by reference, followed by the definitions in the CCR Title 17 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

(1) “CARB” means California Air Resources Board.

(2) “CCR” means California Code of Regulations.

(3) “Transit agency” means a public entity responsible for administering and managing transit services. Public transit agencies can directly operate transit service or contract out for all or part of the total transit service provided.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0040

Requirement to Meet California Vehicle Emission Standards.

(1) Starting with the 2024 engine model year and for each engine model year thereafter no person may deliver for sale, or sell, in Oregon any new on-highway heavy-duty engine unless such engine is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(2) Starting with the 2025 model year and for each model year thereafter no person may deliver for sale, or sell, in Oregon any new medium- or heavy duty truck or trailer unless such vehicle is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(3) All motor medium- and heavy-duty truck and trailer manufacturers and dealers must comply with the sales and reporting requirements contained in this division.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0050

Incorporation by Reference

(1) For purposes of applying the incorporated sections of the California Code of Regulations described in this rule, “California” means “Oregon” and “Air Resources Board (ARB)” or “California Air Resources Board (CARB)” means Department of Environmental Quality (DEQ) or Environmental Quality Commission (EQC) depending on context, unless otherwise specified in this division or the application is clearly inappropriate.

(2) The sections of the California Code of Regulations (CCR), Title 13 and Title 17, adopted by reference in sections (3) and (4) are in addition to, and compatible with, the CCR, Title

13, standards and requirements adopted by reference under OAR 340-257-0050. It is the intent of this rule that the standards and requirements adopted by reference under OAR 340-257-0050 also apply in Oregon to the on-highway medium- and heavy-duty engines, vehicles and trailers regulated by the CCR, Title 13 and Title 17, standards and requirements adopted by reference in this rule, to the same extent and identical to how they would apply in California.

(3) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new 2024 and subsequent model year on-highway medium- and heavy-duty engines and 2025 and subsequent model year trucks and trailers must comply with each of the following applicable standards specified in CCR, Title 13 as incorporated by reference herein:

(a) Section 1956.8(a) – (f) and (i): Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California effective date 11/1/2021 [anticipated]. Except that CCR Title 13, Section 1956.8(a)(2)(F) “Transit Agency Diesel-Fueled Bus Engine Exemption Request” shall be disregarded and is not incorporated by reference.

(b) Section 1971.1: On-Board Diagnostic System Requirements – 2010 and Subsequent Model-Year Heavy-Duty Engines. California effective date 11/1/2021 [anticipated].

(c) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California effective date 11/1/2021 [anticipated].

(d) Section 2121: Penalties. California effective date 11/1/2021 [anticipated]. Except that the reference in this regulation to “a violation of Health and Safety Code Section 43105” shall be disregarded and is not incorporated by reference.

(e) Section 2137: Vehicle, Engine, and Trailer Selection. California effective date 11/1/2021 [anticipated].

(f) Section 2139: Testing. California effective date 11/1/2021 [anticipated].

(g) Section 2139.5: CARB Authority to Test for Heavy-Duty In-Use Compliance. California effective date 04/21/03.

(h) Section 2140: Notification and Use of Test Results. California effective date 11/1/2021 [anticipated].

(i) Section 2166: General Provisions. California effective date 11/1/2021 [anticipated].

(j) Section 2166.1: Definitions. California effective date 11/1/2021 [anticipated].

(k) Section 2167: Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors. California effective date 11/1/2021 [anticipated].

(l) Section 2168: Required Corrective Action and Recall for Emission-Related Component Failures. California effective date 11/1/2021 [anticipated].

(m) Section 2169: Required Recall or Corrective Action Plan. California effective date 11/1/2021 [anticipated].

(n) Section 2169.1: Approval and Implementation of Corrective Action Plan. California effective date 11/1/2021 [anticipated].

(o) Section 2169.2: Notification of Owners. California effective date 11/1/2021 [anticipated].

(p) Section 2169.3: Repair Label. California effective date 11/1/2021 [anticipated].

(q) Section 2169.4: Proof of Correction Certificate. California effective date 11/1/2021 [anticipated].

(r) Section 2169.5: Preliminary Tests. California effective date 11/1/2021 [anticipated].

(s) Section 2169.6: Communication with Repair Personnel. California effective date 11/1/2021 [anticipated].

(t) Section 2169.7: Recordkeeping and Reporting Requirements. California effective date 11/1/2021 [anticipated].

(u) Section 2169.8: Extension of Time. California effective date 11/1/2021 [anticipated].

(v) Section 2423(n): Exhaust Emission Standards and Test Procedures – Off-Road Compression-Ignition Engines. California effective date 11/1/2021 [anticipated].

(w) Section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. California effective date 11/1/2021 [anticipated].

(4) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new 2025 and subsequent model year on-highway medium- and heavy-duty vehicles and trailers must comply with each of the following applicable standards specified in CCR, Title 17 as incorporated by reference herein:

(a) Section 95660: Purpose. California effective date 1/1/2015.

(b) Section 95661: Applicability. California effective date 1/1/2015.

(c) Section 95662: Definitions. California effective date 11/1/2021 [anticipated].

(d) Section 95663: Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles. California effective date 11/1/2021 [anticipated].

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0060

Exemptions

(1) All exemptions in the California rules adopted under by reference apply with the exception of the transit agency diesel-fueled bus and engine exemption described in CCR, Title 13, section 1956.8(a)(2)(F).

(2) New diesel-fueled buses sold to any transit agency are exempt from OAR 340-261-0050(3)(a). This exemption shall apply to all sales prior to January 1, 2027 or until DEQ issues a finding that a diesel-fueled transit bus engine meeting the standards described in OAR 340-261-0050(3)(a) becomes widely available, whichever occurs earlier.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0070

Recalls

(1) Any order issued or enforcement action taken by CARB to correct noncompliance with any section of CCR, Title 13, that results in the recall of any vehicle as required under CCR, Title 13, sections 2109-2135, for a vehicle subject to the requirements adopted by reference in OAR 340-261-0050, will be *prima facie* evidence concerning vehicles registered in Oregon. If the manufacturer can demonstrate to DEQ's satisfaction that the order or action is not applicable to vehicles registered in Oregon, DEQ will not pursue a recall of vehicles registered in Oregon.

(2) Any voluntary or influenced emission-related recall campaign initiated by any manufacturer as required under CCR, Title 13, sections 2113 - 2121, for vehicles subject to the requirements adopted by reference in OAR 340-261-0050, must extend to all applicable vehicles registered in Oregon. If the manufacturer can demonstrate to DEQ's satisfaction that said campaign is not applicable to vehicles registered in Oregon, the campaign will not apply in Oregon.

(3) For vehicles subject to an order of enforcement action under section (1) of this rule, each manufacturer must send to owners of vehicles registered in the State of Oregon a notice that complies with the requirements in CCR, Title 13, sections 2118 or 2127. The manufacturer must provide a telephone number that Oregon consumers can use to learn answers to questions about any recall that affects Oregon vehicles.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0080

Inspections and Information Requests

(1) DEQ may inspect new and used motor vehicles and related records for the purposes of determining compliance with the requirements of this division. DEQ inspections will occur during regular business hours on public property or on any premises owned, operated or used by any truck dealer or truck rental agency for the purposes of determining compliance with the requirements of this division.

