



State of Oregon Department of Environmental Quality

# Oregon Environmental Quality Commission Meeting

Nov. 17-18, 2021

## Item C: Rulemaking (Action) Clean Truck Rules 2021

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# DEQ Recommendation to EQC

DEQ recommends that the Environmental Quality Commission adopt the proposed rules in pages 66 through 107 of this report as part of Chapter 340 of the Oregon Administrative Rules.

**Language of proposed EQC motion:**

*“I move that the commission adopt the proposed rule amendments seen on pages 66 through 107 of this report as part of Chapter 340 of the Oregon Administrative Rules.”*

# Introduction

The Clean Trucks Rule 2021 proposes to adopt by reference California's Advanced Clean Trucks (ACT) Rule and Heavy-Duty Engine and Vehicle Omnibus rules (HD Omnibus). In addition, DEQ proposes to update existing Low and Zero Emission Vehicle Program rules to match revisions adopted by California since 2019. Under the ACT Rule, Oregon would require medium- and heavy-duty vehicle manufacturers to sell zero emission vehicles (ZEVs) as a certain percentage of sales, beginning with the 2025 vehicle model year. Manufacturers must increase their zero-emission truck sales depending upon the class size of the truck. Under the HD Omnibus rules, Oregon would lower nitrogen oxides (NO<sub>x</sub>) and fine particulate matter (PM<sub>2.5</sub>) emission standards for new truck engines (both diesel and non-diesel engines), in addition to other requirements for these engines.

## Background

### Brief History

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

### Short Summary

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

### Advanced Clean Trucks Rule

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

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

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

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

The rule also includes a one-time reporting requirement for certain businesses that operate one or more facilities in Oregon that own, operate or dispatch five or more medium- and heavy-duty trucks, and it requires certain businesses with 2021 gross annual revenues of more than \$50 million, to report information on fleet vehicle usage and location data no later than June 30, 2022.

**Heavy-duty Engine and Vehicle Omnibus Rule**

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

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

- 1) Lower NOx and PM<sub>2.5</sub> standards for new truck engines (both diesel and non-diesel engines)
  - a. NOx standard would be 75% and 90% below the current federal standards respectively in 2024 and 2027. NOx reductions will also reduce secondary nitrate PM<sub>2.5</sub> formation.

- b. PM<sub>2.5</sub> standard would be reduced by 50% primarily to prevent backsliding with potentially less efficient particulate controls to accommodate the lower NO<sub>x</sub> standard.
- 2) A new low load cycle standard which addresses emissions associated with low speeds, light payloads and other situations when emissions temperatures are not high enough to ensure proper catalyst operation
- 3) Lower NO<sub>x</sub> idling emission standard would be reduced by 67% and 83% below the current standard respectively in 2024 and 2027
- 4) Between 70% and 220% longer useful life and warranty periods depending on vehicle size and fuel type
- 5) Updated emissions warranty information and reporting requirements
- 6) Updated testing procedures to demonstrate engine and aftertreatment durability and in-use performance
- 7) A state-level credit averaging, banking and trading system that manufacturers of heavy-duty engines would need to implement in addition to the current federal system
- 8) Phase 2 greenhouse gas emission standards updates for trucks and trailers

#### **Low Emission Vehicle Rule for Light Duty Vehicles**

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

# Statement of Need

## Advanced Clean Truck Rule

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

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

The Advanced Clean Truck rule is foundational to reducing greenhouse gas emissions because it ensures the availability of medium- and heavy-duty ZEVs in Oregon. Additionally, ZEV trucks have no tailpipe emissions, which also results in localized reduction of NOx and PM<sub>2.5</sub> emissions.

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

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

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

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

## Heavy-Duty Low NOx Omnibus Rule

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

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

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

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

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

- Neurodevelopmental effects including decreased cognitive function and decreased birthweight

Diesel engines are responsible for approximately 25 percent of all NO<sub>x</sub> emissions in the state, a precursor to the formation of ground level ozone.<sup>3</sup> Communities across Oregon, including the Portland-metropolitan area and the Rogue Valley have experienced increasing levels of ozone in recent years. Increasing levels of ozone, or smog, leads to a wide variety of health effects including aggravated asthma, decreased lung function and chronic obstruction pulmonary disease.

Previous DEQ analyses and several recent studies have also demonstrated that exhaust from vehicles including diesel trucks, disproportionately impacts low-income, and communities of color.<sup>4</sup>

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

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

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

The proposed HD Omnibus rule would reduce NO<sub>x</sub> emissions associated with medium- and heavy-duty truck engines in Oregon by 75% in 2024 and 90% in 2027. The rule would also reduce particulate matter standards by 50% in 2024. Lower NO<sub>x</sub> emissions would result in reduced ozone formation and in turn reduce the ongoing risk of violating the ozone ambient air quality standard. Lower NO<sub>x</sub> emissions would also reduce secondary particulate matter formation, reducing total ambient PM<sub>2.5</sub> associated with the transportation sector. In

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

<sup>4</sup> Portland Air Toxics Solutions Committee Report and Recommendations, Oregon DEQ, April 2012, accessed on 8/30/2021, available at: <https://www.oregon.gov/deq/FilterDocs/PATS2012.pdf>. See also “Assessing differential environmental pollution burdens in Oregon, USA: Towards an environmental justice analysis, Oregon DEQ, December 2020, accessed on 10/19/2021, available at: <https://agu2020fallmeeting-egu.ipostersessions.com/Default.aspx?s=D5-EE-4E-1A-A5-CC-88-1E-62-27-BA-31-6F-75-72-48>; “Inequity in consumption of goods and services adds to racial-ethnic disparities in air pollution exposure”, Tessum et al., March 2019, accessed on 10/19/2021, available at: <https://www.pnas.org/content/pnas/116/13/6001.full.pdf>; “Space-Based Observational Constraints on NO<sub>2</sub> Air Pollution Inequality From Diesel Traffic in Major US Cities”, Demetillo et al., Aug 2021, accessed on 10/19/2021, available at: <https://agupubs.onlinelibrary.wiley.com/doi/10.1029/2021GL094333>.

addition, the Phase 2 greenhouse gas rules for trucks and trailers would reduce transportation-related greenhouse gas emissions through both updated conventionally-fueled engine emission standards and trailer improvements that improve fuel efficiency.

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

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

**Low Emission Vehicle Rule**

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

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

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

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

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

DEQ will maintain identity with California rules.

# Rules Affected, Authorities, Supporting Documents

## Lead division

Air Quality

## Program or activity

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

## Chapter 340 action

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

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

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

## Documents relied on for rulemaking

Document title	Document location
2020 OGWC Biennial Report to Legislature	<a href="https://static1.squarespace.com/static/59c554e0f09ca40655ea6eb0/t/5fe137fac70e3835b6e8f58e/1608595458463/2020-OGWC-Biennial-Report-Legislature.pdf">https://static1.squarespace.com/static/59c554e0f09ca40655ea6eb0/t/5fe137fac70e3835b6e8f58e/1608595458463/2020-OGWC-Biennial-Report-Legislature.pdf</a>
Energy Innovation and UC Berkley's 2035 Report: Transportation	<a href="#">Download The 2035 2.0 Report from UC Berkeley   2035 The Report (2035report.com)</a>

Document title	Document location
CARB Heavy-Duty Engine and Vehicle Omnibus Rule Staff Report: Initial Statement of Reasons (ISOR), Appendix C-3: Further Detail on Costs and Economic Analysis	<a href="https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/appc3.pdf">https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/appc3.pdf</a>
Air Quality Benefits of a Future National Heavy-Duty Truck Standard, Part1, Appendix A: National and State CTI Scenario 2035 Results Summary (Manufacturers of Emission Controls Association report)	<a href="http://www.meca.org/resources/Copy_of_Appendix_A_-_National_State_CTI_Scenario_Summary.xlsx">http://www.meca.org/resources/Copy_of_Appendix_A_-_National_State_CTI_Scenario_Summary.xlsx</a>
Air Quality Benefits of a Future National Heavy-Duty Truck Standard, Part 2, Air Quality Model Analysis of a Potential Cleaner Trucks Initiative Scenario (Alpine Geophysics report to Manufacturers of Emission Controls Association), June 2020	<a href="http://www.meca.org/resources/Alphine_Modeling_Report_Part_1-2_Final_0620rev.pdf">http://www.meca.org/resources/Alphine_Modeling_Report_Part_1-2_Final_0620rev.pdf</a>
CARB Initial Statement of Reasons for the Advanced Clean Trucks rule	<a href="https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/isor.pdf">https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/isor.pdf</a>
New Jersey Advanced Clean Trucks Program and Fleet Reporting Requirements Proposed Rules	<a href="https://www.nj.gov/dep/rules/proposals/20210419a.pdf">https://www.nj.gov/dep/rules/proposals/20210419a.pdf</a>
CARB Initial Statement of Reasons for the HD OBD and OBD II Regulation	<a href="https://ww2.arb.ca.gov/sites/default/files/classic/regact/2018/hdobd18/isor.pdf?_ga=2.268788210.2006016247.1626656263-967020819.1624571359">https://ww2.arb.ca.gov/sites/default/files/classic/regact/2018/hdobd18/isor.pdf?_ga=2.268788210.2006016247.1626656263-967020819.1624571359</a>
Updated Costs and Benefits Analysis for the Proposed Advanced Clean Trucks Regulation	<a href="https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/30dayattc.pdf">https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/30dayattc.pdf</a>
Clean Trucks Analysis, Costs & Benefits of State-Level Policies to Require No- and Low-Emission Trucks (MJ Bradley & Associates study)	<a href="https://www.mjbradley.com/sites/default/files/Clean%20Trucks%20Technical%20Report%20FINAL%2009jun21.pdf">https://www.mjbradley.com/sites/default/files/Clean%20Trucks%20Technical%20Report%20FINAL%2009jun21.pdf</a>
California's Advanced Clean Trucks regulation: Sales requirements for	<a href="https://theicct.org/sites/default/files/publications/CA-HDV-EV-policy-update-jul212020.pdf">https://theicct.org/sites/default/files/publications/CA-HDV-EV-policy-update-jul212020.pdf</a>

