



Oregon Department of Environmental Quality  
Nov. 15-16, 2018  
Oregon Environmental Quality Commission meeting  
Agency Staff Report  
Rulemaking, Action Item E

Low Emission Vehicle Rules – 2018 Update

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## DEQ recommendation to the EQC

DEQ recommends that the Environmental Quality Commission adopt the proposed rules as seen on pages 31 through 39 of this report as part of Chapter 340 of the Oregon Administrative Rules.

*Proposed EQC motion:*

*“I move that the Oregon Environmental Quality Commission adopt the proposed Low Emission Vehicle rules as presented on pages 31 through 39 of the report for this item as part of Chapter 340 of the Oregon Administrative Rules.”*

# Overview

## Short summary

DEQ's Low and Zero Emission Vehicle Program rules seek to reduce emissions of greenhouse gases, ozone-forming compounds, and air toxics by setting tailpipe emission standards, setting standards for emission detection systems, and promoting development and use of low-emission and zero-emission vehicles. DEQ proposes rules amendments that update existing Oregon Low and Zero Emission Vehicle Program rules to match revisions adopted by California in 2013, 2014, 2015, and 2016. DEQ is also proposing revisions to match the regulations adopted by the California Air Resources Board on Sept. 28, 2018.

Under Section 177 of the federal Clean Air Act, 42 U.S.C. § 7507 and hereinafter referred to as Section 177, 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. Oregon has opted-in to California's vehicle emissions standards and, with this proposed rulemaking, continues to opt-in. If adopted, these rules would ensure that Oregon's rules are updated in response to changes that have occurred in California since DEQ last incorporated the California provisions into its administrative rules in 2013 and ensure that Oregon's rules are again identical to those in California. 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 2018, then they will be applicable to model year 2022 vehicles, which, under federal law, may begin being sold on Jan. 1, 2021.

There are five major portions of the updated rules:

1. Low Emission Vehicles (LEV) III
2. Zero Emission Vehicles (ZEV)
3. Greenhouse Gas Regulations for Medium and Heavy Duty Engines and Vehicles (Phase 1 GHG standards,
4. On-Board Diagnostic System II Requirements and Associated Enforcement Provisions for Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Engines (OBD II)
5. LEV III GHG rules

A brief description of each major portion of the updated California rules, that DEQ is proposing that the EQC adopt in Oregon, is provided below.

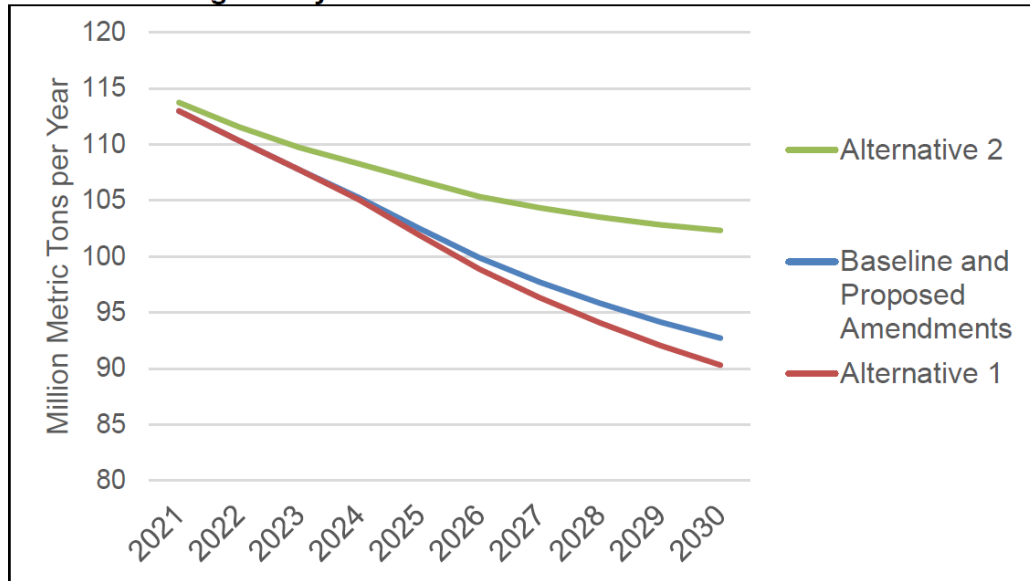
1. The LEV III regulations limiting greenhouse gases and traditional tailpipe pollution from motor vehicles were modified by California in 2015 to further align the California and federal Tier 3 motor vehicle emission standards. The federal Tier 3 rules were finalized in 2014 by the U.S. Environmental Protection Agency, and reduced both tailpipe and evaporative emissions from passenger cars, light-duty trucks, medium-duty passenger vehicles, and some heavy-duty vehicles from model years 2017 through 2025. California's LEV III rules are now the same as the existing federal Tier 3 regulations. The 2015 rules also provided additional flexibility to

industry through an optional emission compliance mechanism and incorporated some requirements of the federal Tier 3 program that were more stringent.

2. The ZEV regulations that require automakers to sell at least a certain level of electric cars and trucks in California were modified by California in 2013 and 2014. These updated rules made minor modifications primarily to clarify language in the rules, close loopholes and provide more flexibility for auto manufacturers to comply with requirements.
3. The Phase 1 GHG standards adopted by California in 2014 aligned California's greenhouse gas standards and test procedures with EPA's Phase 1 GHG regulations, providing nationwide consistency for engine and vehicle manufacturers.
4. The OBD II rules adopted in 2015 include requirements for on-board diagnostic systems to detect emission control system malfunctions in vehicles as they occur, and include updates that are necessary to clarify existing requirements. When California first adopted the LEV III program in 2012, the OBD II rules did not include necessary emission malfunction thresholds for vehicles certified to LEV III emission standards. The rules also include revised monitoring requirements, added new reporting requirements, and a streamlined certification process for manufacturers and CARB staff. Additionally, the rules include amendments to the OBD II enforcement regulation to align with the changes to the existing regulation.
5. The LEV III GHG rules approved by CARB on Sept. 28, 2018, modified the "deemed to comply" option, which allowed compliance with EPA's LEV III GHG regulations as an alternative to complying with California's regulations for 2022-25 model years. Specifically, the rule amendment provides that the "deemed to comply" option is not available if EPA adopts its proposed rule to freeze federal greenhouse gas regulations for passenger cars and light-duty trucks at 2020 levels for model years 2021 through 2026. DEQ recently submitted comments to EPA on its proposed "SAFE" rules, noting that EPA's proposal to freeze GHG emissions standards at 2020 levels would result in placing a greater burden on other sectors of the economy to reduce GHG emissions, and that GHG emissions from transportation are the largest source of such emissions in Oregon. California estimates that EPA's proposal to change standards by freezing them at 2020 levels would result in about a ten percent increase in GHG emissions (in California) from light duty vehicles by the year 2030 over the level of emissions projected under current standards (Alternative 2 vs. Baseline in the figure below). *State of California, Air Resources Board, Proposed Amendments to the Low-Emission Vehicle III Greenhouse Gas Regulations, Standardized Regulatory Impact Assessment (SRIA) Equivalent Document, 8/7/2018* (available at: <https://www.arb.ca.gov/regact/2018/leviii2018/appd.pdf>).