(2) For the purposes of determining compliance with this division, DEQ may require any truck dealer or truck rental agency to submit to DEQ any documentation that DEQ deems necessary to the effective administration and enforcement of this division. This provision does not require creation of new records.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0090

Severability

Each section of this division is severable, and if any section of this regulation is held invalid, the remainder will continue in full force and effect.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360



Draft Rules – Edits Incorporated

Division 12

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0054

Air Quality Classification of Violations

(1) Class I:

- (a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;
- (b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit that includes permit conditions required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;
- (c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;
- (d) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from DEQ;
- (e) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;
- (f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;
- (g) Exceeding a Plant Site Emission Limit (PSEL);
- (h) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;
- (i) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

- (j) Exceeding a hazardous air pollutant emission limitation;
- (k) Failing to comply with an Emergency Action Plan;
- (l) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established under New Source Review/Prevention of Significant Deterioration (NSR/PSD);
- (m) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;
- (n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;
- (o) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;
- (p) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit or with an emission limitation or a performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;
- (q) Causing emissions that are a hazard to public safety;
- (r) Violating a work practice requirement for asbestos abatement projects;
- (s) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;
- (t) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;
- (u) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;
- (v) Failing to hire a licensed contractor to conduct an asbestos abatement project;

- (w) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);
- (x) Failing to install certified vapor recovery equipment;
- (y) Delivering for sale a noncompliant vehicle by a vehicle manufacturer in violation of Oregon Low Emission and Zero Emission Vehicle rules set forth in OAR 340 division 257;
- (z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;
- (aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements or to meet credit retirement and/or deficit requirements under OAR 340 division 257;
- (bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;
- (cc) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (dd) Failing to comply with any of the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010;
- (ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);
- (ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a regulated party's true compliance obligation denominated in deficits under such program;
- (gg) Making misstatements about material information or knowingly or recklessly providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450;
- (hh) Failing to timely submit a complete and accurate annual compliance report under OAR 340-253-0100(8);
- (ii) Failing to timely submit a complete and accurate emissions data report under OAR 340-215-0044 and OAR 340-215-0046; (jj) Submitting a verification statement to DEQ prepared by a person not approved by DEQ under OAR 340-272-0220 to perform verification services;
- (kk) Failing to timely submit a verification statement that meets the verification requirements under OAR 340-272-0100 and OAR 340-272-0495;

(ll) Failing to submit a revised application or report to DEQ according to OAR 340-272-0435;

(mm) Failing to complete re-verification according to OAR 340-272-0350(2); or

(nn) Delivering for sale a new noncompliant on-highway heavy-duty engine, truck or trailer in violation of rules set forth under OAR 340 division 261.

(2) Class II:

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP attachment, or registration without first obtaining such permit or registration, unless otherwise classified;

(b) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;

(c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

(e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;

(f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;

(g) Failing to timely submit a certification, report, or plan as required by rule, permit or permit attachment, unless otherwise classified;

(h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;

(i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;

(j) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;

(k) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).

(l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;

(m) Failing to provide timely, accurate or complete notification of an asbestos abatement project;

(n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;

(o) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620;

(p) Failing to comply with an Oregon Low Emission and Zero Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;

(q) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is a producer or importer of blendstocks, as defined in OAR 340-253-0040;

(r) Failing to register as an aggregator or submit an aggregator designation form under OAR 340-253-0100(3) and (4)(c);

(s) Failing to keep records under OAR 340-253-0600 when the records relate to obtaining a carbon intensity under OAR 340-253-0450;

(t) Failing to keep records related to obtaining a carbon intensity under OAR 340-253-0450;

(u) Failing to timely submit a complete and accurate quarterly report under OAR 340-253-0100(7);

(v) Violating any requirement under OAR Chapter 340 division 272, unless otherwise classified; or

(w) Failing to comply with the reporting, notification, or warranty requirements for new engines, trucks, and trailers set forth in OAR Chapter 340, division 261.

(3) Class III:

(a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;

(b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;

- (c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;
- (d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;
- (e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project;
- (f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;
- (g) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is an importer of finished fuels, as defined in OAR 340-253-0040; or
- (h) Failing to keep records under OAR 340-253-0600, except as provided in subsection (2)(s).

Note: Tables and Publications referenced are available from the agency.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.045

Statutes/Other Implemented: ORS 468.020 & 468A.025

History:

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DEQ 19-1998, f. & cert. ef. 10-12-98

DEQ 22-1996, f. & cert. ef. 10-22-96

DEQ 21-1994, f. & cert. ef. 10-14-94

DEQ 13-1994, f. & cert. ef. 5-19-94

DEQ 4-1994, f. & cert. ef. 3-14-94

DEQ 20-1993(Temp), f. & cert. ef. 11-4-93

DEQ 19-1993, f. & cert. ef. 11-4-93

DEQ 21-1992, f. & cert. ef. 8-11-92

DEQ 2-1992, f. & cert. ef. 1-30-92

DEQ 31-1990, f. & cert. ef. 8-15-90

DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89
DEQ 22-1988, f. & cert. ef. 9-14-88
DEQ 22-1984, f. & ef. 11-8-84
DEQ 5-1980, f. & ef. 1-28-80
DEQ 78, f. 9-6-74, ef. 9-25-74

340-012-0140

Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) \$12,000 Penalty Matrix:

(a) The \$12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act, unless otherwise classified.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission and Zero Emission Vehicle rules (OAR 340-257) by a vehicle manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

- (ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.
- (iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.
- (iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.
- (v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.
- (F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.
- (G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.
- (H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.
- (I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.
- (J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.
- (K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.
- (L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.
- (M) Any violation of a hazardous waste statute, rule, permit or related order by:
 - (i) A person that is a large quantity generator or hazardous waste transporter.
 - (ii) A person that has or should have a treatment, storage or disposal facility permit.
- (N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person

who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a solid waste disposal permit.

(ii) A city with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as an importer of blendstocks,

(S) Any violation classified under OAR 340-012-0054 (1) (ee), (ff), or (gg).

(T) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions greater than or equal to 25,000 metric tons per year or by a person that has not reported greenhouse gas emissions to DEQ during the past five years, or by a person for which DEQ has insufficient information to accurately estimate emissions.

(U) Any violation of the Third Party Verification rules under OAR Chapter 340, division 272.

(V) Any violation of the rules for Emission Standards for New Heavy-Duty Trucks under OAR Chapter 340 division 261 by engine, truck or trailer manufacturers and dealers.

(b) The base penalty values for the \$12,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$12,000;

(ii) Moderate — \$6,000;

(iii) Minor — \$3,000.

(B) Class II:

(i) Major — \$6,000;

(ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

(C) Class III: \$1,000.

(3) \$8,000 Penalty Matrix:

(a) The \$8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix, unless otherwise classified.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.

(F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.