Document title	Document location
zero-emission heavy-duty trucks (ICCT study)	
Battery Pack Prices Fall As Market Ramps Up With Market Average At \$156/kWh In 2019 (Henze article)	<a href="https://about.bnef.com/blog/battery-pack-prices-fall-as-market-ramps-up-with-market-average-at-156-kwh-in-2019/">https://about.bnef.com/blog/battery-pack-prices-fall-as-market-ramps-up-with-market-average-at-156-kwh-in-2019/</a>
The Concerns about Diesel Engine Exhaust, Oregon DEQ, 2015	<a href="https://www.oregon.gov/deq/FilterDocs/DieselEffectsReport.pdf">https://www.oregon.gov/deq/FilterDocs/DieselEffectsReport.pdf</a>
Why Regional and Long-Haul Trucks are Primed for Electrification Now. 2021	<a href="https://eta-publications.lbl.gov/sites/default/files/updated_5_final_ehdv_report_033121.pdf">https://eta-publications.lbl.gov/sites/default/files/updated_5_final_ehdv_report_033121.pdf</a>
Analysis of Heavy-Duty Vehicle Sales Impacts Due to New Regulation	<a href="https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P101246N.pdf">https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P101246N.pdf</a>
Benefits of state-level adoption of California medium- and heavy-duty vehicle regulations	<a href="https://theicct.org/publications/state-level-hdv-emissions-reg-oct21">https://theicct.org/publications/state-level-hdv-emissions-reg-oct21</a>

# Fee Analysis

This rulemaking does not involve fees.

# Statement of Fiscal and Economic Impact

## Summary

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

### Advanced Clean Trucks Rule

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

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

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

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

### **Heavy-duty Engine and Vehicle Omnibus Rule**

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

- 1) Lower NO<sub>x</sub> and PM<sub>2.5</sub> standards for new truck engines (both diesel and non-diesel engines)
  - a. NO<sub>x</sub> standard would be 75% and 90% below the current federal standards respectively in 2024 and 2027. NO<sub>x</sub> reductions will also reduce secondary nitrate PM<sub>2.5</sub> formation.
  - b. PM<sub>2.5</sub> standard would be reduced by 50% primarily to prevent backsliding with potentially less efficient particulate controls to accommodate the lower NO<sub>x</sub> standard.
- 2) New, low load cycle standard which addresses emissions associated with low speeds, light payloads and other situations when emissions temperatures are not high enough to ensure proper catalyst operation
- 3) Lower NO<sub>x</sub> idling emission standard would be reduced by 67% and 83% below the current standard respectively in 2024 and 2027
- 4) Between 70% and 220% longer useful life and warranty periods depending on vehicle size and fuel type
- 5) Updated emissions warranty information and reporting requirements
- 6) Updated testing procedures to demonstrate engine and aftertreatment durability and in-use performance
- 7) A state-level credit averaging, banking and trading system that manufacturers of heavy-duty engines would need to implement in addition to the current federal system
- 8) Phase 2 greenhouse gas updates for trucks and trailers

### **LEV/ZEV updates to Light Duty Vehicles**

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

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

## Affected parties

The parties likely affected by these rules are:

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

## Fiscal and Economic Impact

### General Assumptions

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

### **Overall Impact of the Rules**

DEQ anticipates the proposed rulemaking will have a fiscal impact. There are increased compliance costs for entities directly affected by the rules (medium- and heavy-duty manufacturers, fleet owners and operators, government agencies). However, this rulemaking also addresses Oregon's overall efforts to address both the effects of climate change by reducing greenhouse gases and improving air quality through the replacement or upgrade of diesel and gasoline engines with zero emission technology for medium- and heavy-duty vehicles or more stringent NOx emission requirements for heavy duty vehicles. It will result in decreased number of hospital visits, fewer missed days of work and school, and a way to mitigate the impacts of climate change<sup>5</sup>.

### **Impacts of greenhouse gas emissions**

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

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

### **Impacts of truck and vehicle engine emissions**

Gasoline- and diesel-powered vehicles harm human health and the environment via emissions of pollutants such as fine particulate matter, air toxics, sulfur oxides and nitrogen oxides, a precursor to the formation of ground level ozone. These emissions disproportionately impact low-income communities and communities of color. Communities across Oregon, including the Portland-metropolitan area and the Rogue Valley have experienced increasing levels of ozone in recent years. Increasing levels of ozone – or smog – leads to a wide variety of health effects including aggravated asthma, decreased lung function and chronic obstruction pulmonary disease. Exposure to diesel engine exhaust is associated with a variety of effects, including increased risk of certain cancers, including lung and bladder cancers, cardiovascular effects including an increased risk of heart attacks,

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<sup>5</sup> Oregon Clean Trucks Program, MJ Bradley and Associates, 2021

and pulmonary effects, such as upper respiratory system irritation and decreased lung functions. DEQ estimates 176 premature deaths, 24,910 lost work days, and annual costs from exposure to diesel engine exhaust costs Oregonians \$3.5 billion every year.<sup>6</sup> The ACT and HD Omnibus rules reduce NOx and PM emission associated with diesel emissions. As a result of these reductions, an analysis by MJ Bradley estimates Oregon can expect to see fewer premature deaths, reduced mortality, fewer hospital and emergency room visits and fewer missed days of work and school, resulting in over \$1.8 billion in reduced health costs by 2050.<sup>7</sup>

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

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

## **Statement of Cost of Compliance**

### **State agencies**

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

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

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

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<sup>6</sup> The Concerns about Diesel Engine Exhaust, Oregon DEQ, 2015

<sup>7</sup> Oregon Clean Trucks Program, MJ Bradley and Associates, 2021

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

with the assistance of other state agency partners, such as the Oregon Department of Transportation.

State agencies that continue to purchase conventionally-fueled medium- and heavy-duty trucks may experience a fiscal impact as a result of an increased cost of the newer, lower emission engine and aftertreatment technology that may be passed on to vehicle purchasers from the manufacturers. CARB's analysis indicates that the net cost impact of these rules on the purchase price of trucks with engine model 2031 or later may range from an increase of 5.2% to 9.5% (\$5,557 to \$8,841) for diesel trucks and 0.4% to 8.8% (\$433 to \$4,589) for trucks with spark ignition engines (2018 dollars). The 2031 model year was used since this would reflect the full implementation of the lengthened warranty. Net cost impact is expected to be lower than the 2031 estimates for engine model year 2024 through 2030.

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

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

## **Local governments**

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

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

## **Public**

### **Benefits of the regulations**

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

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

### **CO2 emissions reductions**

One of the key benefits to these rules is the anticipated reduction in CO<sub>2</sub> emissions. As discussed earlier, impacts as a result of greenhouse gas emissions are significant and these rules will address some of the threats posed by increased GHG emissions. Overall, the estimated cumulative emissions reductions in Oregon as a result of the ACT rule is expected to be between 1.8 MMT and 2.4 MMT by 2040. This is based on CARB's analysis and other studies looking at the effects of the ACT rule in Oregon.<sup>9</sup> DEQ estimates the cumulative CO<sub>2</sub> reductions from 2024 through 2040 to be 2.4 MMT. An International Council on Clean Transportation (ICCT) study looked at modeling results for Oregon and determined it would result in avoided CO<sub>2</sub> emissions of 1.8 million tons total for the period of 2020-2040. This analysis also applied Oregon specific numbers on the anticipated sales of ZEV trucks in Oregon and the resulting benefits.

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

### **Criteria air pollutant emissions reductions**

DEQ utilized CARB's analysis and methodology to estimate the emissions reductions and scaled them to fit Oregon's demographics and vehicle usage. Analyzing the impacts of the ACT rule only, DEQ estimates the NO<sub>x</sub> reductions in 2040 to be 3.9 tons per day and 0.12 tons per day in PM<sub>2.5</sub> reductions. Based on CFP scenario modeling on the effects of the ACT rule, DEQ estimates the reduction from 2025 to 2035 is a PM reduction of 180 metric tons, reduction in NO<sub>x</sub> of 699 metric tons, based on the Greenhouse Gases, Regulated Emissions, and Energy Use in Technologies model (GREET) tailpipe emission factors. ICCT study estimates the reduction in NO<sub>x</sub> emissions from 2020-2040 is 12,506 tons per year and for PM<sub>2.5</sub> is 130 tons per year.

The HD Omnibus regulation could result in a 17.5% reduction (2,570 tons per year) of on-highway NO<sub>x</sub> emissions and a 4% reduction (29 tons per year) in on-highway PM<sub>2.5</sub> by 2035 in Oregon according to a report from the Manufacturers of Emission Controls Association. One model (Alpine Geophysics) predicted ozone in the Portland metropolitan area would be reduced by as much 3 parts per billion in 2028 if these rules were implemented.

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

<sup>10</sup>Oregon Clean Trucks Program, MJ Bradley and Associates, 2021

The MJ Bradley and Associates study looked at the combined effects of adopting the ACT and HD Omnibus in Oregon. The study estimated it would reduce NOx emission by 223,200 metric tons and PM2.5 by 1,290 metric tons. It could result in potentially avoiding 156 premature deaths, 118 hospital visits, and 83,579 minor health complications, such as acute bronchitis and exacerbated asthma, by 2050.