The proposed rule amendment to remove the "deemed to comply" provision in Oregon is expected to have a similar effect in this state.

**Figure 1: California Light-Duty Vehicle On-Road Fleet CO<sub>2</sub> Emissions**



### Brief history

The EQC first adopted the California Air Resource Board’s emission standards for light-duty vehicles in late 2005. The first set of rules applied to model years 2009 through 2016. Since 2005, CARB has made changes to its emission standard rules including changes to the Zero Emission Vehicles program in 2008, and in 2012, it made significant program changes referred to as the Advanced Clean Cars, or ACC, program. This program combined updates to the ZEV program and introduced the LEV III program. The ACC program required further reduction of smog-causing pollutants and greenhouse gas emissions. This included increased ZEV requirements through 2025 model year for various size auto manufacturers, and light-duty vehicle greenhouse gas and criteria pollutant emission standards for model years 2015 through 2025, as the LEV III program. DEQ updated its Low and Zero Emission Vehicle rules in 2011 and 2013 to reflect CARB’s changes.

Since then, California has revised its Low Emission Vehicle and Zero Emission Vehicle program rules. CARB, EPA, U.S. Department of Transportation and auto manufacturers negotiated additional emission limits that further decreased greenhouse gas emissions and substantially cut traditional pollutant emissions from new vehicles. The coordinated requirements were phased in starting in 2017 and continue up through 2025. California then adopted the so-called “deemed to comply” option, which allows compliance with U.S. EPA’s regulations as an alternative to complying with California’s regulations for these model years. This allowed auto makers to manufacture only one type of car to meet both the California and federal emission standards.

In August 2018, EPA issued a notice of proposed rulemaking indicating that it is considering freezing its greenhouse gas vehicle emission standards at 2020 levels for model years 2021 through 2026 (for passenger cars and light-duty trucks). Although the proposed federal rule has not yet been adopted, on Sep. 28, 2018, California adopted a revision to its LEV III GHG standards (<https://www.arb.ca.gov/regact/2018/leviii2018/leviii2018.htm>)

to clarify that the “deemed to comply” option is not available under California’s rules if EPA adopts its proposed rule. Under EPA’s proposed rule, the average requirements for passenger cars would be frozen at 43.7 mpg, and at 31.3 mpg for light trucks.

## Regulated parties

The proposed regulations would affect auto manufacturers, since they are in the business of manufacturing vehicles that meet the required emission standards and delivering these compliant vehicles for sale in Oregon. Sellers, purchasers and engine manufacturers are not directly regulated under these rules.

## Statement of Need

### **What need would the proposed rule address?**

Oregon has opted-in to California's vehicle emissions standards and, under Section 177, states that choose to adopt vehicle standards that are more stringent than the federal standards must follow California's rules. If Oregon wishes to continue to be a Section 177 state, Oregon must update its rules to maintain conformity with California's. The proposed rules would conform with California's vehicle emission standards. These proposed rules would update Oregon's 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. These amendments also will help achieve the goals the Oregon legislature has established for reducing greenhouse gas emissions. Tailpipe efficiency standards, along with clean fuels, are one of the most effective tools Oregon has for affecting GHG emissions in the transportation sector.

### **How would the proposed rule address the need?**

The proposed rules would ensure Oregon's rules are identical to California's, as required under Section 177. They also would help ensure that emissions of greenhouse gases from the transportation sector decline in Oregon, consistent with legislative direction and the recently-adopted Sustainable Transportation Strategy (STS) (adopted by the Oregon Transportation Commission in August of this year).

### **How will DEQ know the rule addressed the need?**

DEQ's rules will be identical to California's rules and therefore will continue to set requirements for new vehicle sales in Oregon.

## Rules affected, authorities, supporting documents

### Lead division

Air Quality

### Program or activity

Low emission vehicle program

### Chapter 340 action

#### Amend – OAR

340-257-0030, 340-257-0050 & 340-257-0090

### Statutory authority - ORS

468A.020, 468A.025, 468A.279 & 468A.360

### Statute implemented - ORS

468A.015, 468A.025, 468A.279 & 468A.360

### Documents relied on for rulemaking

Document title	Document location
California Air Resources Board 2014 rulemaking documents for LEV III regulations	<a href="https://www.arb.ca.gov/regact/2014/leviii2014/leviii2014.htm">https://www.arb.ca.gov/regact/2014/leviii2014/leviii2014.htm</a>
California Air Resources Board 2013 rulemaking documents for ZEV regulations	<a href="https://www.arb.ca.gov/regact/2013/zev2013/zev2013.htm">https://www.arb.ca.gov/regact/2013/zev2013/zev2013.htm</a>
California Air Resources Board 2013 rulemaking documents for Heavy Duty GHG Phase 1 regulations	<a href="https://www.arb.ca.gov/regact/2013/hdghg2013/hdghg2013.htm">https://www.arb.ca.gov/regact/2013/hdghg2013/hdghg2013.htm</a>
California Air Resources Board 2014 rulemaking documents for Zero Emission Vehicles	<a href="https://www.arb.ca.gov/regact/2014/zev2014/zev2014.htm">https://www.arb.ca.gov/regact/2014/zev2014/zev2014.htm</a>



California Air Resources Board 2015 rulemaking documents for On-Board Diagnostic Systems II	<a href="https://www.arb.ca.gov/regact/2015/obdii2015/obdii2015.htm">https://www.arb.ca.gov/regact/2015/obdii2015/obdii2015.htm</a>
California Air Resources Board 2018 rulemaking documents for LEV III GHG regulation	<a href="https://www.arb.ca.gov/regact/2018/leviii2018/leviii2018.htm">https://www.arb.ca.gov/regact/2018/leviii2018/leviii2018.htm</a>

## Fee Analysis

This rulemaking does not involve fees.