(H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.

(L) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as a credit generator, an aggregator, or a registered fuel producer unless the violation is otherwise classified in this rule.

(M) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 metric tons per year.

(b) The base penalty values for the \$8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

(a) The \$3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person not listed under another penalty matrix.

(C) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

(v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.

(vi) A person that has or should have a WPCF individual stormwater UIC system permit.

(vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.

(G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.

(I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.

(J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.

(K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator, unless listed under another penalty matrix.

(L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.

(M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.

(N) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.

(O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.

(P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.

(Q) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 by a person registered as an importer of finished fuels unless the violation is otherwise classified in this rule.

(R) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 5,000 metric tons per year.

(b) The base penalty values for the \$3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

(a) The \$1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.

(H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.

(I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.

(J) Any violation of a statute, rule or order relating to the opportunity to recycle.

(K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.

(L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.

(M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.

(b) The base penalty values for the \$1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$1,000;

(ii) Moderate — \$500;

(iii) Minor — \$250.

(B) Class II:

(i) Major — \$500;

(ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

Statutory/Other Authority: ORS 468.020 & 468.090 - 468.140

Statutes/Other Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035

History:

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DEQ 9-1996, f. & cert. ef. 7-10-96
DEQ 4-1994, f. & cert. ef. 3-14-94
DEQ 21-1992, f. & cert. ef. 8-11-92
DEQ 33-1990, f. & cert. ef. 8-15-90
DEQ 15-1990, f. & cert. ef. 3-30-90
DEQ 4-1989, f. & cert. ef. 3-14-89

Chapter 340
Division 257
OREGON LOW EMISSION AND ZERO EMISSION VEHICLES

340-257-0010

Purpose

The purpose of this division is to establish an Oregon Low Emission and Zero Emission Vehicle program that implements California vehicle emission standards under section 177 of the federal Clean Air Act. This program establishes criteria and procedures for the manufacture, distribution and sale of new motor vehicles and trucks in Oregon as listed in OAR 340-257-0050.

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.279 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0020

Applicability and Effective Date

(1) This division is in effect as of January 1, 2006 as it applies to and establishes requirements for automobile manufacturers, Oregon motor vehicle dealers, and all 2009 and subsequent model year passenger cars, light-duty trucks, medium-duty vehicles, and medium-duty passenger vehicles registered, leased, rented, delivered for sale or sold in the State of Oregon, except as provided in OAR 340-257-0060 Exemptions.

(2) This division is in effect as of January 1, 2022 as it applies to and establishes requirements for medium- and heavy-duty truck manufacturers, Oregon truck dealers, and all 2025 and subsequent model year medium-duty trucks, and heavy-duty trucks produced and delivered for sale in the State of Oregon, except as provided in OAR 340-257-0060 Exemptions.

(3) A one-time fleet reporting requirement, effective upon adoption of this rule, which will allow DEQ to collect information to understand the use of medium- and heavy-duty vehicles, applies to persons as described in OAR 340-257-0200.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0030

Definitions and Abbreviations

The definitions in OAR 340-200-0020, the definitions in CCR, Title 13, sections incorporated by reference in OAR 340-257-0050, and the definitions in this division apply to this division. If the same term is defined in different passages, the definitions in this division apply first, followed by definitions in CCR Title 13 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

(1) "Administrative/office building" means a building or structure used primarily for day-to-day activities that are related to administrative tasks, such as financial planning, recordkeeping, billing, personnel, physical distribution, and logistics, within a business.

(2) "Assembled vehicle" means a motor vehicle that:

(a) Is an assembled vehicle under ORS 801.130; or

(b) Is a replica vehicle under ORS 801.425.

(c) Will be used for occasional transportation, exhibitions, club activities, parades, tours, testing its operation, repairs or maintenance and similar uses; and

(d) Will not be used for general daily transportation.

(3) "ATPZEV" means advanced technology partial zero emission vehicle as defined in CCR, Title 13, section 1962.1(i).

(4) "Broker" means a person who has broker authority from the Federal Motor Carrier Safety Association and, for compensation, arranges, or offers to arrange, the transportation of property by an authorized motor carrier.

(5) "CARB" means California Air Resources Board.

(6) "CCR" means California Code of Regulations.

(7) "Custom vehicle" means a motor vehicle that:

(a) Is a street rod under ORS 801.513; or

(b) Was manufactured to resemble a vehicle at least twenty-five (25) years old and of a model year after 1948; and

(A) Has been altered from the manufacturer's original design; or

(B) Has a body constructed from non-original materials.

(8) "Distribution center/warehouse" means a location used primarily for the storage of goods that are intended for subsequent shipment.

(9) "Emergency vehicle" means a vehicle as defined in ORS 801.260 that is equipped with lights and sirens as required under ORS 820.350 and 820.370 and that is any of the following:

(a) Operated by public police, fire or airport security agencies.

(b) Designated as an emergency vehicle by a federal agency.

(c) Designated as an emergency vehicle by the Director of Transportation.

(10) "Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in CCR, Title 13, section 1961(c) and 1961.1(b).

(11) "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in CCR, Title 13, section 1961(c) and 1961.1(b).

(12) "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1(b).

(13) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the loaded weight of a single vehicle.

(14) "Hotel/motel/resort" means a commercial establishment offering lodging to travelers and, sometimes, to permanent residents

(15) "Independent low volume manufacturer" is defined in CCR, Title 13, section 1900(b)(8).

(16) "Intermediate volume manufacturer" is defined in CCR, Title 13, section 1900(b)(9)..

(17) "Large volume manufacturer" is defined in CCR, Title 13, section 1900(b)(10).

(18) "Light-duty truck" is any 2000 and subsequent model year motor vehicle certified to the standards in CCR, Title 13, section 1961(a)(1), rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property, is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(19) "Manufacturer" means any person who assembles new on-road motor vehicles, or imports such vehicles for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles, but shall not include any dealer with respect to new motor vehicles received in commerce. In general, this term includes any person who manufactures or assembles an on-road vehicle or other incomplete on-road vehicle for sale in Oregon or otherwise introduces a new onroad motor vehicle into commerce in Oregon. This includes importers who import on-road vehicles for resale and persons that assemble glider vehicles. This does not include persons who supply parts to the importer or vehicle manufacturer of record.

(20) "Medical/hospital/care" means an institution engaged in providing, by, or under the supervision of, physicians, inpatient diagnostic, and therapeutic services or rehabilitation services by, or under the supervision of, physicians.

(21) "Medium duty-passenger vehicle" (MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which

(a) Is an "incomplete truck" i.e., is a truck that does not have the primary load carrying device or container attached; or

(b) Has a seating capacity of more than 12 persons; or

(c) Is designed for more than 9 persons in seating rearward of the driver's seat; or

(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition.

(22) "Medium duty vehicle" means any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 8,500 pounds or less; any 1992 through 2006 model-year heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in section 1960.1(h)(2) having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; and any 2000 and subsequent model

heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in Section 1961(a)(1) or 1962.1 having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

(23) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture is the date of completion of the chassis.