### **Environmental Justice**

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

### **Other considerations**

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

### **Anticipated costs of the regulation**

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

The LEV OBD II rules are expected to have an impact on vehicle prices. Under the OBD II rules, auto manufacturers will have to conduct data reporting. CARB has calculated the anticipated costs of compliance with the requirements to be \$0.34 per vehicle. These costs include the reporting required for over-the-air software reprogramming. It is expected that auto manufacturers will pass on this cost on to consumers. Thus, the public may experience a small increase in the cost of a new vehicle. DEQ is utilizing CARB’s analysis of these costs, since CARB extensively researched the costs of implementing the modifications to the

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

OBD program, and DEQ believes it accurately reflects the costs of compliance in Oregon. Overall, the rules are expected to provide benefits to the public, in that they will result in more durable engines and vehicles. While there may be some additional cost to build these improved engines and emissions controls that may be passed on to the consumer, the result may be an overall savings for vehicle owners due to the need for fewer repairs.

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

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

The impacts outlined below reflect the costs of complying in Oregon as a result of adopting California's rules.

### **Total cost of ownership for ZEV vehicles**

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

However, the costs of the purchase price of the truck are anticipated to decrease over time and there are lower operating costs for ZEV trucks. A study by Lawrence Berkeley National Laboratory looked at the total cost of ownership for long-haul trucks. Using existing battery prices and assuming a 375-mile range, they estimated the electric truck has a 13% per mile lower total cost of ownership. There is an estimated three-year payback with a net savings of \$200,000 over the lifetime of the truck (15 years).<sup>13</sup> Part of this is due to decreasing battery costs over time. Overall, battery costs have dropped by 87 percent since 2010, and continue

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<sup>12</sup> Clean Trucks Analysis, MJ Bradley and Associates, 2021

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

to drop (Henze 2019). Manufacturing efficiencies from economies of scale with existing technologies and development of new battery technologies have facilitated the decrease in battery prices. Fuel savings are expected to be higher with electricity versus diesel or gasoline. A study by MJ Bradley and Associates looked at the overall fuel costs and estimated gasoline and diesel fuel prices to continue to increase by almost a dollar each from 2020 to 2050.<sup>14</sup> Additionally, electrical costs for fleets may decrease over time, as utilities shift from demand charging rates to a subscription-based charging rate the overall cost of charging down. Cost parity for electric HDTs will approach upfront price parity with diesel trucks in the mid- to late-2030s (UC Berkeley 2035 Transportation study).

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

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

There may be some fleets that choose to relocate out of state due to the costs of operating in Oregon or manufacturers who opt not to sell in Oregon. Ultimately this is a business decision for both affected fleets and manufacturers. The ACT regulation offers many flexibilities for manufacturers to comply and does not require fleets to purchase ZEV vehicles. Fleets can purchase the vehicles that best suit their business needs which may or may not include ZEVs. However, the ACT regulation will result in an increased number of

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<sup>14</sup> Clean Trucks Analysis, MJ Bradley and Associates, 2021

<sup>15</sup> Memo from Keith Wilson, Titan Freight, dated July 27, 2021

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

ZEVs for purchase and provide additional options for purchasers and fleets. Additionally, businesses that can transition to ZEV fleets more easily may want to take advantage of savings through the lower total cost of ownership for ZEVs or accumulating credits under Oregon's Clean Fuels Program as mentioned above.

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

### **Compliance reporting**

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

### **Fleet reporting requirement**

Oregon estimates there could be up to 1,440 large entities (companies, trucking fleets, and public entities) operating in Oregon that could be subject to the one-time reporting requirement<sup>17</sup>. It is anticipated these entities will be using information already collected by the entity for normal vehicle operations. DEQ estimates the time expended by each entity will be similar to those calculated by CARB, estimated on average to be a total of four hours to retrieve and report both company-specific information and vehicle information.

### **Cost of HD Omnibus**

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

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

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

### **Cost as a result of LEV Regulations**

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

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

ORS 183.336 - Cost of Compliance for Small Businesses

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

##### **ACT Rule**

Under the proposed ACT rules, no small businesses would incur compliance costs to sell MHD ZEV trucks because they are exempt from the requirements. However, some small businesses may incur a small compliance cost as a result of the one-time fleet reporting requirement. The number of entities potentially affected by this requirement could be 772 small businesses (Truck transportation and brokers) based on industry information<sup>18</sup>. These entities would be a business or entity operating as a broker (someone who for compensation, arranges or offers to arrange the transportation of property by a motor carrier) that dispatches 5 or more MHD vehicles. A small manufacturer, such as one with fewer than 500 annual medium- and heavy-duty vehicle sales, chooses to opt in, then they can participate in the program to earn credits for vehicles sold in Oregon. As a result, these opt-in businesses would see a positive fiscal impact because of their ability to sell credits to other manufacturers who wish to offset their deficits.

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

##### **HD Omnibus**

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

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

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<sup>18</sup> ReferenceUSA database using the North American Industrial Classification System (NAICS)

**LEV Rule**

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

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

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

**HD Omnibus Rule**

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

**LEV Rule**

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

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

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

**HD Omnibus Rule**

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

**LEV Rule**

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

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

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

**Documents relied on for fiscal and economic impact**

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

Document title	Document location
New Jersey Advanced Clean Trucks Program and Fleet Reporting Requirements Proposed Rules	<a href="https://www.nj.gov/dep/rules/proposals/20210419a.pdf">https://www.nj.gov/dep/rules/proposals/20210419a.pdf</a>
CARB Initial Statement of Reasons for the HD OBD and OBD II Regulation	<a href="https://ww2.arb.ca.gov/sites/default/files/classic/regact/2018/hdobjd18/isor.pdf?_ga=2.268788210.2006016247.1626656263-967020819.1624571359">https://ww2.arb.ca.gov/sites/default/files/classic/regact/2018/hdobjd18/isor.pdf?_ga=2.268788210.2006016247.1626656263-967020819.1624571359</a>
Updated Costs and Benefits Analysis for the Proposed Advanced Clean Trucks Regulation	<a href="https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/30dayattc.pdf">https://ww2.arb.ca.gov/sites/default/files/classic/regact/2019/act2019/30dayattc.pdf</a>
Clean Trucks Analysis, Costs & Benefits of State-Level Policies to Require No- and Low-Emission Trucks (MJ Bradley & Associates study)	<a href="https://www.mjbradley.com/sites/default/files/Clean%20Trucks%20Technical%20Report%20FINAL%2009jun21.pdf">https://www.mjbradley.com/sites/default/files/Clean%20Trucks%20Technical%20Report%20FINAL%2009jun21.pdf</a>
California's Advanced Clean Trucks regulation: Sales requirements for zero-emission heavy-duty trucks (ICCT study)	<a href="https://theicct.org/sites/default/files/publications/CA-HDV-EV-policy-update-jul212020.pdf">https://theicct.org/sites/default/files/publications/CA-HDV-EV-policy-update-jul212020.pdf</a>
Analysis of Heavy-Duty Vehicle Sales Impacts Due to New Regulation (EPA 2021)	<a href="https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P101246N.pdf">https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P101246N.pdf</a>
Battery Pack Prices Fall As Market Ramps Up With Market Average At \$156/kWh In 2019 (Henze article)	<a href="https://about.bnef.com/blog/battery-pack-prices-fall-as-market-ramps-up-with-market-average-at-156-kwh-in-2019/">https://about.bnef.com/blog/battery-pack-prices-fall-as-market-ramps-up-with-market-average-at-156-kwh-in-2019/</a>
The Concerns about Diesel Engine Exhaust, Oregon DEQ, 2015	<a href="#">Report Template - from HQ (oregon.gov)</a>
Portland Air Toxics Solutions Committee Report and Recommendations, Oregon DEQ, 2012	<a href="https://www.oregon.gov/deq/FilterDocs/PATS2012.pdf">https://www.oregon.gov/deq/FilterDocs/PATS2012.pdf</a>

## Advisory committee fiscal review

DEQ appointed an advisory committee.

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

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

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

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

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

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

## **Housing cost**

DEQ determined the proposed rules will have no direct impact on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel because the proposed rules only affect vehicle manufacturers, dealers and vehicle purchasers. However, there is the potential for an indirect effect on housing development costs because the rules could influence the price of materials and/or services used in housing construction. For example, manufacturers and businesses subject to the proposed Clean Trucks Rule may increase truck prices. Housing related businesses that

purchase medium- and heavy-duty trucks may then increase the price they charge for products and services which may in turn increase housing development costs. Because these impacts are indirect, and depend on the individual decisions of multiple businesses before resulting in housing cost increases, DEQ is unable to estimate the amount of these indirect costs.

# Federal Relationship

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

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

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

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

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

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

# Land Use

## Considerations

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

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

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

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

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

Statewide goals also specifically reference the following DEQ programs:

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

## Determination

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

# **EQC Prior Involvement**

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

# Advisory Committee

## Background

DEQ convened the Clean Trucks Rule 2021 Advisory Committee. The committee included representatives from engine manufacturers, environmental organizations, trucking companies, utilities, private and public fleets and met two times. The committee's web page is located at <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/ctr2021.aspx>.

The committee members were:

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

## Meeting notifications

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

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

- Greenhouse Gas Program
- Oregon Clean Fuels

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

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

## **Committee discussions**

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee provided feedback on the rules. A few committee members raised concerns about DEQ’s planned schedule to adopt the rules by the end of 2021 and thought DEQ should wait at least a year until CARB finalizes the HD Omnibus, see what additional revisions CARB might propose to the ACT rule, and future anticipated federal action to address medium- and heavy duty vehicle emissions. Other members recommended DEQ should not wait for these actions and should adopt the rules now to ensure emissions benefits could be realized immediately.

### **Advanced Clean Trucks Rule**

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

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

### **HD Omnibus Rule**

The committee discussed an exemption for diesel-fueled transit buses until a compliant engine becomes available or through 2027 since manufacturers have declined to commit to producing a compliant engine in 2024 and beyond. Some committee members felt that DEQ should not exempt these transit buses thereby making it functionally illegal to sell diesel-fueled transit buses in Oregon under the proposed rule. They felt that exposure to the emissions from these buses tends to fall disproportionately on poor and/or black, indigenous and people of color communities. Another committee member described how other Section 177 states that have adopted CARB heavy-duty engine standards in the past also adopted CARB exemptions. They believed that Oregon should do the same and exempt these diesel-fueled transit buses. One committee member thought that Oregon should also adopt the California Innovative Clean Transit Rule in order to more quickly transition transit bus fleets across the state to zero emission.