# Statement of fiscal and economic impact

## Summary

Under Section 177, 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. Oregon has previously opted-in to California's vehicle emissions standards and, with this rulemaking, continues to opt-in. DEQ proposes to update existing Low and Zero Emission Vehicle Program rules to match revisions adopted by California since 2013, as well as California regulations that were adopted this year. If adopted, DEQ's updated 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 2018, then they would be applicable to model year 2022 vehicles, which under federal rules may begin being sold on January 1, 2021.

There are five major portions of the proposed updates to the rules: LEV III, ZEV, Phase 1 GHG standards, OBD II, and the LEV III GHG rules. A brief description of each portion of the California rules that DEQ is proposing be adopted in Oregon by reference is provided below:

1. The LEV III 2014 regulations limiting greenhouse gases and traditional tailpipe pollution from motor vehicles were modified by California to further align the California and federal Tier 3 motor vehicle emission standards. The federal Tier 3 rules were finalized in 2014 by the EPA and reduced both tailpipe and evaporative emissions from passenger cars, light-duty trucks, medium-duty passenger vehicles, and allowable emissions from some heavy-duty vehicles from model years 2017 through 2025. The LEV III rules incorporated some requirements of the federal Tier 3 program that were more stringent and provided additional flexibility to the automobile industry through an optional emission compliance mechanism. California's LEV III rules are now generally the same as the existing federal Tier 3 regulations.
2. The ZEV 2013 and ZEV 2014 regulations require automakers to sell a certain level of electric cars and trucks in California. These requirements apply in other states that have adopted California's ZEV requirements, including Oregon. California's updates to the rules made minor modifications primarily to clarify language in the rules, closed loopholes, and provide more flexibility for auto manufacturers to comply with requirements.
3. The Phase 1 GHG 2013 standards adopted by California in 2014 aligned California's GHG standards and test procedures with EPA's Phase 1 GHG regulations, providing nationwide consistency for engine and vehicle manufacturers.
4. The OBD II 2015 rules included requirements for on-board diagnostic systems to detect emission control system malfunctions in vehicles as they occur and included

updates that were necessary to clarify existing requirements. When California first adopted the LEV III program in 2012, the OBD II rules did not include necessary emission malfunction thresholds for vehicles certified to LEV III emission standards. The rules also revised monitoring requirements by adding new reporting requirements and by streamlining the certification process for manufacturers and CARB staff. The rules also included amendments to the OBD II enforcement regulation to align with the changes to the existing regulation.

5. The LEV III GHG rules proposed by California in August 2018, and adopted on Sept. 28, 2018, modify the “deemed to comply” option, which allows compliance with EPA’s regulations as an alternative to complying with California’s regulations for specific model years. However, the rule amendment clarifies that the “deemed to comply” option is not available if EPA adopts a rule that alters the currently adopted federal greenhouse gas regulations for model years 2021 through 2026.

Adopting California’s LEV III, ZEV, Phase I GHG, OBD II, and LEV III GHG rules, described above, would ensure that Oregon’s rules conform to California’s rules. This would also ensure that these requirements continue to apply to new vehicles sold in Oregon if the federal government follows through on its current proposal to weaken the federal greenhouse gas rules for motor vehicles.

## **Affected parties**

The parties likely affected by these rules are:

- Automobile manufacturers. Under the rules, businesses that manufacture automobiles must comply with the motor vehicle emissions standards, testing systems, reporting, and other requirements.
- Automobile purchasers. Under the rules, manufacturers may pass on the costs of complying with the rules to purchasers.
- Automobile dealerships that sell new vehicles and conduct warranty repairs. Under the rules, additional warranty repairs may occur due to changes in monitoring and testing requirements.
- Businesses that manufacture engines for use by automobile manufacturers. Under the rules, automobile manufacturers may have to adjust the technology needed to produce compliant vehicles, including changing the way engines are manufactured.

## **Fiscal and Economic Impact**

The fiscal and economic impacts of this proposal were developed by CARB for its rulemakings conducted between 2013 and 2018. CARB conducted an extensive analyses for its rulemakings, and DEQ agrees with the analyses. Since the rules that DEQ is proposing and those adopted and proposed in California are identical, and there are not significant difference between the automobile industry in California and Oregon, DEQ has determined that the fiscal and economic impacts will be very similar in California and Oregon.

The California LEV III rules and the Phase 1 GHG rules are not anticipated to have any immediate major economic impacts on any entities because those rules are essentially the same as current federal rules (Tier 3 rules and the Phase 1 GHG rules). Under these rules, vehicle manufacturers will be subject to the same requirements as they currently are under the federal regulations. To the extent that federal rules may change in the future, DEQ notes that even if federal law changes, manufacturers will still be required to comply with the California regulations; accordingly, any added cost of complying in Oregon would be minimal.

The impact of the ZEV rules is expected to be negligible. This is because manufacturers already have to implement these requirements, and the amendments simply provide additional compliance flexibility.

The changes to the OBD II requirements would likely create some additional costs for auto manufacturers, auto dealers, and purchasers due to new testing and monitoring requirements.

The proposed LEV III GHG rules are expected to have negligible impacts because the proposed rules do not impose additional requirements.

Overall, and for the reasons described above, the fiscal impact of Oregon adopting these proposed rules is expected to be negligible.

## **Statement of Cost of Compliance**

### **State agencies**

Impacts on state agencies are expected to be the same as the public.

### **Local governments**

Impacts on local governments are expected to be the same as the public.

### **Public**

As explained above, the OBD II rules are the only rules expected to have an impact on vehicle prices. Under the OBD II rules, auto manufacturers will have to comply with more stringent monitoring and testing requirements for gasoline and diesel vehicles. CARB has calculated the anticipated costs of compliance with the requirements to be \$5.43 per vehicle. These costs include an estimate of the number of tests per car type for each manufacturer, costs of new parts and assembly, and the cost to update emission control technology to meet the OBD II rules. It is expected that auto manufacturers will pass on this costs 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. Notably, the required tests, costs of

parts and assembly, and the cost to update emission control technology under the rules are not expected to differ between Oregon and California.

The rules are expected to provide benefits to the public, in that they provides clearer OBD II regulatory requirements and streamlines the OBD II certification process, which encourages manufacturers to build more durable engines and emissions controls.<sup>1</sup> 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.

Additionally, the public is expected to benefit from reductions of greenhouse gases and other air quality pollutants due to the stricter emission standards on vehicles. These air quality reductions could result in fewer missed work days or costly medical visits.