(24) "Motor carrier" means a person that transports passengers or property for compensation. A motor carrier, or person who is an employee or agent of a carrier is not a broker when it arranges or offers to arrange the transportation of shipments that it is authorized to transport and that it has accepted and legally bound itself to transport.

(25) "Multi-building campus/base" means a property typically operated by a single person with several buildings, often serving multiple purposes.

(26) "Non-methane organic gas" (NMOG) is the sum of non-oxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "California Non-Methane Organic Gas Test Procedures," which is incorporated herein by reference.

(27) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases from passenger cars and light duty trucks in any model year subject to this regulation delivered for sale in Oregon.

(28) "NZEV" means "near-zero-emission vehicle" as defined at 13 CCR § 1963(c).

(29) "Operating authority number" means the motor carrier's registration, as required by 49 U.S.C. 13902, 49 CFR part 365m 49 CFR part 368, and 49 CFR 392.9a to operate a commercial motor vehicle to transport goods or passengers for hire across state lines.

(30) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(31) "PZEV" means partial zero emission vehicle.

(32) "Restaurant" means a business establishment where the primary purpose is serving meals or refreshments that may be purchased.

(33) "Service center" means a facility that supports a business operation that generates revenue by providing a specific service or product, or a group of services or products, to a customer.

(34) "Small volume manufacturer" is defined as set forth in CCR, Title 13, section 1900(b)(22), and incorporated herein by reference.

(35) “Store” means an establishment that sells goods or a variety of goods and services to the general public.

(36) “Truck/equipment yard” means an establishment that primarily stores or dispatches trucks and equipment, such as a garage or parking lot.

(37) “TZEV” means transitional zero emission vehicle.

(38) “Vehicle awaiting sale” means vehicles in the possession of dealers, financing companies or other entities that do not intend to operate the vehicle in Oregon or offer the vehicle for hire for operation in Oregon, and that are operated only to demonstrate functionality to potential buyers or to move short distances while awaiting sale for purposes such as maintenance or storage.

(39) "ZEV" means zero emission vehicle.

[NOTE: View a copy of the California Non-Methane Organic Gas Test Procedures by clicking on the “Tables” link below.]

[\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 196-2018, amend filed 11/15/2018, effective 11/15/2018

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2011, f. & cert. ef. 4-29-11

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0040

Requirement to Meet California Vehicle Emission Standards

(1) Starting with the 2009 model year and for each model year thereafter no person may lease, rent out, license, deliver for sale, or sell any vehicle unless such vehicle is certified to the California emission standards as required under OAR 340-257-0050(1) and (2), except as provided in 340-257-0060, Exemptions.

(2) Starting with the 2025 model year and for each model year thereafter no person may produce and deliver for sale any vehicle unless such vehicle is certified to the California emission standards as required under OAR 340-257-0050(1) and (3), as applicable, except as provided in 340-257-0060, Exemptions.

(3) All vehicle manufacturers must comply with the fleet average emission requirements and the warranty, recall, and other applicable requirements contained in this division.

(4) All motor vehicle dealers must comply with the sales and reporting requirements contained in this division.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

History:

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0050

Incorporation by Reference

(1) For purposes of applying the incorporated sections of the California Code of Regulations in sections (2) and (3), unless otherwise specified in this division or the application is clearly inappropriate, "California" means "Oregon," "Air Resources Board (ARB)" or "California Air Resources Board (CARB)" means Department of Environmental Quality or Environmental Quality Commission depending on context, and "Executive Officer" means the DEQ director or director's designee.

(2) Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer of new 2009 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles must comply with each applicable standard specified in the following sections of the California Code of Regulations (CCR), Title 13, which are incorporated by reference herein. References to provisions of CCR, Title 13 in this division are to such provisions effective on the California effective dates listed in this section:

(a) Section 1900: Definitions. California effective date 11/1/2021 [anticipated].

(b) Section 1956.8(g) and (h): Exhaust Emission Standards and Test Procedures — 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California effective date 12/5/14.

(c) Section 1960.1: Exhaust Emission Standards and Test Procedures — 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles. California effective date 12/31/12.

(d) Section 1961: Exhaust Emission Standards and Test Procedures — 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 12/31/12.

(e) Section 1961.1: Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 8/7/12.

(f) Section 1961.2: Exhaust Emission Standards and Test Procedures — 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 11/1/2021 [anticipated].

- (g) Section 1961.3: Greenhouse Gas Emission Standards and Test Procedures — 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 9/28/18.
- (h) Section 1962: Zero-Emission Vehicle Standards for 2005 through 2008 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. California effective date 2/13/2010.
- (i) Section 1962.1: Zero-Emission Vehicle Standards for 2009 through 2017 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 1/1/16.
- (j) Section 1962.2: Zero-Emission Vehicle Standards for 2018 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 1/1/16.
- (k) Section 1962.3: Electric Vehicle Charging Requirements. California effective date 8/7/12.
- (l) Section 1965: Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles. California effective date 11/1/2021 [anticipated].
- (m) Section 1968.2: Malfunction and Diagnostic System Requirements — 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date ~~7/25/16~~ 11/1/2021 [anticipated].
- (n) Section 1968.5: Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines. California effective date 7/25/16.
- (o) Section 1976: Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions. California effective date 10/8/15.
- (p) Section 1978: Standards and Test Procedures for Vehicle Refueling Emissions. California effective date 10/8/15.
- (q) Section 2035: Purpose, Applicability and Definitions. California effective date 11/1/2021 [anticipated].
- (r) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California effective date 11/1/2021 [anticipated].

- (s) Section 2037: Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles. California effective date 12/5/14.
- (t) Section 2038: Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such. California effective date 8/7/12.
- (u) Section 2039: Emission Control System Warranty Statement. California effective date 12/26/90.
- (v) Section 2040: Vehicle Owner Obligations. California effective date 12/26/90.
- (w) Section 2046: Defective Catalyst. California effective date 2/15/79.
- (x) Section 2109: New Vehicle Recall Provisions. California effective date 12/30/83.
- (y) Section 2111: Applicability. California effective date 11/1/2021 [anticipated].
- (z) Section 2112: Definitions. California effective date 11/1/2021 [anticipated].
- (aa) Appendix A to Article 2.1. California effective date 8/16/2009.
- (bb) Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California effective date 11/1/2021 [anticipated].
- (cc) Section 2114: Voluntary and Influenced Recall Plans. California effective date 11/1/2021 [anticipated].
- (dd) Section 2115: Eligibility for Repair. California effective date 11/1/2021 [anticipated].
- (ee) Section 2116: Repair Label. California effective date 11/1/2021 [anticipated].
- (ff) Section 2117: Proof of Correction Certificate. California effective date 11/1/2021 [anticipated].
- (gg) Section 2118: Notification. California effective date 11/1/2021 [anticipated].
- (hh) Section 2119: Record keeping and Reporting Requirements. California effective date 11/1/2021 [anticipated].
- (ii) Section 2120: Other Requirements Not Waived. California effective date 1/26/95.
- (jj) Section 2122: General Provisions. California effective date 12/8/2010.