# Public Engagement

## Public notice

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

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

## How to comment on this rulemaking proposal

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

## Comment deadline

DEQ only considered comments on the proposed rules that DEQ received by 4 p.m., on Sept. 24, 2021.

## At hearings

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

Thursday, Sept. 16, 2021: 6 p.m.

# Public Hearing

DEQ held two public hearings. DEQ received 15 comments at the hearings. Later sections of this document include a summary of the 145 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 1

Date: Thursday, Sept. 16, 2021

Place: Online

Start time: 9:37 a.m.

End time: 10:27 a.m.

Presiding Officer: Rachel Sakata, Senior Air Quality Planner, Air Planning

Approximately 46 people attended the online hearing. 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 indicate their intent to present comments, either by phone or through the online platform. 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](#). Fourteen people commented orally. There were no written comments.

### Hearing 2

Date: Thursday, Sept. 16, 2021

Place: Online

Start time: 6:07 p.m.

End time: 6:20 p.m.

Presiding Officer: Eric Feeley, Air Quality Planner, Air Planning

Approximately 5 people attended the online hearing. 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 indicate their intent to present comments, either by phone or through the online platform. 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](#). One person commented orally. There were no written comments.

# Summary of Public Comments and DEQ Responses

## Public comment period

DEQ accepted public comment on the proposed rulemaking from Aug. 31, 2021, until 4 p.m. on Oct. 1, 2021.

For public comments received by the close of the public comment period, the following table organizes comments into 40 categories with cross references to the commenter number. DEQ's response follows the summary. Original comments are on file with DEQ.

DEQ changed the proposed rules in response to comments described in the response sections below.

### **Comment #1: General support for the Clean Truck Rules**

DEQ received 583 comments in this category from commenters # 1, 2, 3, 7-12, 14-17, 19-26, 27-37, 39, 40, 42-46, 49-51, 56, 57, 59, 64-68, 71, 72, 75, 79, 85, 86, 91-93, 96-100, 102-104, 112, 126, 129, 133, 137, 139, 140, 142, 145++, 146, and 507 individual commenters who submitted a form letter identified in the *Commenters* table below. These commenters expressed general support for the Advanced Clean Truck (ACT) rules, the Heavy-Duty Engine and Vehicle Omnibus rules (HD Omnibus) and updates to the existing Low and Zero Emission Vehicle Program rules. Supporting comments included:

- Transportation and trucks in particular are a large contributor of greenhouse gas emissions (7, 9, 10, 14, 15, 22, 72, 86, 96, 97, 102, 137, 139)
- The regulations would improve the health of those most exposed to medium and heavy duty trucks, particularly lower income communities (7, 9, 10, 15, 22, 29, 31, 34, 40, 59, 64, 66, 75, 92, 93, 96, 99, 100, 102, 103, 104, 126, 129, 133, 137, 139, 145++),
- The savings from reduced health costs, new clean energy jobs, and potential utility savings could be realized (7, 15, 17, 36, 51, 57, 66, 75, 139, 142), and
- Immediate adoption is needed on both these rules to realize the benefits (7, 8, 9, 11, 14, 17, 22, 28, 29, 33, 39, 44, 92, 100, 129, 137, 139, 145++).
- The rules will drive the market for cleaner technology and provide market certainty (96, 129),
- Many fleets are already reserving Class 8 trucks indicating industry demand for these and other class type trucks. (129)

### ***DEQ Response***

DEQ thanks you for your comments in support of these proposed rules.

### **Comment #2: Delay adoption of Clean Truck Rules**

DEQ received 47 comments from commenters 18, 54, 55, 58, 60, 62, 69, 70, 74, 77, 78, 80, 83, 84, 87-90, 94, 95, 101, 105-111, 113-115, 117-120, 122, 123, 128, 130- 132, 134, 135, 138, 143, 144, 147) stating DEQ should delay adoption of the Clean Trucks Rules until CARB completes its anticipated updates to the existing ACT rule or the federal government

completes its intended actions to lower truck emissions. Additionally, CARB is still revising its proposed HD Omnibus rules, changing the cost and uncertainty with the economic impact still not understood and DEQ should delay until these rules are resolved. One commenter (#138) stated that DEQ should delay until the Oregon Department of Transportation completes its medium- and heavy-duty truck alternative fuels study in 2022 since that study could inform the feasibility and methodology in the Clean Trucks Rule.

***DEQ Response***

DEQ disagrees with this comment to delay adoption of the rules. DEQ is taking action to adopt these rules now to realize the benefits of the regulation as soon as possible, which would begin with the 2025 MY. If CARB adopts updates or the federal government adopts rules to lower truck emissions, DEQ may review the rules to determine whether to take additional future action. CARB was completing revisions to the proposed HD Omnibus rules during the time DEQ proposed its rules for public comment. CARB finalized and adopted the rules on September 9, 2021 without making significant changes from the version that was under consideration at the time DEQ published notice of its rulemaking. The changes adopted by CARB do not significantly alter the cost or economic impact of CARB's analysis provided at the time of DEQ's proposed rules.

**Comment #3: Rules result in increased costs of new trucks and required infrastructure**

DEQ received 46 comments from commenters 6, 18, 38, 52-55, 58, 60, 62, 73, 77, 78, 80-84, 87-90, 94, 95, 101, 105-111, 113-115, 117-120, 122, 123, 130-132, 134, 136, 138, 143, 144, 147 stating DEQ should not adopt the rules due to the increased costs as a result of the regulation. Specifically, commenters cited:

- The increased costs of trucks, particularly Class 8 trucks will increase by \$58,000 per truck (18, 52-55, 58, 60, 62, 73, 78, 95, 101, 113, 114, 118, 120, 130, 131, 134, 143),
- The increased cost of charging infrastructure and downtime required while charging (18, 73, 120, 130, 147),
- The increased costs will harm the industries it serves (73, 81, 82, 108, 110, 116, 121, 143,) and raise prices of goods for Oregonians (109, 143),
- Cost to replace trucks with ZEVs is unsustainable (18, 58, 132) and not accurately estimated by DEQ (18),
- Cost to train new drivers and technicians must be considered (18, 70),
- Requires truck fleets to turn over fleets more quickly than planned (128),
- Rules harm in state carriers more than out of state carriers (70, 95, 118, 120)

***DEQ Response***

In the fiscal and economic impact statement for this regulation, DEQ noted the potential increased initial costs as a result of the regulation and the anticipated fiscal impact on businesses and industries.

Although the purchase price of zero emission trucks is higher than comparable diesel trucks, the overall total cost of ownership of zero emission trucks results in higher savings overall due to reduced fuel costs and lower maintenance costs.

Additionally, the ACT rules do not require fleet owners or businesses to purchase ZEV trucks. Rather it is a sales requirement on manufacturers to produce and deliver ZEV trucks; fleet owners have the option of deciding the types of trucks, whether ZEV, diesel, or other fuel type truck to purchase that best suit their needs.

Although the purchase price of new conventionally-fueled trucks and tractors are estimated to increase under the HD Omnibus rules, claims of a \$58,000 increase do not match the CARB analysis described in the DEQ fiscal and economic impact statement. This is primarily because CARB only considered the incremental cost increase of extending the warranty period and not the cost of the entire warranty cost from mile zero. Because it is very common for today's truck purchasers to buy the standard warranty at the time they purchase a new truck, the CARB analysis only considered the incremental warranty cost beyond the standard warranty. That may explain the dramatic differences between the studies cited by some commenters and the estimates presented by DEQ since the extended warranty represents the bulk of the estimated increase in the purchase price of new class 8 tractors. It should be noted that truck purchasers who buy and hold their vehicles over time should realize benefits from having a longer warranty period in reduced maintenance costs. Those fleets who only hold on to new vehicles for short periods may not realize those same benefits.

**Comment #4: ZEV trucks unable to meet business needs**

DEQ received 15 comments from commenters 54, 55, 58, 61, 62, 70, 73, 81, 90, 113, 124, 131, 138, 144, 147, regarding the unsuitability or unavailability of ZEV and Low NOx trucks to meet their business needs. Existing ZEV technology is not available or too expensive to serve long-haul trips, there are range limitations, and it would require more trucks to fulfill the existing service needs. Additionally, sectors of the heavy-duty truck market will not have trucks available within the timeframes established under the rule (113). The increased weight of the electric vehicle also decreases the load capacity for companies. (73)

***DEQ Response***

The ACT rule does not require the purchase of ZEV trucks. Rather it is a sales requirement on manufacturers. Companies and fleets can purchase whichever truck best suits their needs. ZEV trucks would not be limited to battery electric trucks. Other ZEV technologies, including hydrogen fuel cell, could allow for less vehicle down time due to fueling. In addition, battery and battery charging technology is expected to progress rapidly in the next few years.

**Comment #5: Rules will result in pre-buy or no-buy of new trucks**

DEQ received 12 comments from commenters 18, 54, 74, 78, 110, 113, 114, 118, 116, 121, 128, 134 stating the rule will result in companies delaying new truck purchases reducing the benefit of these rules and/or buying new trucks in advance of rule implementation. Commenters also stated it will result in businesses and fleets purchasing outside the state (113), described a more constrained supply of compliant trucks due to manufacturers leaving the market (18) and predicted lower sales of ZEV trucks in Oregon based on the overall decrease in truck sales (18).