### **Large businesses - businesses with more than 50 employees**

Large businesses, specifically auto manufacturers and auto dealers selling new vehicles, would be affected by the proposed rules. 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:

- **LEV III rule:** As outlined in CARB's Initial Statement of Reasons for the rule, the costs of complying are anticipated to be minimal. California's rule increased the annual reporting cost for auto manufacturers by \$1,500. Similar costs would likely be required to report in Oregon because the California cost estimate includes the time for staff to submit required reports, and compliance in Oregon would involve submission of the same or similar reports to DEQ. However, the rule also includes reduced vehicle testing costs for some of the auto manufacturers which are expected to offset the increased reporting costs in Oregon, as they did in California. Under the optional emission compliance mechanism, the rule provides flexibility and aligns with the federal Tier 3 program; therefore, in California, auto manufacturers experienced administrative or cost savings because of the alignment with federal regulations avoided duplication of efforts and costs. Overall, automobile manufacturers likely would not see any negative fiscal impacts and instead would experience a positive fiscal impact because of the cost savings expected due to the streamlining of the rules to align with the federal requirements and reduced vehicle testing costs that would likely offset any additional reporting costs.
- **ZEV rules:** Under the ZEV rules, automakers must place a certain number of electric cars and trucks for sale in Oregon. The proposed rules impact only the large and intermediate volume auto manufacturers that are already subject to the current ZEV regulations. Numerous flexibilities exist in the proposed ZEV rules, and the proposed

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<sup>1</sup> California Air Resources Board, "Staff Report: OBD II Initial Statement of Reasons for Rulemaking, Technical Status and Proposed Revisions to On-Board Diagnostic System Requirements and Associated Enforcement Provisions for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II)", August 4, 2015, p. 125.

changes would provide more time for an intermediate volume auto manufacturer (IVM) to develop and market ZEVs, through a reduced ZEV percentage requirement. California projects the annual compliance costs for intermediate volume automobile manufacturers of different types of zero-emission vehicles would go down by between \$33 to \$39 million due to the manufacturers not having to produce as many vehicles to meet the ZEV requirement in California.<sup>2</sup> For example, IVMs may produce nearly 26,000 fewer ZEVs and transitional zero emission vehicles (TZEVs) in the 2018 through 2025 timeframe, creating less financial impact than the previous ZEV requirement. Similar compliance savings would be experienced for Oregon, since manufacturers would not have to produce as many vehicles to meet the ZEV requirement in Oregon.

- Phase 1 GHG rule: Auto manufacturers already have to comply with federal Phase 1 GHG standards, and California’s Phase 1 GHG rule—which DEQ is proposed to adopt in Oregon by reference—harmonizes the state program with the federal program. California’s Phase 1 GHG rule only added a requirement to provide a copy of the federally submitted materials to California, at a total cost of no more than \$1,000 per manufacturer for all cars sold. Similar costs would likely be incurred in Oregon because, as in California, regulated entities will simply incur the costs associated with the time and supplies to make copies of the reports to submit to Oregon.
- OBD II rule: The proposed rule updates and clarifies existing requirements for the OBD II program. Auto manufacturers would experience additional costs expected to be approximately \$5.43 per vehicle due to more stringent monitoring and testing requirements for gasoline and diesel vehicles. These costs are calculated based on an estimate of the number of tests per car type for each manufacturer, costs of new parts and assembly, and the cost to update emission control technology to meet the OBD II rule. It is expected that auto manufacturers would pass on these costs on to consumers.
- LEV III GHG rule: The proposed rule does not impact auto manufacturers. CARB’s modification to its “deemed to comply” option still allows compliance with EPA’s current regulations as an alternative to complying with California’s regulations for specific model years. However, the “deemed to comply” option is not available if EPA adopts a rule that weakens the currently adopted federal greenhouse gas regulations for model years 2021 through 2026. This action does not impose additional requirements.

Some automobile dealers may see increased costs due to these rules. The rules include provisions that could require additional warranty repairs due to increased testing and monitoring requirements for the pressure sensor for positive crankcase ventilation (PCV) and diesel crankcase ventilation (CV) leak monitoring. However, the failure rate for these systems was estimated at 0.3 percent within the warranty period, based on CARB internal data indicating PCV and CV system failures have not historically had high warranty failure

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<sup>2</sup> California Air Resources Board, p. 20

rates. Labor costs for the repairs were estimated at \$80 per hour, with an average repair time of 30 minutes. Overall, these costs are expected to be minimal based on the low incidence of PCV and CV system failures during the warranty period.

Under federal law, if Oregon wishes to adopt vehicle standards that are more stringent than those under federal law, it must make its vehicle standards identical to California's. These proposed rules adopt California's recent rule changes to continue Oregon's adoption of identical LEV and ZEV standards. For the LEV III rule, California's current standards essentially match the existing federal requirements, so no additional costs are expected to be incurred by automakers to comply with those standards in Oregon. For the ZEV program, the updated requirements ease compliance in some ways. The LEV III and ZEV rules would reduce Oregon's carbon emissions and help push the state towards deeper decarbonization of its transportation sector, which is necessary to avert the worst effects of climate change. DEQ's estimation of the additional cost to automakers of adopting these proposed rules is negligible because they make relatively modest changes to existing ZEV standards. For the Phase 1 GHG rule, the proposed rules match the current state and federal standards for vehicle testing, and have a small annual reporting cost of \$1,000 for automakers. With the OBD II rule, manufacturers would be required to meet additional monitoring and certification requirements for gasoline and diesel vehicles, at a small cost to automakers. However, these costs are small relative to the price of vehicles (estimated at \$5.43 per vehicle, when the standard vehicle price is \$35,000+), and it is anticipated the manufacturer would pass these costs on to the consumer. The LEV III GHG rule clarifies compliance with the "deemed to comply" provision. Overall, the costs to auto manufacturers would be minimal in aggregate, since the ZEV rules reduce costs of compliance (CARB has estimated that the rule will reduce compliance costs between \$33 to \$39 million) versus an annual increased cost of \$1,000.

## **Small businesses – businesses with 50 or fewer employees**

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

The proposed rules do not apply to small businesses. Responsibility for complying with the proposed rules falls to auto manufacturers, which are large businesses.

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

No additional activities are required of small businesses to comply with the proposed rules. Only large businesses are regulated.



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

No additional resources are required for small business compliance with the proposed rules. Only large businesses are regulated by the proposed rules.