- (kk) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California effective date 11/1/2021 [anticipated].
- (ll) Section 2124: Availability of Public Hearing. California effective date 1/26/95.
- (mm) Section 2125: Ordered Recall Plan. California effective date 11/1/2021 [anticipated].
- (nn) Section 2126: Approval and Implementation of Recall Plan. California effective date 11/1/2021 [anticipated].
- (oo) Section 2127: Notification of Owners. California effective date 11/1/2021 [anticipated].
- (pp) Section 2128: Repair Label. California effective date 11/1/2021 [anticipated].
- (qq) Section 2129: Proof of Correction Certificate. California effective date 11/1/2021 [anticipated].
- (rr) Section 2130: Capture Rates and Alternative Measures. California effective date 11/1/2021 [anticipated].
- (ss) Section 2131: Preliminary Tests. California effective date 11/1/2021 [anticipated].
- (tt) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.
- (uu) Section 2133: Record keeping and Reporting Requirements. California effective date 11/1/2021 [anticipated].
- (vv) Section 2135: Extension of Time. California effective date 1/26/95.
- (ww) Section 2141: General Provisions. California effective date 11/1/2021 [anticipated].
- (xx) Section 2142: Alternative Procedures. California effective date 11/1/2021 [anticipated].
- (yy) Section 2143: Failure Levels Triggering Recall. California effective date 11/1/2021 [anticipated].
- (zz) Section 2144: Emission Warranty Information Report. California effective date 11/1/2021 [anticipated].
- (aaa) Section 2145: Field Information Report. California effective date 11/1/2021 [anticipated].
- (bbb) Section 2146: Emissions Information Report. California effective date 11/1/2021 [anticipated].

(ccc) Section 2147: Demonstration of Compliance with Emission Standards. California effective date 11/1/2021 [anticipated].

(ddd) Section 2148: Evaluation of Need for Recall. California effective date 11/1/2021 [anticipated].

(eee) Section 2149: Notification of Subsequent Action. California effective date 11/1/2021 [anticipated].

(fff) Section 2235: Requirements. California effective date 8/8/12.

(3) Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer of new 2025 and subsequent model year medium-duty and heavy-duty vehicles must comply with each applicable standard specified in the following sections of the California Code of Regulations (CCR), Title 13, which are incorporated by reference herein. References to provisions of CCR, Title 13 in this division are to such provisions effective on the California effective dates listed in this section:

(a) Section 1963 Advanced Clean Trucks Purpose, Applicability, Definitions, and General Requirements. California effective date 3/15/21.

(b) Section 1963.1 Advanced Clean Trucks Deficits Section. California effective date 3/15/21.

(c) 1963.2 Advanced Clean Trucks Credit Generation, Banking, and Trading Section. California effective date 3/15/21.

(d) 1963.3 Advanced Clean Trucks Compliance Determination Section. California effective date 3/15/21.

(e) 1963.4 Advanced Clean Trucks Reporting and Recordkeeping Section. California effective date 3/15/21.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 196-2018, amend filed 11/15/2018, effective 11/15/2018

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2011, f. & cert. ef. 4-29-11

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0055

Enforcement of Advanced Clean Trucks Requirements

The requirements in sections (1) through (3) apply to all vehicle manufacturers that are subject to the rules adopted by reference in OAR 340-257-0050(3).

(1) **Audit of Records.** A manufacturer must make records of vehicle sales into Oregon available to the DEQ within 30 days of a request for audit to verify the accuracy of the reported information. Submitting false information is a violation of this regulation.

(2) **Authority to Suspend, Revoke, or Modify.** If the DEQ finds that any ZEV or NZEV credit was obtained based on false information, the credit will be deemed invalid and DEQ may suspend, revoke or modify the credit, as DEQ determines is appropriate.

(3) **Violation for Failure to Meet Credit and Deficit Requirements.** Any manufacturer that fails to retire an appropriate amount of ZEV or NZEV credits as specified in CCR Title 13, section 1963.3(c), adopted by reference in OAR 340-257-0050(3)(d), and that does not make up deficits within the specified time allowed by CCR Title 13, section 1963.3(b), shall be in violation of these rules. The violation shall be deemed to accrue when the deficit is not balanced by the end of the specified time allowed by CCR Title 13, section 1963.3(b). For the purposes of calculating the number of violations that have occurred or the amount of the civil penalty under OAR chapter 340, division 12, the number of vehicles not meeting the DEQ's standards or procedures shall be equal to one half of the manufacturer's outstanding deficit.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

340-257-0080

ZEV Sales Requirement

(1) Effective model year 2009 through 2017, each manufacturer must comply with the ZEV sales requirement contained in CCR, Title 13, section 1962.1, including early credit and banking provisions.

(2) Effective model year 2018 and each subsequent model year, each manufacturer must comply with the ZEV sales requirement contained in CCR, Title 13, section 1962.2 including early credit and banking provisions.

(3) Effective model year 2025 and each subsequent model year, each manufacturer must comply with the ZEV sales requirement contained in CCR, Title 13, section 1963.1.

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.010, 468A.015, 468A.025 & 468A.360

History:

DEQ 172-2018, minor correction filed 04/16/2018, effective 04/16/2018

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2006, f. & cert. ef. 6-29-06
DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0090

ZEV Credit Bank and Reporting

(1) Beginning model year 2009, each intermediate volume and large volume manufacturer of ZEVs, ATPZEVs, PZEVs, and TZEVs may open an account in the ZEV Credit Bank operated by DEQ.

(2) In order to generate and deposit credits for vehicles delivered for sale in Oregon during the 1999 through 2005 model years, a manufacturer must open an account with the ZEV Credit Bank and submit an appropriate Notice of Generation to DEQ on or before September 1, 2006.

(3) Manufacturers wishing to claim ZEV credits must use the format and process contained in CARB's Manufacturer's Advisory Correspondence (MAC) 2011-02 for reporting and tracking ZEV deliveries and placements, unless this division specifies different requirements. DEQ will follow CARB's procedures contained in that MAC for tracking and recording ZEV sales and credits.

(4) Except as provided in section (2) of this rule, annually each manufacturer must submit to DEQ a Notice of Credit Generation or Notice of Credit Transfer to or from another manufacturer. Credits generated or acquired must be reported to DEQ on or before September 1 following the close of the model year in which the qualifying vehicle was produced and delivered for sale in Oregon.

(5) To deposit credits into the ZEV Credit Bank, a manufacturer must submit a Notice of Credit Generation to DEQ. The Notice of Generation must include the following:

(a) For ZEVs delivered for sale in Oregon:

(A) Manufacturer's ZEV Credit Bank account identifier;

(B) Model year of vehicle qualifying for credit;

(C) CARB Executive Order number;

(D) ZEV Tier type (NEV, 0, I, II, III for California, III for Section 177 states);

(E) Vehicle identification number (only through model year 2017); and

(F) Date the vehicle was delivered for sale in Oregon.