### ***DEQ Response***

The ACT regulation does not require companies or fleets to purchase ZEV vehicles and provides flexibilities for manufacturers to comply. Fleets can purchase the vehicles that best suit their business needs which may or may not include ZEVs. However, the ACT regulation will result in an increased number of ZEVs for purchase and provide additional options for purchasers and fleets. For those companies or fleets who do choose to purchase diesel engines, the low NOx requirements will result in a lower emitting, longer warranted truck that will ultimately provide benefits to the purchaser. It is also important to note that pre-buy/no-buy situations are most noticeable in circumstances where there are significant shifts to unfamiliar or unproven technology from one model year to the next. There are manufacturers currently manufacturing engines and aftertreatment technology that come very close to the proposed 2024 HD Omnibus NOx standards and the technology and/or reconfiguration demonstrated by Southwest Research Institute indicates that while there may be additional costs associated with these redesigns the types of design changes that we are likely to see do not typically result in large pre-buy/no-buy activity. In fact SWRI noted “that much of the hardware used for the Stage 3 engine is commercially available technology that is either already in serial production or is in pre-production stage.”<sup>19</sup> Additionally, the overall benefits of having lower emitting trucks on the roads will provide benefits to the public as a result of reduced emissions and adverse health effects.

### **Comment #6: No legal authority to adopt the Clean Trucks Rules**

DEQ received 3 comments from commenter #18, 69, 76 stating that the EQC does not have the authority under state law to adopt the regulation because it involves sales mandates and not emission standards, as required under the Clean Air Act. Commenters also stated that EQC does not have authority under the federal Clean Air Act to adopt the proposed rules under Section 177 of the Act because the EQC is not a “state” as specified in the Act, doesn’t have the authority to regulate automobile fuel economy standards or greenhouse gas standards and finally because Oregon is not designated a nonattainment area (18, 69). Another commenter stated the rule should require approval of state representatives to implement this rule.

### ***DEQ Response***

The comment asserts that the EQC does not have legal authority to adopt these standards under state or federal law. DEQ staff have analyzed these arguments and we disagree. We believe that DEQ’s decision making body, the Environmental Quality Commission (EQC), has legal authority to adopt these standards.

### **Comment #7: Lack of identity and State Implementation Plan provisions**

DEQ received 1 comment (#18) stating that Oregon is required to include the California standards in its State Implementation Plan (SIP) in order to meet the State’s National Ambient Air Quality Standard (NAAQS) attainment obligations. The commenter stated that Oregon cannot meet those criteria. In addition, the commenter claimed that Oregon was not

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<sup>19</sup> Further Development and Validation of Technologies to Lower Oxides of Nitrogen Emissions from Heavy-duty Vehicles: Low NOx Demonstration Program – Stage 3, Final Report, Southwest Research Institute, April 2021

meeting the requirement that Oregon standards be “identical to the California standards” because instead of basing the required sales on California sales, Oregon is choosing to base its sales requirements on Oregon sales.

***DEQ Response***

Under the Clean Air Act, any state that chooses to opt-in to California’s standards must adopt new vehicle or engine emission standards identically. This is to prevent the creation of a “third-vehicle” with which manufacturers must comply. Oregon DEQ has reviewed the proposed rules and determined that they satisfy the identity requirement of Section 177 of the Clean Air Act.

**Comment #8: General opposition to the Clean Truck Rules**

DEQ received 4 comments in this category from commenters # 4, 41, 89, 141 who expressed general opposition to the rulemaking. One commenter stated Oregon does not have the same pollution issues that California does so it does not need to adopt California’s rules

***DEQ Response***

While Oregon does not have the same pollution issues as California, transportation accounts for approximately 40 percent of all statewide greenhouse gas emissions in Oregon. Heavy-duty trucks and buses are responsible for nearly 23 percent of total transportation sector greenhouse gas emissions in Oregon. Additionally, diesel engines also have a disproportionate impact on criteria pollutant levels like Ozone, Particulate Matter and Oxides of Nitrogen or NOx which puts some areas in Oregon at risk of exceeding National Ambient Air Quality Standards. DEQ modeled 2017 exposure to diesel particulate matter in the Portland metro area in which many areas of the region registered at least 10 times above the benchmark. This indicates that in these areas there is a higher risk of certain cancers, lung disease and cardiovascular impacts. Overall, these rules help reduce greenhouse gas emissions and other air pollutants in Oregon.

**Comment #9: Fiscal and economic analysis – Flawed assumptions**

DEQ received one comment (#18) stating DEQ’s fiscal analysis is flawed. DEQ should have performed Oregon-specific cost-benefit analysis instead of relying on CARB assumptions and scaling to Oregon, because it does not account for the differences in Oregon’s fleet, infrastructure, truck sales and replacement rates. Additionally, the HD Omnibus rules are not finalized and any assumptions cannot be based on a rule that may have additional revisions.

***DEQ Response***

DEQ relied on CARB’s analysis due to the extensive research conducted by CARB to ensure the rules are technically feasible and cost-effective. While Oregon’s assumptions are based on California-specific models, California’s information provides the most comprehensive analysis available. DEQ also relied on Oregon- specific analyses which are highlighted in the Fiscal and Economic Impact Statement for this rule.

California’s HD Omnibus rules were adopted on Sept. 9, 2021. California’s changes to the rule were widely discussed with the DEQ rulemaking advisory committee that was convened for the Clean Trucks Rule. California’s final rule does not include any

substantial changes that would have had any significant impact on the fiscal and economic analysis.

**Comment #10: Fiscal and economic analysis – Inaccurate emissions benefit analysis**

DEQ received one comment (#18) questioning the accuracy of DEQ’s estimated greenhouse gas emissions benefit under the ACT. The commenter believed that reductions of between 1.8 and 2.4 MMT through 2040 was substantially overstated because the estimate was nearly six times more than reductions calculated for the estimated benefits in New Jersey. They also stated that NOx reductions estimates associated with the HD Omnibus rule implementation were overstated, since the estimate did not account for pre-buy/no-buy purchasing behavior and generally felt that the economic and market analysis was deficient.

***DEQ Response***

DEQ relied on CARB’s analysis due to the extensive research conducted by CARB to ensure the rules are technically feasible and cost-effective. In estimating the anticipated GHG reductions, it relied on California’s assumptions as well as Oregon- specific analyses which are highlighted in the Fiscal and Economic Impact Statement for this rule. DEQ utilized California’s assumptions and scaled them to reflect Oregon’s population and vehicle fleet mix. The Oregon specific studies support the estimated reductions benefit based on Oregon’s estimated fleet and vehicle miles traveled which overall were higher than New Jersey’s, thus resulting in a higher estimated benefit. NOx reduction estimates were taken from three different sources as described in the Clean Truck Rules notice of proposed rulemaking. Each analysis had a slightly different methodology as described in detail in linked documents section of the notice. Finally, as described in the notice, pre-buy/no-buy effects can be difficult to predict. Previous analyses have shown that in certain situations the effect has been observed while the effect has been absent in other situations. In any case the analysis referenced in the notice described the effect, when observed, as “short lived.”

**Comment #11: Fiscal and economic benefit analysis – No inclusion of annual estimates of CARB-certified diesel fuel truck sales**

DEQ received one comment (#18) stating that potential emissions benefits cannot be accurately estimated without estimates of the number of trucks that will be sold in Oregon in 2024 and beyond therefore DEQ’s analysis does not support the proposed rule.

***DEQ Response***

In DEQ’s fiscal and economic impact statement, it referenced two studies that projected the number of trucks sold in Oregon in future years to calculate the potential emission benefits of the rule. DEQ believes these studies and analysis support the proposed rule.

**Comment #12: Advanced Clean Trucks Rule - Charging infrastructure is not available**

DEQ received 18 comments from commenters 18, 27, 54, 55, 70, 73, 74, 76, 90, 95, 101, 113, 120, 124, 128, 131, 138, 147 stating additional infrastructure needs must occur to support the rule and the existing infrastructure is not ready, including needing additional space to charge the trucks and the unavailability of charging stations in rural areas (70).

Additionally there is not enough time to develop mechanic skills for ZEV technology to provide adequate support.

***DEQ Response***

By establishing the requirements in the rule, it provides regulatory certainty and a clear market signal for stakeholders, industry, and regulatory agencies such as the Public Utilities Commission to take action to ensure charging needs are met. It allows these entities to plan and mobilize investments across Oregon. Because the rules do not impose requirements until the 2025 model year, manufacturers, dealerships, and repair shops have over two years to train mechanics to support this technology.

**Comment #13: Advanced Clean Trucks Rule – Early ZEV credit generation**

DEQ received 5 comments in this category from commenters (# 17, 25, 68, 75, 139) that expressed support for including early credit generation provisions. Some commenters (25, 68) requested DEQ begin with model year 2021 and others (#17, 75, 139) wanted DEQ to limit early credit generation to begin with model year 2024.

***DEQ Response***

DEQ is allowing early credit generation beginning with model year 2022. This is because if the rules are adopted and become effective in 2021, the 2022 model year is the earliest year a manufacturer could begin earning credit. Allowing early credit generation a few years prior to the 2025 model year requirements provides additional flexibility for manufacturers to transition to ZEVs.

**Comment #14: Advanced Clean Trucks Rule - Fleet reporting requirement threshold**

DEQ received 7 comments in this category from commenters # 14, 17, 25, 26, 29, 137, 139. The commenters supported DEQ's proposal of requiring fleets of 5 or more trucks to report information to DEQ.

***DEQ Response***

DEQ thanks you for your comments.

**Comment #15: Advanced Clean Trucks Rule – Fleet reporting requirement frequency**

DEQ received one comment from commenter 137 requesting the reporting requirement change from a one-time only requirement to a periodic reporting system to capture current data.

***DEQ Response***

DEQ is limiting the reporting requirement to a one-time only provision to minimize the burden on affected entities.

**Comment #16: Advanced Clean Trucks Rule – Fleet reporting clarification**

DEQ received one comment from commenter (#17) stating that “common ownership and control” should be defined in the proposed rules and that DEQ should explain the reasoning for the reporting timeline differences between state and private fleets.

***DEQ Response***

DEQ has added a definition in 340-257-0030 to further clarify what is meant by “common ownership or control.” Under the proposed rules, the timelines for reporting are the same for both state and private fleets.