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

DEQ included small business representatives on the Low Emission Vehicle 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
California Air Resources Board 2014 rulemaking documents for LEV III regulations	<a href="https://www.arb.ca.gov/regact/2014/leviii2014/leviii2014.htm">https://www.arb.ca.gov/regact/2014/leviii2014/leviii2014.htm</a>
California Air Resources Board 2013 rulemaking documents for ZEV regulations	<a href="https://www.arb.ca.gov/regact/2013/zev2013/zev2013.htm">https://www.arb.ca.gov/regact/2013/zev2013/zev2013.htm</a>
California Air Resources Board 2013 rulemaking documents for Heavy Duty GHG Phase 1 regulations	<a href="https://www.arb.ca.gov/regact/2013/hdghg2013/hdghg2013.htm">https://www.arb.ca.gov/regact/2013/hdghg2013/hdghg2013.htm</a>
California Air Resources Board 2014 rulemaking documents for Zero Emission Vehicles	<a href="https://www.arb.ca.gov/regact/2014/zev2014/zev2014.htm">https://www.arb.ca.gov/regact/2014/zev2014/zev2014.htm</a>
California Air Resources Board 2015 rulemaking documents for On-Board Diagnostic Systems II	<a href="https://www.arb.ca.gov/regact/2015/obdii2015/obdii2015.htm">https://www.arb.ca.gov/regact/2015/obdii2015/obdii2015.htm</a>
California Air Resources Board 2018 rulemaking documents for LEV III GHG regulation	<a href="https://www.arb.ca.gov/regact/2018/leviii2018/leviii2018.htm">https://www.arb.ca.gov/regact/2018/leviii2018/leviii2018.htm</a>

## **Advisory committee**

DEQ appointed an advisory committee.

As ORS 183.333 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 to reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and agreed with the overall analysis provided by DEQ. One committee member suggested including an acknowledgement of the air quality benefits and subsequent economic benefit of fewer missed work days or medical visits due to health issues. The air quality benefits of the proposed rules would affect the general public, not just those who are purchasing LEV cars.

The committee discussed whether there would be an impact to the public if there were fewer ZEVs required to be manufactured by IVMs, in that there are fewer ZEVs available for use (ZEV 2014 rule). Committee members clarified that the impact of IVMs is minimal, since it is the large volume manufacturers who represent over 90 percent of the car market and must produce a certain number of ZEVs. Currently, there are many different models of ZEVs on the market, and there will be more as the IVMs produce their ZEVs in the future.

The committee also discussed why DEQ proposed adopting California's LEV III GHG 2018 rule before California had taken final action. DEQ indicated it wanted to be certain the greenhouse gas requirements remained in place given the uncertainty regarding pending federal action on the greenhouse gas vehicle standards.

The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

## **Housing cost**

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect 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.

DEQ determined the proposed rules would have no effect on the development costs because the proposed rules only affect auto manufacturers, dealers and automobile purchasers.

## Federal relationship

### Relationship to federal requirements

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.

Most of the proposed rule are not substantively different from federal requirements. However, there are components of the proposed rules that add requirements to those mandated under federal law.

At this time, the federal Tier 3 and Oregon LEV III emission standards are similar for both traditional pollutants that produce ground-level ozone, or smog, and carbon monoxide and for greenhouse gas emissions. However, the Oregon LEV III program does make some modifications that are more stringent, including ZEV standards to promote development and commercialization of vehicles that do not emit tailpipe pollution. Additionally, the federal OBD rules and Oregon OBD II rules are aligned to have similar monitoring and testing requirements. Lastly, the federal Phase I GHG standards for medium and heavy duty vehicles and the Oregon Phase 1 GHG standard are also similar.

The proposed rules that are more stringent are the ZEV program rules which have no counterpart at the federal level. This program is designed to stimulate the production and use of emission-free or low emission vehicles such as battery electric, plug-in hybrid and fuel-cell vehicles. The federal government (EPA) has granted a waiver for these rules in California, and under Section 177, that waiver also applies in Oregon.

### What alternatives did DEQ consider, if any?

If the EQC does not adopt California's standards, regulated parties in Oregon would be subject to the underlying national requirements. Under Section 177, if states wish to adopt standards that are different than federal standards, they must adopt standards that are identical to those used by California. Thus, the only alternative that DEQ considered was following the federal standards and declining to be a Section 177 state. However, not doing so would be contrary to state policy to reduce emissions from vehicles and to achieve its long-term greenhouse gas emission reduction goals. DEQ proposes to update Oregon's Low Emission Vehicle rules to incorporate California's latest requirements to ensure any future relaxation of federal measures would not apply to Oregon and ensure compliance with Section 177.

# 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 it determines that proposed rules would significantly affect land use, 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 rules to significantly 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, objectives or areas identified in the statewide planning goals, or
  - Present or future land uses identified in acknowledged comprehensive plans

To determine whether the proposed rules involve programs or actions that affect land use, DEQ reviewed its Statewide Agency Coordination Plan, which describes the DEQ programs that have been determined to significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
9	Ocean Resources
11	Public Facilities and Services
16	Estuarial 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 the proposed rules affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program.

DEQ's statewide goal compliance and local plan compatibility procedures do not cover the proposed rules. The proposed Oregon Low Emission Vehicle and Zero Emission Vehicle rules and associated rule amendments are likely programs affecting land use because, although they are not referenced in the statewide planning goals or listed as a land use program in DEQ's State Agency Coordination Program, they are expected to significantly affect resources, objectives or areas identified in the statewide planning goals, specifically, air quality under Goal 6 (Air, Water and Land Resources Quality).

The proposed rules would reduce emissions of greenhouse gases and other air pollutants, including those that cause ground-level ozone and hazardous air pollutants, by accelerating the transition to an efficient, clean transportation system and lower-emission vehicles. Such effects support and complement Goal 6 by improving air quality and ensuring that the carrying capacity of airsheds are not exceeded. The proposed rules would also help local governments comply with the Oregon Department of Land Conservation and Development's greenhouse gas scenario planning guidelines for transportation under OAR chapter 660, division 44.