(b) For model years through 2017, ZEVs placed in service in Oregon, all information listed under subsection (6)(a) of this rule, plus the following:

- (A) Date the vehicle was placed in service, and
- (B) Whether the vehicle was placed in service with an option to purchase or lease the vehicle.
- (c) For ATPZEVs and PZEVs delivered for sale in Oregon:
 - (A) Vehicle certification class (ATPZEV or PZEV);
 - (B) Manufacturer's ZEV Credit Bank account identification;
 - (C) Model year of vehicle(s);
 - (D) For ATPZEVs, the Federal test group;
 - (E) The CARB Executive Order number;
 - (F) Number of vehicles delivered;
- (d) For TZEVs delivered for sale in Oregon:
 - (A) Manufacturer's ZEV Credit Bank account identifier;
 - (B) Model year of vehicle qualifying for credit;
 - (C) CARB Executive Order number;
 - (D) Date the vehicle was delivered for sale in Oregon, and
- (6) The number of the credits generated and deposited for each qualifying vehicle must be the number of qualifying vehicles multiplied by the applicable multiplier specified in CCR, Title 13, sections 1962, 1962.1 or 1962.2 as appropriate, except the multiplier applied to vehicles produced and delivered for sale in Oregon from January 1, 1999 to January 13, 2004 will be the highest applicable multiplier used by the CARB for the period January 1, 1999 to January 13, 2004.
- (7) A vehicle equivalent credit does not constitute or convey a property right.
- (8) A manufacturer with an account in the ZEV Credit Bank may acquire credits from another manufacturer with an account in the ZEV Credit Bank. However, if the credits are to be used for future compliance with the ZEV sales requirement at CCR Title 13, section 1962.1, the transaction must be recorded in the ZEV Credit Bank and certified by both parties to the transaction.
- (9) A manufacturer may deposit into its account in the ZEV Credit Bank a number of credits equal to its California credit balance at the beginning of the 2009 model year. The

transferred credit balance will be multiplied by the number of new motor vehicles registered in Oregon, and divided by the number of new motor vehicles registered in California. The proportion of new motor vehicles in Oregon and California will be determined by the average number of vehicles registered in model years 2003 through 2005, or by the average number of vehicles registered in model year 2009. The deposit may be made only after all credit obligations for model years 2008 and earlier have been satisfied in California.

(10) Each manufacturer with a ZEV Credit Bank account under this rule must report to DEQ the following information:

(a) By May 1, 2009, the total number of PC and LDT1 vehicles produced and delivered for sale in Oregon and California for 2003 through 2005 model years; or

(b) By May 1, 2009, the total projected number of PC and LDT1 vehicles to be produced and delivered for sale in Oregon and California during model year 2009 and, by March 1, 2010, the actual number of 2009 model year PC and LDT1 vehicles produced and delivered for sale in Oregon and California; and

(c) By May 1, 2009, provide DEQ with the total number of banked California credits after all 2008 model year and earlier obligations have been met.

(11) A manufacturer electing to deposit credits under section (9) of this rule must offer for sale in Oregon in model years 2009 through 2011 any PZEV, ATPZEV or ZEV, except Type III ZEVs, that it offers for sale in California during the same period.

(12) Beginning with the model year 2022, any manufacturer that produces on-road vehicles over 8,500 pounds GVWR may generate, bank, and trade ZEV and NZEV credits as required under 13 CCR Section 1963.2.

[NOTE: View a copy of CARB's Manufacturer's Advisory Correspondence (MAC) 2011-02 by clicking on the "Tables" link below.

[\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

History:

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 196-2018, amend filed 11/15/2018, effective 11/15/2018

DEQ 173-2018, minor correction filed 04/16/2018, effective 04/16/2018

DEQ 13-2013, f. & cert. ef. 12-19-13

DEQ 6-2011, f. & cert. ef. 4-29-11

DEQ 6-2006, f. & cert. ef. 6-29-06

DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

340-257-0200

Fleet Reporting Applicability

(1) Except as provided in section (2), the following persons must submit to DEQ all of the information described in OAR 340-270-0210. As used in this rule, all operations conducted by persons under common ownership or control shall be aggregated and considered to be one person to determine fleet reporting applicability.

(a) Any person that owns or operates a business with gross annual revenues greater than \$50 million in the United States for the 2021 tax year, including revenues from all subsidiaries, subdivisions, or branches, and that operated a facility in Oregon in 2021 that had one or more vehicles over 8,500 pounds GVWR operated in Oregon in 2021.

(b) Any person that owns or operates a facility in Oregon and that, in the 2021 calendar year, owned or operated 5 or more vehicles with a GVWR greater than 8,500 pounds.

(c) Any person that operated a facility in Oregon and that, in the 2021 calendar year, dispatched 5 or more vehicles with a GVWR greater than 8,500 pounds into or throughout Oregon.

(d) Any Oregon government agency, including State and local government, that operated five or more vehicles over 8,500 pounds GVWR in Oregon in 2021.

(e) Any Federal government agency that operated five or more vehicles over 8,500 pounds GVWR in Oregon in 2021.

(2) The following vehicles and persons are exempt from the reporting requirements and should not be counted or reported for the purposes of the applicability requirements in section (1) or the reporting requirements in OAR 340-257-0210:

(a) Military tactical vehicles and military tactical facilities owned or operated by the United States Department of Defense or any of the United States military services;

(b) Vehicles awaiting sale; and

(c) Emergency vehicles.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

340-257-0210

General Requirements

(1) All persons required to report under this rule must report information to the Department no later than June 30, 2022.

(2) Subsidiaries, parent companies, or joint ventures may independently report information for each vehicle over 8,500 pounds. Alternatively, the corporate parent or joint venture

business may report on behalf of its subsidiaries, as long as the information for all vehicles over 8,500 pounds is reported for each subsidiary, corporate parent, and joint venture.

(3) A person subject to OAR 340-257-0200 through 340-257-0220 and that has brokerage or motor carrier authority, or both, must submit a report, even if no vehicles are owned by the person.

(4) Information pertaining to vehicles that are under common ownership or control may be submitted separately by each fleet owner.

(5) A person that is a fleet owner may report vehicle data as the fleet was comprised on any date of the person's choosing, so long as that date falls between January 1, 2021, and December 31, 2021.

(6) All information submitted to DEQ shall be public information, unless the person submitting the information asserts a confidentiality claim as provided in OAR 340-214-0130 the information is entitled to confidential treatment as required under the Oregon Public Records Law, ORS 192.311 through 192.478.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

340-257-0220

Fleet Reporting Requirement

A person required to report under this rule as identified in OAR 340-257-0200 must report the information as required by and according to the requirements of each section of this rule. Such reporting must include information for each and every operation under common ownership or control.