**Comment #17: Advanced Clean Trucks Rule – Fleet reporting confidentiality exemption**

DEQ received 3 comments from commenters (#17, 29, 139) who felt that allowing an exemption for “confidentiality” reasons undercuts transparency.

***DEQ Response***

Under the rules, all entities subject to the fleet reporting requirement must report information to DEQ. DEQ recognizes some of the data may be proprietary to the business. Allowing businesses to request sensitive data and personally identifiable information to be kept confidential gives businesses the assurance they can report information to DEQ.

**Comment #18: Advanced Clean Trucks – Alignment of penalty structure with California’s**

DEQ received two comments on ACT penalties (#17 & 139). One commenter (#139) wanted to see alignment of ACT enforcement penalties with those in California. This commenter stated that the penalty matrix as proposed is roughly one-third of the California penalties and that this framework is not an adequate deterrent to potential noncompliance. Another commenter (#17) wanted DEQ to describe how these rules align with the California penalty structure.

***DEQ Response***

DEQ has a robust administrative enforcement program that it applies consistently and fairly to violations of Oregon environmental regulations, including vehicle emission standards, and that DEQ believes is applied in a manner generally comparable to California’s enforcement program. The proposed enforcement penalties are incorporated into Oregon’s existing civil penalty matrix and provide ample and sufficient authority for DEQ to ensure compliance. However, in response to this comment, DEQ reevaluated its proposed ACT penalties and determined to delete proposed language in OAR 340-257-0055(3) that provided that for a vehicle manufacturer not in compliance, the number of vehicles deemed to be in violation would be one half of the manufacturer’s outstanding deficit. The proposed rule now provides that the number of vehicles in violation will be equal to the manufacturer’s outstanding deficit. This change will make Oregon’s enforcement approach comparable to California’s.

**Comment #19: Advanced Clean Trucks Rule - Battery life cycle issues**

DEQ received 3 comments in this category from commenters # 14, 17, 29, expressing concern about sustainability, equity and transparency issues related to the mining, extraction and disposal of battery source materials. One commenter (#17) requested that DEQ consider Battery Responsibility Agreements that would ensure sustainable supply chains and cradle to grave commitments.

***DEQ Response***

DEQ understands the concerns about the battery life cycle and agrees safe disposal of batteries at the end life is critical to safeguard against environmental impact. DEQ encourages the refurbishing or reuse of batteries or the creation of new facilities or modifications to existing facilities to accommodate battery recycling activities and thus minimize the need to source new batteries.

**Comment #20: Advanced Clean Trucks Rule - Near-zero emission (NZE) technologies**

DEQ received one comment (#132) that stated that not all applications will be suitable for ZEVs and since propane technologies are lower emitting than diesel those technologies will be able to meet the gaps that ZEV implementation would leave.

***DEQ Response***

The ACT regulation does not require companies or fleets to purchase ZEV vehicles and provides flexibilities for manufacturers to comply. Fleets can purchase the vehicles that best suit their business needs which may or may not include ZEVs. However, the ACT regulation will result in an increased number of ZEVs for purchase and provide additional options for purchasers and fleets.

**Comment #21: Advanced Clean Trucks Rule – discourages adoption of advanced emissions-reducing technology**

DEQ received one comment (#113) that stated the ACT rule does not provide a pathway to encourage technologies like hydrogen combustion engines. The commenter also said that the ACT could effectively ban these type of engines when it reaches full implementation.

***DEQ Response***

The ACT regulation does not require companies or fleets to purchase ZEV vehicles and provides flexibilities for manufacturers to comply. Fleets can purchase the vehicles that best suit their business needs which may or may not include ZEVs. However, the ACT regulation will result in an increased number of ZEVs available for purchase and provide additional options for purchasers and fleets.

**Comment #22: HD Omnibus Rule - Do not exempt transit bus diesel engines and/or adopt CARB's Innovative Clean Transit (ICT) rule**

DEQ received 5 comments in this category from commenters #14, 17, 29, 139 and 140) that said that Oregon should either adopt California's Innovative Clean Transit (ICT) rule moving transit agency fleets to 100% ZEV and/or not exempt transit bus diesel engines from the HD Omnibus regulations.

***DEQ Response***

Adoption of California’s ICT rule is not part of this rulemaking, however, DEQ will investigate this option in the future. At this time DEQ is exempting transit bus diesel engines to avoid the potential for creating a “third vehicle” under Section 177 of the Clean Air Act. Last year the sole manufacturer of transit bus diesel engines (Cummins) announced that it would not manufacture transit bus diesel engines compliant with the HD Omnibus rule. That prompted CARB to create a transit bus diesel engine exemption. However, the details of the exemption were designed to fit with the California ICT rule. Since DEQ was not planning to propose adoption of the ICT rule DEQ created its own Oregon-specific exemption that allows for these transit bus diesel engines to be sold in Oregon.

**Comment #23: HD Omnibus - Exempt transit agency diesel-fueled buses and engines**

DEQ received one comment (#125) that expressed concern that DEQ would potentially create a “third vehicle” if it didn’t exempt transit agency diesel-fueled buses and engines from all the CARB rules incorporated by reference in proposed rules under division 261. The commenter stated that onboard diagnostic and warranty provisions may still apply to these engines unless specifically exempted. They stated that DEQ should clarify that these engines are exempt from all CARB requirements and that engines meeting the federal standards will continue to be allowed for sale in Oregon. They also suggested that DEQ should remove the January 1, 2027 (or potentially earlier) sunset date for this exemption as this could potentially create a new “third vehicle” at that point in time.

***DEQ Response***

DEQ’s intent is to exempt transit bus diesel engines from the requirements of HD Omnibus – including OBD and warranty provisions. DEQ has deleted the proposed rule language in OAR 340-261-0060(2) to make it clear that all new diesel-fueled buses sold to any transit agency are exempt.

**Comment #24: HD Omnibus rule - Exempt emergency vehicles from the proposed rules**

DEQ received one comment (#125) that stated that California exempts emergency vehicles from California motor vehicle pollution requirements (see CCR 27156.2 and 27156.3) and that heavy-duty emergency vehicles and engines should likewise be exempt from these new Oregon proposed rules.

***DEQ Response***

DEQ thanks you for the comment. DEQ intended to exempt emergency vehicles from the HD Omnibus rules just as California does and has corrected the proposed rules to reflect this, in OAR 340-261-0060(3).

**Comment #25: The Fleet Average Non-Methane Organic Gas (NMOG) requirements have the potential to harm fire service fleets**

DEQ received one comment (#13) that expressed concern that these rules would limit Fire Districts’ ability to use certain types of equipment which could impact their operations. The commenter also expressed concern about districts’ ability to use older or used equipment that

is often handed down from one district to another over time. The commenter also requested fire service vehicles be exempted from the NMOG Exhaust Emissions Requirements and want future solutions to include more input and consideration from Oregon's fire service.

***DEQ Response***

DEQ does not believe that the proposed rules would place any restriction on the use or transfer of this type of equipment. DEQ intends to exempt emergency vehicles from the proposed HD Omnibus Rule (see response to Comment #23).

**Comment #26: HD Omnibus - Determining the maximum number of high horsepower engines (>525 hp) that can be sold in Oregon**

DEQ received one comment (#125) that wanted DEQ to clarify how manufacturers calculate the number of high horsepower (>525 hp) engines they are eligible to sell in Oregon under these rules.

***DEQ Response***

Because the proposed rules adopt the high horsepower exemption identically, manufacturers would calculate the number of high horsepower engines (>525 hp) in the exact same way that the calculation is performed in California. However, instead of using the number of engines sold in California in 2018 or 2019 as the baseline, manufacturers would be required to use the number of high hp engines sold in Oregon as the baseline. Manufacturers can choose either 2018 or 2019 high hp engine sales as a baseline and would be permitted to sell 110% of that baseline number of engines each year into the future.

**Comment #27: HD Omnibus rule - Legacy diesel engine sales for 2023 MY**

DEQ received one comment (#125) that described specific CARB exemptions that allow for a limited number of diesel legacy engines to be sold during model years 2024-25 that meet model year 2023 diesel engine emission requirements. This exemption is proposed for adoption under OAR 340-261-0060(1) and includes complex criteria for some exemptions that are linked to availability of zero emission credits and other credits, the potential for a required emissions mitigation project, and multiple instances of approvals from the CARB Executive Officer. The commenter is requesting clarification on how these criteria would or would not be applied in Oregon under the proposed rules and urged that Oregon-specific processes should be avoided.

***DEQ Response***

DEQ is proposing to adopt these CARB provisions identically. This means that Oregon will create a credit and approval system that mirrors the California exemptions, but to be applied in Oregon. The necessary approvals will be made by the DEQ Director, under the language in OAR 340-261-0050(1). However, DEQ is in discussions with CARB about potentially proposing to streamline these processes in the future to reduce administrative burden.

**Comment 28: HD Omnibus Rule - requirements are not needed due to existing clean diesel trucks**

DEQ received one comment in this category from commenter #5 expressing that today's cleanest diesel trucks are already clean enough. Further development of even cleaner diesel engines are a waste and get in the way of reducing carbon emissions which should be the main goal.

***DEQ Response***

DEQ has a mission to address a wide variety of environmental pollutants. Reducing greenhouse gas emissions is of critical importance (see Advanced Clean Trucks rule). However, there are other pollutants present in truck exhaust that DEQ also must address including criteria pollutants like NOx and PM as well as air toxics like polycyclic aromatic hydrocarbons (PAHs) that are present in elevated concentrations in communities across the state. In addition, while Oregon has a goal for a zero emission future in the medium- and heavy-duty truck sector, conventionally-fueled trucks will play a role in the transition and it is important that those remaining trucks be as clean as possible.