# Advisory Committee

## Advisory committee

### Background

DEQ convened a Low Emission Vehicle 2018 rule advisory committee. The committee included representatives from industry (automobile manufacturers, automobile repair, and engine manufacturers), environmental groups, electric vehicle groups, and the public. The committee met one time. The committee's web page is located at:

<https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rlevzev2018.aspx>

The committee was composed of:

<b>Low Emission Vehicle Rulemaking Advisory Committee</b>	
<b>Name</b>	<b>Representing</b>
Rasto Brezny	Manufacturers of Emission Controls Association
Steve Douglas	Alliance of Auto Manufacturers
Darrell Fuller	Northwest Automotive Trades Association
Jana Gastellum	Oregon Environmental Council
Gary Graunke	Oregon Electric Vehicle Association
Julia Rege	Association of Global Automakers
Jeanette Shaw	Forth

### 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:
  - DEQ Public Notices,
  - Diesel and Biodiesel,
  - Dry Cleaner Program Advisory Committee Updates,
  - Electric Vehicle Rebate 2018 Rulemaking,
  - Low Emission/Zero Emission Vehicle Program,
  - Oregon Clean Fuels Program,

- Oregon Clean Vehicle Rebate Program,
- Rulemaking, and
- Truck Efficiency/Reduced Idling.
- 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 discussed the background of the California motor vehicle emission program and the effects of adopting them in Oregon. The committee discussed the timing of the proposed 2018 LEV III GHG rules, which had not been finalized by California at the time this Oregon rulemaking was initiated (California subsequently finalized its proposed rules in September of the year.) DEQ noted that Oregon has not updated its rules to maintain identicality with California since 2013, and that there is some urgency to do so. DEQ also noted that the agency wanted to fold all the updates into this rulemaking to incorporate the proposed 2018 LEV III changes by the end of 2018, which would ensure stringent emission levels remained in effect for the 2022 and subsequent model year vehicles.

## **EQC prior involvement**

DEQ did not present additional information specific to this proposed rule revision.

## **Public Notice**

DEQ provided notice of the proposed rulemaking and rulemaking hearing on August 30, 2018 by:

- On Aug. 30, 2018, Filing notice with the Oregon Secretary of State for publication in the Sept. 1, 2018, Oregon Bulletin;
- Notifying EPA by mail;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rlevzev2018.aspx>;
- Emailing approximately 12,147 interested parties on the following DEQ lists through GovDelivery:
  - Rulemaking,
  - Low Emission/Zero Emission Vehicle Program, and
  - DEQ Public Notices;
- Emailing the following key legislators required under ORS 183.335:
  - Representative Tina Kotek, House Speaker,
  - Senator Peter Courtney, Senate President,
  - Senator Michael Dembrow, Chair, Senate Interim Committee on Environment and Natural Resources, and
  - Representative Ken Helm, Chair, House Interim Committee on Energy and Environment;
- Emailing advisory committee members,

- Posting on the DEQ event calendar: [DEQ Calendar](#).

## **Request for other options**

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business. DEQ also requested public comment on the proposed California LEV III GHG rule to modify the "deemed to comply" provision proposed in August of 2018, which has now been adopted. DEQ was aware that, at the time it requested public comment, CARB had not yet adopted the proposed rule in California but DEQ requested comments on how it could adjust its proposed rules in response to any changes adopted by CARB to ensure that the rules adopted remain consistent with California's program. This document includes a summary of comments and DEQ responses.



# Public Hearings

## Public hearings

DEQ held one public hearing. DEQ received no comments at the hearing. Later sections of this document include a summary of the seven comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

## Presiding Officers' Record

### Hearing

Date: Oct. 1, 2018

Place: 700 NE Multnomah Street, 3rd Floor Conference Room, Portland, OR 97232

Start Time: 1:12 p.m. PST

Ending Time: 1:15 p.m. PST

Presiding Officer: Rachel Sakata, Air Quality Planner, DEQ

One person attended the hearing by phone, there were no attendees in person.

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

In accordance with to [OAR 137-001-0030](#), the presiding officer summarized the content of the notice given under [ORS 183.335](#). This summary took approximately 2 minutes. No person presented any oral testimony or written comments.

## Public comment period

DEQ accepted public comment on the proposed rulemaking from Aug. 31, 2018, until 4 p.m. PST on Oct. 2, 2018.

## Summary of comments and DEQ responses

DEQ did not change the proposed rules in response to comments. Original comments are on file with DEQ.

### **Comment #1: General support for the proposed low emission vehicle program rules**

DEQ received 6 comments in this category from commenters #1-5 & 7 identified in the Commenters table below. These commenters expressed general support for the proposed rules and the proposed changes to keep them in line with California's rules.

Commenter 7 also indicated the adoption of these rules helps provide important benefits for the state including a reduction of tailpipe pollutants and greenhouse gas emissions, increases in fuel economy, and an increase in consumer choice because of the availability of electric vehicles (due to Oregon being a Section 177 state). These rules help provide more flexibility to automakers and help streamline processes.

### **Response**

DEQ thanks you for your comments on these proposed rules.

### **Comment #2: Support for adopting California's recently approved "deemed to comply" rule**

DEQ received 1 comment in this category from commenter #7 identified in the Commenters table below. The commenter expressed support for adopting California's most recent change to the "deemed to comply" provision, which would not allow automakers to comply with California's standards by meeting federal standards if there is any weakening of the federal GHG standards for automobiles.

### **Response**

DEQ thanks you for your comments on these proposed rules.

### **Comment #3: Opposition for adopting California's recently approved "deemed to comply" rule**

DEQ received 1 comment in this category from commenter #6 identified in the Commenters table below. The commenter expressed opposition in adopting California's most recent change to the "deemed to comply" provision in its rules. The commenter stated that in order for DEQ to maintain compliance with Section 177, DEQ must defer taking action on the "deemed to comply" provision until California's Office of Administrative Law has approved the amendment and until after the EPA approves California's waiver to implement these amended regulations. The commenter expressed its belief that CARB proposed regulatory change requires a waiver from EPA, and Section 177 states can only adopt California standards for which a waiver has been granted.

**Response**

DEQ disagrees with the analysis in this comment. DEQ's understanding is that Section 177 allows Oregon to adopt and enforce model year standards relating to the control of emissions from new motor vehicles or new motor vehicle engines if its standards are identical to California standards for which a waiver has been granted for that model year and if California and Oregon adopt the relevant standards at least two years before commencement of the model year. California has already obtained a waiver, and DEQ does not agree that the amendments require an additional waiver as they do not change California's standards. CARB adopted the "deemed to comply" provision on September 28, 2018 when it approved the rule amendments. Thus, DEQ is proposing that the EQC adopt rules that are identical to California standards. Further, the relevant standards will be adopted two years before the commencement of the model year to which they will apply. DEQ therefore believes that adoption of the "deemed to comply" provision in Oregon is appropriate to maintain conformity with California's rules, and DEQ is incorporating this revision into the low emission vehicle program rules.