(1)(a) Name (i.e., if a business, the registered business name) and all business names that the person does business as (i.e., all "dba" or "doing business as" names);

(b) Mailing address including street name or PO box, city, state, and zip code;

(c) Name of the responsible official;

(d) Responsible official's email address;

(e) Responsible official's phone number;

(f) Name of corporate parent or governing body, as applicable;

(g) Federal Taxpayer Identification Number of corporate parent or other persons with which the reporting person has vehicles under common ownership or control;

(h) For a government agency, the jurisdiction (federal, state, or local);

(i) Federal Taxpayer Identification Number;

- (j) Primary six-digit North American Industry Classification System code;
 - (k) For a non-governmental person, the total annual revenue for the person in the United States for 2021;
 - (l) Broker authority under the Federal Motor Carrier Safety Administration;
 - (m) The operating authority numbers, including motor carrier identification number, United States Department of Transportation number, and International Registration Plan number;
 - (n) The number of persons with whom the reporting person had a contract to deliver items or to perform work in Oregon using vehicles over 8,500 pounds GVWR in 2021;
 - (o) The estimated number of subhaulers, vehicles operated by subhaulers, and the number of vehicles operated by subhaulers that operated under the reporting person's motor carrier authority; and
 - (p) The number of vehicles with a GVWR over 8,500 pounds the reporting person owned and operated in Oregon in 2021 that do not have a vehicle home base in Oregon.
- (2) For each person required to report, they shall report general information about the vehicle home base. Vehicles that accrue a majority of their annual miles in Oregon but are not assigned to a particular location in Oregon must be reported as part of the person's headquarters or another location where the vehicles' operation is managed. The person must report for each vehicle home base:
- (a) Facility address including street name, city, state, and zip code;
 - (b) Facility type category, using one of the following categories:
 - (i) Administrative/office building;
 - (ii) Distribution center/warehouse;
 - (iii) Hotel/motel/resort;
 - (iv) Manufacturer/factory/plant;
 - (v) Medical/hospital/care;
 - (vi) Multi-building campus/base;
 - (vii) Restaurant;
 - (viii) Service center;
 - (ix) Store;
 - (x) Truck/equipment yard; or

- (xi) Any other facility type;
- (c) Name of responsible official;
- (d) Responsible official's email address;
- (e) Whether the facility is owned or leased by the person;
- (f) What type of fueling infrastructure is installed at the facility;
- (g) Whether the refueling infrastructure at the facility was initially installed on or after January 1, 2010; and
- (h) The types of trailers the reporting person pulls, if it has tractors assigned or domiciled at this facility.

(3) For each vehicle home base, a person may report the information grouped by vehicle body type, and weight class bins and fuel type. A person may complete responses for each individual vehicle and include the vehicle's body type, weight class bin, and fuel type. If applicable, a person shall separately report vehicles dispatched under their brokerage authority. When responding, each vehicle shall only be counted once for each response. A person shall report:

- (a) Number of vehicles in each vehicle group;
- (b) The percent of the vehicles in each vehicle group with operating characteristics including, but not limited to: daily mileage, usage patterns, refueling, trailer towing, and other such characteristics as specified by the Department;
- (c) The average annual mileage for a typical vehicle in this vehicle group;
- (d) The average length of time a typical vehicle in this vehicle group is retained by the reporting entity after acquisition;
- (e) Whether the reporting person is the fleet owner for this group of vehicles, or if they are dispatched under the reporting person's brokerage authority; and
- (f) The start and end date of the analysis period selected by the reporting person as required under section (5).

(4) A person must choose a period of time, for example annual or quarterly data averaged for work days during the period selected to determine responses. For example, if an entity selects annual data to determine vehicle daily mileage, the person must average the annual mileage accrued based on the number of workdays that year.

- (a) A shorter analysis period may be used if the reporting person deems it more representative of periods of high vehicle utilization when answering questions about typical daily operation. For example, if a reporting person with seasonal workload fluctuations

determines that a week or month during the busy season is representative, average the data records for that week or month when determining a response.

(b) If an alternative analysis period is used, the reporting person must be prepared to describe their reasoning at the request of the Department.

(5) For information reported as required under OAR 340-257-0210(3)(a) through (f) for a vehicle group at one location, a reporting person may repeat that information for the same vehicle group at another vehicle home base if the reporting person determines that the operation at the second location is substantially similar to that at the first location.

(6) A broker shall provide information about vehicle usage that is dispatched under contract, such as if a broker hires a truck to move a load, only the miles driven under that contract are required for the response. If known, the broker may voluntarily report information about the miles driven outside the contract.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

340-257-0230

Fleet Reporting Recordkeeping

(1) A person required to report as identified in OAR 340-257-0200 shall maintain all of the following records related to such reporting for a period of five years after the reporting deadline:

(a) For owned on-road vehicles, mileage records and dates from records, such as maintenance logs, vehicle logs, or odometer readings, or other records with the information that the reporting person used to prepare the information the person submitted as required under OAR 340-257-0210;

(b) For on-road vehicles not owned, but dispatched by the person, dispatch records and dates, contracts, or other records with the information that the reporting person used to prepare the information the person submitted as required under OAR 340-257-0210;

(c) Vehicle registration for each owned vehicle operated in Oregon; and

(d) Contracts with persons, or contracts with subhaulers, or other records with the information that the reporting person used to prepare the information the person submitted as required under OAR 340-257-0210.

(2) A person subject to OAR 340-257-0200 through 340-257-0220 must respond to requests for clarification of reported information within 14 days of receiving the request from DEQ.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.360

Statutes/Other Implemented: ORS 468.020

Chapter 340
Division 261
EMISSION STANDARDS FOR NEW HEAVY-DUTY TRUCKS

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340-261-0010

Purpose

The purpose of this division is to establish Oregon heavy-duty engine and vehicle standards that incorporate California engine and vehicle emission standards as required under section 177 of the federal Clean Air Act. These standards establish criteria and procedures for the manufacture, testing, distribution and sale of new on-highway medium- and heavy-duty trucks and engines in Oregon as listed in OAR 340-261-0050.

Stat. Auth.: ORS 468.020, 468A.025, 468A.050, 468A.279 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0020

Applicability

This division is in effect as of January 1, 2022 and applies to and establishes requirements for medium- and heavy-duty truck, engine and trailer manufacturers, Oregon truck dealers, all 2024 and subsequent model year on-highway heavy-duty engines, and all 2025 and subsequent model year trucks and trailers delivered for sale or sold in the State of Oregon, except as provided in OAR 340-261-0060 Exemptions.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0030

Definitions and Abbreviations

The definitions in OAR 340-200-0020, the definitions in the sections of CCR, Titles 13 and 17, incorporated by reference in OAR 340-261-0050, and the definitions in this rule apply to

this division. If the same term is defined in different passages, the definitions in this rule apply first, followed by definitions in the CCR Title 13 sections incorporated by reference, followed by the definitions in the CCR Title 17 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

(1) “CARB” means California Air Resources Board.

(2) “CCR” means California Code of Regulations.

(3) “Transit agency” means a public entity responsible for administering and managing transit services. Public transit agencies can directly operate transit service or contract out for all or part of the total transit service provided.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0040

Requirement to Meet California Vehicle Emission Standards.