**Comment #29: HD Omnibus Rule – Only one full year of leadtime for 2024-2026**

DEQ received one comment (#18) that stated the 2024-26 model year standards and requirements provide only one full year of manufacturer lead time prior to sale which is a violation of the Clean Air Act.

***DEQ Response***

The 2024-2026 model years in this case refer to engine model year. Engine model year corresponds to calendar year such that an engine model year of 2024 would not be made for sale prior to Jan. 1, 2024. Therefore, if the Environmental Quality Commission adopts these rules at any time prior to Jan. 1, 2022, the two year lead time requirement under Section 177 of the Clean Air Act will be met.

**Comment #30: HD Omnibus – Extended warranty costs**

DEQ received one comment (#18) asserting that DEQ's estimated costs for extended warranties were significantly overstated and also questioned CARB's methodology for estimating warranty costs.

***DEQ Response***

DEQ relied on CARB's analysis for the estimated costs and benefits associated with extended warranties. While DEQ recognizes that there are several other analyses that have been conducted by third party organizations, the CARB analysis focused on the incremental increase in warranty cost associated with the extended warranty and not the total cost of the warranty from mile zero. Analyses that include the cost of the total warranty from mile zero overestimate the incremental cost associated with the extended warranties included in the HD Omnibus rule.

**Comment #31: Incentives are needed to maximize the impact of these new rules**

DEQ received 13 comments from commenters #8, 17, 18, 63, 68, 90, 113, 124, 135, 137, 138, 140, 144 that encourage the adoption of a suite of policies that will increase adoption of medium- and heavy-duty ZEVs. Policies described include point of sale vouchers and multi-year funding for consumers, manufacturers, and fleets to support both the sale and purchase of vehicles (18, 68, 113, 114, 140), infrastructure funding and coordination to ensure utilities can meet demand (63, 140), and funding support for hydrogen fueling equipment and fueling (140). Other incentives should include utility fleet services and advisory programs (140) particularly for fleet operators spanning multiple utility territories (63), and stand-alone commercial EV rates.

### ***DEQ Response***

DEQ agrees incentives will provide a useful tool to encourage the acceleration of ZEV purchase and deployment. DEQ currently has a few programs to assist in the purchase of medium and heavy-duty ZEVs and infrastructure. The Diesel Emission Mitigation Grant Program provides funds under the Environmental Mitigation Trust Agreement to cover between 75% to 100% of costs for switching from a diesel to an all-electric vehicle. Under this grant there is a focus on small and minority owned businesses to receive additional points increasing their funding eligibility. The Clean Fuels Program provides credits to fuel providers switching from diesel to electricity that can be monetized to purchase electric vehicles and chargers. DEQ supports any efforts for all stakeholders to collaborate on ways to obtain funding for these incentives and utility service support to assist in the planning and buildout of charging infrastructure.

### **Comment #32: Adopt an Indirect Source Permitting Program or additional programs to deal with older diesel trucks**

DEQ received 8 comments from commenters # 3, 8, 12, 28, 33, 37, 48, 64 that said that these DEQ rules would not address older diesel trucks already on the road that are major sources of diesel pollution. Several comments recommended that DEQ adopt an indirect source permitting program (#12, 28, 33). One commenter (#3) stated that ZEV trucks will likely reduce noise along roads while other commenters (#37, 48) said that DEQ should do more to address the noise from trucks generally. One commenter (#3) said that DEQ should perform emissions testing on all diesel vehicles. One commenter (#8) said that all trucks with diesel engines that lack selective catalytic reduction (SCR) and diesel particulate filter (DPF) technology should not be allowed on public roads in Oregon. Manufacturers have the ability to meet these lower standards but lack the incentive (#8). Seek additional ways to prioritize relief for communities who are currently experiencing the worst impacts of diesel pollution exposure (#64).

### ***DEQ Response***

DEQ appreciates recommendations for future policy options to reduce pollution and noise from medium- and heavy-duty trucks. Recent legislative action (HB2007 - 2019) will address emissions from older, in-use on-highway medium- and heavy-duty trucks registered and titled in the Portland Metro area. In addition, DEQ continues to reduce emissions from the medium- and heavy-duty sector through the use of state and federal incentive program grant funds.

**Comment #33: Adopt zero-emission purchase requirements for fleets**

DEQ received one comment (#140) stating Oregon should adopt fleet purchase requirements for ZEVs.

***DEQ Response***

The Clean Trucks Rule is focused on the Advanced Clean Trucks Rule and Heavy Duty Low NOx Omnibus Rules. DEQ may consider other options such as fleet purchase requirements in the future.

**Comment #34: Hydrogen may be worse than natural gas in some cases**

DEQ received one comment (#1) stating that when hydrogen fuel use is examined closely from production to consumption it turns out to be inefficient at best and in some cases could be worse than burning natural gas.

***DEQ Response***

DEQ recognizes that the source of energy used in the production of hydrogen fuel plays an important role in the life cycle emissions associated with its use. Hydrogen fuel cell vehicles would be categorized as ZEVs under the ACT rule. While the rule itself doesn't require the use or manufacture of hydrogen-powered, fuel cell trucks, or create any requirements for the generation or production of hydrogen fuel, the sale of hydrogen-fueled vehicles would generate ZEV credits under the rule.

**Comment #35: The DEQ Rules Advisory Committee did not adequately represent all stakeholders**

DEQ received two comments (#12, 74) that stated only a minority of listed RAC members (7-8) appeared to be clean air advocates and suggested that DEQ should have included ordinary neighborhood people who are directly impacted by diesel pollution and climate change. Another commenter felt that the RAC process did not have adequate stakeholder participation (74)

***DEQ Response***

DEQ formed the advisory committee with a broad representation of entities affected by the rule, including members who represented environmental justice communities directly impacted by diesel pollution and climate change. DEQ's Advisory Committee meetings were open to the public and allowed for public comment opportunity at all the meetings.

**Comment #36: Conduct real-world testing with medium-duty EVs before implementing these rules**

DEQ received one comment (#61) requesting that DEQ gather real-world data with Oregon specific applications and conditions prior to implementing any mandates. The commenter added that most manufacturers are currently operating test vehicles.

***DEQ Response***

Currently there are at least 25 manufacturers offering more than 100 different ZEV truck and bus configurations for use. While many of these vehicles are being operated in California, there are increasing numbers of these vehicles in use in Oregon and is expected to continue to grow as vehicle availability increases.

**Comment #37: Convene a workgroup on infrastructure planning and clean power to identify and resolve ZEV truck implementation challenges**

DEQ received one comment (74) requesting that DEQ convene a workgroup to identify the truck and bus applications that are most suited to ZEV technology, complete an infrastructure needs assessment, address grid reliability issues and identify grant funding sources to off-set the incremental costs associated with ZEV trucks.

***DEQ Response***

There are already a few studies that have looked at the suitability of infrastructure and needs for medium and heavy-duty ZEV charging. The Oregon Department of Transportation's 2021 Transportation Electrification Infrastructure Needs Analysis (TEINA) is a study identifying the charging needs and gaps across Oregon. Additionally, the West Coast Clean Transit Corridor Initiative study evaluated the trucking market and current utility infrastructure to set up electric charging sites for medium and heavy duty.

**Comment #38: These rules should include measurable goals for specific emission reductions**

DEQ received one comment (#29) encouraging DEQ to include measurable goals for emission reductions and to have a meaningful follow up plan if the goals are not met.

***DEQ Response***

DEQ agrees that measurable goals for emission reductions are important and DEQ measures goals in multiple ways.<sup>20</sup>

**Comment #39: Include e-bikes or motorcycles under this rule**

DEQ received one comment (#48) that touched on how e-bikes and e-cargo bikes are used extensively in other cities around the world and that rules for this type of electric transportation should be included. Another comment (#49) wanted better standards for motorcycles as well.

***DEQ Response***

Both the Advanced Clean Trucks Rule and the Heavy-duty Low NOx Omnibus rules only address medium and heavy-duty trucks. E-bikes, cargo bikes and motorcycles are not part of the rulemaking. DEQ thanks you for your comments and we may consider e-bikes and motorcycles in future programs.

**Comment #40: Advanced Clean Trucks Rule – Federal and Judicial Decisions affecting sale of vehicles**

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<sup>20</sup> Oregon DEQ Strategic Plan for Measurement, Oregon DEQ, April 2021, accessed on 10/6/2021. Available at: <https://www.oregon.gov/deq/FilterDocs/mm-strategicplanformeasurement.pdf>

DEQ received one comment (74) stating previous federal and Supreme Court decisions limit the ability of any state to prohibit federally certified vehicles from being sold through the use of purchase mandates.

***DEQ Response***

The Advanced Clean Trucks rule is not a purchase mandate and does not prohibit federally certified vehicles from being sold but instead requires manufacturers to produce and sell a certain percentage of ZEV vehicles.

**Comment #41: Miscellaneous – Delivery truck emissions**

DEQ received one comment (127) stating delivery trucks emit pollutants and contribute to poor air quality.

***DEQ Response***

DEQ thanks you for your comment. The proposed rules will result in the availability of cleaner, zero emitting trucks for use by fleets and other businesses.

**Comment #42: Miscellaneous – Decommissioning of older vehicles**

DEQ received one comment (47) objecting to the decommissioning of older diesel vehicles. The commenter supported requiring inspections of heavier diesel vehicles every few years.

***DEQ Response***

The proposed rules do not require the decommissioning of trucks. Rather it is a sales requirement on manufacturers. Companies and fleets can choose to sell, decommission, or reuse their truck depending upon their business needs.

**Comment #43: Miscellaneous – Disproportionate impacts of vehicle exhaust on low income and people of color communicates**

DEQ received one comment (53) requesting that DEQ provide supporting material beyond the Portland Air Toxics Solutions study indicating that low income and people of color communities experience disproportionate impacts from transportation emissions.

***DEQ Response***

DEQ thanks you for your comment. Additional references on disproportionate impacts are now included in the Statement of Need section of this notice.