**Comment #4 – Adopt California's rule updates prior to 2018**

DEQ received 1 comment in this category from commenter #6 identified in the Commenters table below. The commenter stated DEQ should act immediately to complete all regulatory updates prior to 2018 and noted DEQ has failed to update its rules to maintain identity with California's rules in a timely manner. DEQ must update its requirements on a more frequent basis, since the last update was five years ago.

**Response**

DEQ agrees with your comment and is taking action at this time to ensure its rules are updated to maintain identity with California's rules.

## Commenters

### Comments received by close of public comment period

The table below lists 7 people and organizations that submitted public comments about the proposed rules by the deadline. Original comments are on file with DEQ.

<b>List of Commenters</b>				
<b>#</b>	<b>Name</b>	<b>Organization</b>	<b>Comment Number</b>	<b>Hearing #</b>
1	Joel Schipper		1	
2	Diane Howieson		1	
3	John Howieson		1	
4	Donald Winn		1	
5	David Regan		1	
6	Julia Rege	Association of Global Automakers	3, 4	
7	Jana Gastellum Meredith Connolly	Oregon Environmental Council Climate Solutions	1, 2	

# Implementation

## Notification

The proposed rules would become effective upon filing on approximately Nov. 16, 2018. DEQ would notify affected parties by:

- Interested parties through the same email list used when noticing the public comment period;
- Advisory Committee members;
- DEQ Regional Solutions Team;
- Auto manufacturers; and
- Oregon Legislators:
  - Representative Tina Kotek, House Speaker,
  - Senator Peter Courtney, Senate President,
  - Senator Michael Dembrow, Chair, Senate Interim Committee on Environment and Natural Resources, and
  - Representative Ken Helm, Chair, House Interim Committee on Energy and Environment.

## Systems

- DEQ will update the rulemaking and program websites with applicable information.
- DEQ will post on Facebook and Twitter.

## Training

- Affected parties – Automobile manufacturers, automobile purchasers, Automobile dealerships, and businesses that manufacture engines for use by automobile manufacturers.

# Five-year review

ORS 183.405

## Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC will adopt these rules.

## Five-year rule review required

DEQ has determined that ORS 183.405 requires it to conduct a 5-year review of the rules contained in OAR 340-270-0010 to -0500. No later than November 2023, DEQ will review these rules to determine whether:

- The rules have had the intended effect;
- The anticipated fiscal impact of the rules was underestimated or overestimated;
- Subsequent changes in the law require that the rules be repealed or amended; and
- There is continued need for the rules.

DEQ will use “available information” to comply with the review requirement, as required by ORS 183.405(2).

DEQ will provide the five-year rule review report to the advisory committee, as well as the Secretary of State, to comply with ORS 183.405(3).

# Draft Rules – With Edits Highlighted

## Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

~~Double-strikethrough/underline: Text deleted from one location and moved to another location~~

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Division 257

### OREGON LOW EMISSION VEHICLES

#### 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) "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.

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

(3) "CARB" means California Air Resources Board.

(4) "CCR" means California Code of Regulations.

(5) "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.

(6) "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.

(7) "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).

(8) "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).

(9) "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).

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

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

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

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

(14) "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.

(15) "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.



(16) "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.

(17) "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.

(18) "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.

(19) "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.

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

(21) "PZEV" means partial zero emission vehicle as defined in CCR, Title 13, section 1962.1(j).

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

(23) "TZEV" means transitional zero emission vehicle as defined in CCR Title 13, section 1962.1(j)

~~(24)~~ "ZEV" means zero emission vehicle as defined in CCR Title 13, section 1962.1(j).

Note: A copy of the California Non-Methane Organic Gas Test Procedures is available through the link below.

~~[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 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

**340-257-0050**

**Incorporation by Reference**

(1) For purposes of applying the incorporated sections of the California Code of Regulations, 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 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 ~~7/25/16~~12/31/12.

(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 ~~12/31/12~~12/31/14.

(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 ~~12/31/12~~12/28/18.

(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 ~~12/31/12~~12/9/18.

(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 ~~12/31/12~~12/1/16.

(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 ~~12/31/12~~12/1/16.

(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 ~~8/7/12~~10/8/15.

- (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 ~~7/31/13~~7/25/16.
- (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 ~~7/31/13~~7/25/16.
- (o) Section 1976: Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions. California effective date ~~12/31/12~~10/8/15.
- (p) Section 1978: Standards and Test Procedures for Vehicle Refueling Emissions. California effective date ~~8/7/12~~10/8/15.
- (q) Section 2035: Purpose, Applicability and Definitions. California effective date 11/9/07.
- (r) 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 ~~8/7/12~~12/5/14.
- (s) 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.
- (t) Section 2039: Emission Control System Warranty Statement. California effective date 12/26/90.
- (u) Section 2040: Vehicle Owner Obligations. California effective date 12/26/90.
- (v) Section 2046: Defective Catalyst. California effective date 2/15/79.
- (w) Section 2109: New Vehicle Recall Provisions. California effective date 12/30/83.
- (x) Section 2111: Applicability. California effective date 12/8/10.
- (y) Section 2112: Definitions. California effective date ~~12/5/14~~8/7/12.
- (z) Appendix A to Article 2.1. California effective date 8/16/2009.
- (aa) Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California effective date 1/26/95.
- (bb) Section 2114: Voluntary and Influenced Recall Plans. California effective date 11/27/99.
- (cc) Section 2115: Eligibility for Repair. California effective date 1/26/95.
- (dd) Section 2116: Repair Label. California effective date 1/26/95.
- (ee) Section 2117: Proof of Correction Certificate. California effective date 1/26/95.
- (ff) Section 2118: Notification. California effective date 1/26/95.
- (gg) Section 2119: Record keeping and Reporting Requirements. California effective date 11/27/99.
- (hh) Section 2120: Other Requirements Not Waived. California effective date 1/26/95.
- (ii) Section 2122: General Provisions. California effective date 12/8/2010.
- (jj) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California effective date 1/26/95.