(1) Starting with the 2024 engine model year and for each engine model year thereafter no person may deliver for sale, or sell, in Oregon any new on-highway heavy-duty engine unless such engine is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(2) Starting with the 2025 model year and for each model year thereafter no person may deliver for sale, or sell, in Oregon any new medium- or heavy duty truck or trailer unless such vehicle is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(3) All motor medium- and heavy-duty truck and trailer manufacturers and dealers must comply with the sales and reporting requirements contained in this division.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0050

Incorporation by Reference

(1) For purposes of applying the incorporated sections of the California Code of Regulations described in this rule, “California” means “Oregon” and “Air Resources Board (ARB)” or “California Air Resources Board (CARB)” means Department of Environmental Quality (DEQ) or Environmental Quality Commission (EQC) depending on context, unless otherwise specified in this division or the application is clearly inappropriate.

(2) The sections of the California Code of Regulations (CCR), Title 13 and Title 17, adopted by reference in sections (3) and (4) are in addition to, and compatible with, the CCR, Title

13, standards and requirements adopted by reference under OAR 340-257-0050. It is the intent of this rule that the standards and requirements adopted by reference under OAR 340-257-0050 also apply in Oregon to the on-highway medium- and heavy-duty engines, vehicles and trailers regulated by the CCR, Title 13 and Title 17, standards and requirements adopted by reference in this rule, to the same extent and identical to how they would apply in California.

(3) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new 2024 and subsequent model year on-highway medium- and heavy-duty engines and 2025 and subsequent model year trucks and trailers must comply with each of the following applicable standards specified in CCR, Title 13 as incorporated by reference herein:

(a) Section 1956.8(a) – (f) and (i): Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California effective date 11/1/2021 [anticipated]. Except that CCR Title 13, Section 1956.8(a)(2)(F) “Transit Agency Diesel-Fueled Bus Engine Exemption Request” shall be disregarded and is not incorporated by reference.

(b) Section 1971.1: On-Board Diagnostic System Requirements – 2010 and Subsequent Model-Year Heavy-Duty Engines. California effective date 11/1/2021 [anticipated].

(c) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California effective date 11/1/2021 [anticipated].

(d) Section 2121: Penalties. California effective date 11/1/2021 [anticipated]. Except that the reference in this regulation to “a violation of Health and Safety Code Section 43105” shall be disregarded and is not incorporated by reference.

(e) Section 2137: Vehicle, Engine, and Trailer Selection. California effective date 11/1/2021 [anticipated].

(f) Section 2139: Testing. California effective date 11/1/2021 [anticipated].

(g) Section 2139.5: CARB Authority to Test for Heavy-Duty In-Use Compliance. California effective date 04/21/03.

(h) Section 2140: Notification and Use of Test Results. California effective date 11/1/2021 [anticipated].

(i) Section 2166: General Provisions. California effective date 11/1/2021 [anticipated].

(j) Section 2166.1: Definitions. California effective date 11/1/2021 [anticipated].

(k) Section 2167: Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors. California effective date 11/1/2021 [anticipated].

(l) Section 2168: Required Corrective Action and Recall for Emission-Related Component Failures. California effective date 11/1/2021 [anticipated].

(m) Section 2169: Required Recall or Corrective Action Plan. California effective date 11/1/2021 [anticipated].

(n) Section 2169.1: Approval and Implementation of Corrective Action Plan. California effective date 11/1/2021 [anticipated].

(o) Section 2169.2: Notification of Owners. California effective date 11/1/2021 [anticipated].

(p) Section 2169.3: Repair Label. California effective date 11/1/2021 [anticipated].

(q) Section 2169.4: Proof of Correction Certificate. California effective date 11/1/2021 [anticipated].

(r) Section 2169.5: Preliminary Tests. California effective date 11/1/2021 [anticipated].

(s) Section 2169.6: Communication with Repair Personnel. California effective date 11/1/2021 [anticipated].

(t) Section 2169.7: Recordkeeping and Reporting Requirements. California effective date 11/1/2021 [anticipated].

(u) Section 2169.8: Extension of Time. California effective date 11/1/2021 [anticipated].

(v) Section 2423(n): Exhaust Emission Standards and Test Procedures – Off-Road Compression-Ignition Engines. California effective date 11/1/2021 [anticipated].

(w) Section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. California effective date 11/1/2021 [anticipated].

(4) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new 2025 and subsequent model year on-highway medium- and heavy-duty vehicles and trailers must comply with each of the following applicable standards specified in CCR, Title 17 as incorporated by reference herein:

(a) Section 95660: Purpose. California effective date 1/1/2015.

(b) Section 95661: Applicability. California effective date 1/1/2015.

(c) Section 95662: Definitions. California effective date 11/1/2021 [anticipated].

(d) Section 95663: Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles. California effective date 11/1/2021 [anticipated].

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0060

Exemptions

(1) All exemptions in the California rules adopted under by reference apply with the exception of the transit agency diesel-fueled bus and engine exemption described in CCR, Title 13, section 1956.8(a)(2)(F).

(2) New diesel-fueled buses sold to any transit agency are exempt from OAR 340-261-0050(3)(a). This exemption shall apply to all sales prior to January 1, 2027 or until DEQ issues a finding that a diesel-fueled transit bus engine meeting the standards described in OAR 340-261-0050(3)(a) becomes widely available, whichever occurs earlier.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0070

Recalls

(1) Any order issued or enforcement action taken by CARB to correct noncompliance with any section of CCR, Title 13, that results in the recall of any vehicle as required under CCR, Title 13, sections 2109-2135, for a vehicle subject to the requirements adopted by reference in OAR 340-261-0050, will be *prima facie* evidence concerning vehicles registered in Oregon. If the manufacturer can demonstrate to DEQ's satisfaction that the order or action is not applicable to vehicles registered in Oregon, DEQ will not pursue a recall of vehicles registered in Oregon.

(2) Any voluntary or influenced emission-related recall campaign initiated by any manufacturer as required under CCR, Title 13, sections 2113 - 2121, for vehicles subject to the requirements adopted by reference in OAR 340-261-0050, must extend to all applicable vehicles registered in Oregon. If the manufacturer can demonstrate to DEQ's satisfaction that said campaign is not applicable to vehicles registered in Oregon, the campaign will not apply in Oregon.

(3) For vehicles subject to an order of enforcement action under section (1) of this rule, each manufacturer must send to owners of vehicles registered in the State of Oregon a notice that complies with the requirements in CCR, Title 13, sections 2118 or 2127. The manufacturer must provide a telephone number that Oregon consumers can use to learn answers to questions about any recall that affects Oregon vehicles.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0080

Inspections and Information Requests

(1) DEQ may inspect new and used motor vehicles and related records for the purposes of determining compliance with the requirements of this division. DEQ inspections will occur during regular business hours on public property or on any premises owned, operated or used by any truck dealer or truck rental agency for the purposes of determining compliance with the requirements of this division.

(2) For the purposes of determining compliance with this division, DEQ may require any truck dealer or truck rental agency to submit to DEQ any documentation that DEQ deems necessary to the effective administration and enforcement of this division. This provision does not require creation of new records.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

340-261-0090

Severability

Each section of this division is severable, and if any section of this regulation is held invalid, the remainder will continue in full force and effect.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360