- (kk) Section 2124: Availability of Public Hearing. California effective date 1/26/95.
- (ll) Section 2125: Ordered Recall Plan. California effective date 1/26/95.
- (mm) Section 2126: Approval and Implementation of Recall Plan. California effective date 1/26/95.
- (nn) Section 2127: Notification of Owners. California effective date 1/26/95.
- (oo) Section 2128: Repair Label. California effective date 1/26/95.
- (pp) Section 2129: Proof of Correction Certificate. California effective date 1/26/95.
- (qq) Section 2130: Capture Rates and Alternative Measures. California effective date 11/27/99.
- (rr) Section 2131: Preliminary Tests. California effective date 1/26/95.
- (ss) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.
- (tt) Section 2133: Record keeping and Reporting Requirements. California effective date 1/26/95.
- (uu) Section 2135: Extension of Time. California effective date 1/26/95.
- (vv) Section 2141: General Provisions. California effective date 12/8/10.
- (ww) Section 2142: Alternative Procedures. California effective date 2/23/90.
- (xx) Section 2143: Failure Levels Triggering Recall. California effective date 11/27/99.
- (yy) Section 2144: Emission Warranty Information Report. California effective date 11/27/99.
- (zz) Section 2145: Field Information Report. California effective date 8/7/12.
- (aaa) Section 2146: Emissions Information Report. California effective date 11/27/99.
- (bbb) Section 2147: Demonstration of Compliance with Emission Standards. California effective date ~~8/7/12~~12/5/14.
- (ccc) Section 2148: Evaluation of Need for Recall. California effective date 11/27/99.
- (ddd) Section 2149: Notification of Subsequent Action. California effective date 2/23/90.
- (eee) Section 2235: Requirements. California effective date 8/8/12.

**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 6-2011, 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

**340-257-0090**

**ZEV Credit Bank and Reporting**

(1) Beginning model year 2009, each intermediate volume and large volume manufacturer of ZEVs, ATPZEVs, ~~and~~ 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  
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 ~~the Department~~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 ~~the Department~~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.

**Note:** A copy of CARB's Manufacturer's Advisory Correspondence (MAC) 2011-02 is available through the link below.

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

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

**Statutes/Other Implemented:** ORS 468.020

**History:**

[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

# Draft Rules – With Edits Included

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Division 257

### OREGON LOW EMISSION VEHICLES

#### 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) "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.

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

(3) "CARB" means California Air Resources Board.

(4) "CCR" means California Code of Regulations.

(5) "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.

(6) "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.



- (7) "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).
- (8) "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).
- (9) "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).
- (10) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the loaded weight of a single vehicle.
- (11) "Independent low volume manufacturer" is defined in CCR, Title 13, section 1900(b)(8).
- (12) "Intermediate volume manufacturer" is defined in CCR, Title 13, section 1900(b)(9)..
- (13) "Large volume manufacturer" is defined in CCR, Title 13, section 1900(b)(10).
- (14) "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.
- (15) "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.
- (16) "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.

(17) "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.

(18) "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.

(19) "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.

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

(21) "PZEV" means partial zero emission vehicle as defined in CCR, Title 13, section 1962.1(j).

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

(23) "TZEV" means transitional zero emission vehicle as defined in CCR Title 13, section 1962.1(j)

(24) "ZEV" means zero emission vehicle as defined in CCR Title 13, section 1962.1(j).

**Note:** A copy of the California Non-Methane Organic Gas Test Procedures is available through the link below.

**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

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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, 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 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 7/25/16.
- (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 9/28/18.
- (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 10/8/15.
- (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.
- (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 11/9/07.

- (r) 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.
- (s) 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.
- (t) Section 2039: Emission Control System Warranty Statement. California effective date 12/26/90.
- (u) Section 2040: Vehicle Owner Obligations. California effective date 12/26/90.
- (v) Section 2046: Defective Catalyst. California effective date 2/15/79.
- (w) Section 2109: New Vehicle Recall Provisions. California effective date 12/30/83.
- (x) Section 2111: Applicability. California effective date 12/8/10.
- (y) Section 2112: Definitions. California effective date 12/5/14.
- (z) Appendix A to Article 2.1. California effective date 8/16/2009.
- (aa) Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California effective date 1/26/95.
- (bb) Section 2114: Voluntary and Influenced Recall Plans. California effective date 11/27/99.
- (cc) Section 2115: Eligibility for Repair. California effective date 1/26/95.
- (dd) Section 2116: Repair Label. California effective date 1/26/95.
- (ee) Section 2117: Proof of Correction Certificate. California effective date 1/26/95.
- (ff) Section 2118: Notification. California effective date 1/26/95.
- (gg) Section 2119: Record keeping and Reporting Requirements. California effective date 11/27/99.
- (hh) Section 2120: Other Requirements Not Waived. California effective date 1/26/95.
- (ii) Section 2122: General Provisions. California effective date 12/8/2010.
- (jj) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California effective date 1/26/95.
- (kk) Section 2124: Availability of Public Hearing. California effective date 1/26/95.
- (ll) Section 2125: Ordered Recall Plan. California effective date 1/26/95.
- (mm) Section 2126: Approval and Implementation of Recall Plan. California effective date 1/26/95.
- (nn) Section 2127: Notification of Owners. California effective date 1/26/95.
- (oo) Section 2128: Repair Label. California effective date 1/26/95.
- (pp) Section 2129: Proof of Correction Certificate. California effective date 1/26/95.
- (qq) Section 2130: Capture Rates and Alternative Measures. California effective date 11/27/99.
- (rr) Section 2131: Preliminary Tests. California effective date 1/26/95.

- (ss) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.
- (tt) Section 2133: Record keeping and Reporting Requirements. California effective date 1/26/95.
- (uu) Section 2135: Extension of Time. California effective date 1/26/95.
- (vv) Section 2141: General Provisions. California effective date 12/8/10.
- (ww) Section 2142: Alternative Procedures. California effective date 2/23/90.
- (xx) Section 2143: Failure Levels Triggering Recall. California effective date 11/27/99.
- (yy) Section 2144: Emission Warranty Information Report. California effective date 11/27/99.
- (zz) Section 2145: Field Information Report. California effective date 8/7/12.
- (aaa) Section 2146: Emissions Information Report. California effective date 11/27/99.
- (bbb) Section 2147: Demonstration of Compliance with Emission Standards. California effective date 12/5/14.
- (ccc) Section 2148: Evaluation of Need for Recall. California effective date 11/27/99.
- (ddd) Section 2149: Notification of Subsequent Action. California effective date 2/23/90.
- (eee) Section 2235: Requirements. California effective date 8/8/12.

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

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

**History:**

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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.

**Note:** A copy of CARB's Manufacturer's Advisory Correspondence (MAC) 2011-02 is available through the link below.

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

**Statutes/Other Implemented:** ORS 468.020

**History:**

[DEQ 173-2018, minor correction filed 04/16/2018, effective 04/16/2018](#)

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

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