# Commenters

The table below lists the 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	Bill Ayres		1, 34	
2	Jacob Siegel		1	
3	Roger Ellingson		1, 32	
4	Anthony Caropepe		8	
5	Dan Keeley		28	
6	Ron Cholin		3	
7	Daniel Frye		1	
8	Evan Chenoweth		1, 31, 32	
9	Walter Englert		1	
10	James Freeman		1	1
11	Veronica Poklemba		1	
12	Wesley Ward		1, 32, 35	
13	Garrett Mosher	Oregon Fire Chiefs Association	25	
14	Debra Higbee-Sudyka		1, 14, 19, 22	1

### List of Commenters

#	Name	Organization	Comment Number	Hearing #
15	Noah B. Howe (written comments signed by 72 businesses)	Climate and Energy Policy Network	1	1
16	Carrie Nyssen	American Lung Association	1	1
17	Victoria Paykar (written letter of support from 33 organizations)	Climate Solutions and Clean Air, Healthy Communities Coalition	1, 13, 14, 16, 17, 18, 19, 22, 31	1
18	Tim French	Truck and Engine Manufacturers Association	2, 3, 5, 6, 7, 9, 10, 11, 12, 29, 30, 31	1
19	Leah Missik	Climate Solutions - Washington State	1	1
20	Terry Harris & Mariah Shriner	Sierra Club, Oregon Chapter	1	1
21	Brad Reed	Renew Oregon	1	1
22	Rhett Lawrence	Forth	1	1
23	Ryan Kenny	Clean Energy	1	1
24	Tim Miller	Oregon Business For Climate	1	1
25	Hieu Le	Sierra Club	1, 13, 14	1
26	Akash Singh	Union of Concerned Scientists	1, 14	1
27	Glenn Choe	Toyota	1, 12	2
28	Michael Heumann	Metropolitan Alliance for Common Good	1, 32	
29	Rich Peppers		1, 14, 17, 19, 22, 38	
30	Jennifer Bevacqua		1	

**List of Commenters**

<b>#</b>	<b>Name</b>	<b>Organization</b>	<b>Comment Number</b>	<b>Hearing #</b>
31	Michael LeMay		1	
32	Nicole Pelletier		1	
33	J van Rees		1, 32	
34	Gitanjali J Hursh		1	
35	Kimberly Pendell		1	
36	Daniel Jaffee		1	
37	John C. Shaw		1, 32	
38	Dave Kruse		3	
39	Carolyn Latierra		1	
40	Arne Fromme		1	
41	Andy Holthouse		8	
42	Charles Scudder		1	
43	Harth Huffman		1	
44	Jennifer Starkey		1	
45	Lenny Dee		1	
46	Katy Asher		1	
47	Andrew Sang		42	
48	Shawne Martinez		32, 39	
49	Joseph Ripplinger		1, 39	
50	Matthew Moore		1	

**List of Commenters**

<b>#</b>	<b>Name</b>	<b>Organization</b>	<b>Comment Number</b>	<b>Hearing #</b>
51	Sandy Joos		1	
52	Bill Ertel		3	
53	Shaun Robertson		3, 43	
54	Erik Zander	Omega Morgan	2, 3, 4, 5, 12	
55	Michael S. Card	Combined Transport Logistics Group, Inc.	2, 3, 4, 12	
56	Laura Hartzell		1	
57	Kammy Kern-Korot		1	
58	Diane DeAutremont	Lile International Companies	2, 3, 4	
59	Jordan Wilhelms		1	
60	Barton Sherman	S.B., Inc. Family of Companies	2, 3	
61	Don Emerson	FMI Truck Sales and Service	4, 36	
62	Mark D. Gibson	Siskiyou Transportation, Inc. & Timberland Helicopters	2, 3, 4	
63	Greg Alderson	Portland General Electric	31	
64	Josh Hetrick		1, 32	
65	Karen Harter		1	
66	Caroline Skinner		1	
67	Rev. Phil Sano		1	
68	Tom Van Heeke	Rivian Automotive, LLC	1, 13, 31	

**List of Commenters**

<b>#</b>	<b>Name</b>	<b>Organization</b>	<b>Comment Number</b>	<b>Hearing #</b>
69	Tiffany Roberts	Western States Petroleum Association	2, 6	
70	Charles Ireland III	Thomas H. Ireland, Inc.	2, 4, 12	
71	Emily R. Benedict		1	
72	Allyson Dugan		1	
73	Heather Hayes	Tradewinds Transportation, LLC	3, 4, 12	
74	Sean Edgar	Clean Fleets Advocates	2, 5, 12, 35, 37, 40	
75	Annabel Drayton	NW Energy Coalition	1, 13	
76	Brent Leathers	Leathers Enterprises, Inc.	6, 12	
77	Michael Angelechio		2, 3	
78	Tyler Ernst	Oregon Forest & Industries Council	2, 3, 5	
79	Maurice A Johnson Stroud		1	
80	RYan Hutchens		2, 2	
81	Kathy McCullough		2, 4	
82	Tammy Fields		2	
83	Dale Latimer		2, 3	
84	Steve Culbertson		2, 3	
85	Amie Riley		1	
86	Alan Journet	Southern Oregon Climate Action Now	1	
87	Rick Riffle		2, 3	

### List of Commenters

#	Name	Organization	Comment Number	Hearing #
88	Jess Blatchford		2, 3	
89	Mark Pauletto		2, 3, 8	
90	Hedie Schulte	Boshart Trucking, BOSSCO Trading, and PressCo	2, 3, 4, 12, 31	
91	Stephanie McBride		1	
92	Joshua Baker		1	
93	Vivian Christensen		1	
94	Gary Cheney		2, 3	
95	Brant Boyer	Terrain Tamers Chip Hauling, Inc	2, 3, 12	
96	Michelle Detwiler	Renewable Hydrogen Alliance	1	
97	Richard Nunno		1	
98	Sara Wright	Oregon Environmental Council	1	
99	Sergio Lopez	Verde NW	1	
100	Melody Valdini		1	
101	Andrea J. Fogue	Oregon Refuse & Recycling Association	2, 3, 12	
102	Susan Mates		1	
103	Christina Thompson		1	
104	Adele Thompson		1	
105	Kevin Duyck		2, 3	
106	Brenda Frketich		2, 3	

### List of Commenters

#	Name	Organization	Comment Number	Hearing #
107	Jolene Moxon		2, 3	
108	Janay Trimble		2, 3	
109	Lori Boshart		2, 3	
110	Lesley Tamura		2, 3, 5	
111	Philip Klimbal		2, 3	
112	Kate Szrom		1	
113	Sean Waters	Daimler Trucks North America LLC	2, 3, 4, 5, 12, 21, 31	
114	Partners for a Zero Emission Vehicle Future	Partners for a Zero Emission Vehicle Future	2, 3, 5	
115	Bridget Kjenslee		2, 3	
116	Zipporah Underhill		5	
117	Grant Cribbs		2, 3	
118	Jana Jarvis	Oregon Trucking Associations	2, 3, 5	
119	Kari Ott		2, 3	
120	David Hopkins Jr	TP Trucking	2, 3, 12	
121	Robert and Rolinda Meakins		5	
122	Jen Hamaker		2, 3	
123	Zac Wahlert		2, 3	
124	Matt Mroczek	Organically Grown Company	4, 12, 31	
125	Jackie M. Yeager	Cummins Inc.	23, 24, 26, 27	

**List of Commenters**

<b>#</b>	<b>Name</b>	<b>Organization</b>	<b>Comment Number</b>	<b>Hearing #</b>
126	John Wasiutynski	Multnomah County Office of Sustainability	1	
127	Ivy and Tim Dixon		41	
128	Kirsten Adams	Association of General Contractors, Oregon Columbia Chapter	2, 5, 12	
129	Zachary Kahn	Tesla	1	
130	Gregory P. Galbraith	Market Express LLC	2, 3	
131	Brian Gray	Knife River Corporation - Northwest	2, 3, 4, 12	
132	Matt Solak & Steve Whaley	Pacific Propane Gas Association and Propane Education & Research Council	2, 3, 20	
133	16 Signatories (Matthew Beyer)	Union of Concerned Scientists	1	
134	Mary Anne Cooper	Oregon Farm Bureau Federation	2, 3, 5	
135	Dawn Fenton	Volvo Group North America	2, 31	
136	Katy Williams	Quicksilver Contracting	3	
137	Andrea Issod & Robert E. Yuhnke	Sierra Club & Elders Climate Action	1, 14, 15, 31	
138	Jacqueline W. Gelb	Navistar, Inc.	2, 3, 4, 12, 31	
139	Patricio Portillo & Brielle Stander	Natural Resources Defense Council	1, 13, 14, 17, 18, 22	
140	Jimmy O'Dea & Meredith Alexander	CALSTART	1, 22, 31, 33	
141	Marty Burck		8	

**List of Commenters**

<b>#</b>	<b>Name</b>	<b>Organization</b>	<b>Comment Number</b>	<b>Hearing #</b>
142	Alicia Cohen		1	
143	Rex Storm	Associated Oregon Loggers	2, 3	
144	Sharla Moffett	Oregon Business & Industry	2, 3, 4, 31	
145	Multiple (~507)	Individuals, submitting a form letter or signing onto a form letter	1	
146	Holly Vanni & Carrie Nyssen	Oregon Thoracic Society, American Lung Association	1	
147	Aaron Thomas	Thomas & Sons Distributors	2, 3, 4, 12	

# Implementation

## Notification

The proposed rules would become effective upon filing on approximately Nov. 18, 2021. DEQ would notify affected parties by GovDelivery notification and by updating its web page to reflect the changes.

## Compliance and enforcement

The affected parties are vehicle manufacturers and medium and heavy-duty truck fleets. They will be notified by GovDelivery and separate email blasts through membership organizations.

## Reporting

Vehicle manufacturers subject to the regulation will be required to report compliance information such as their vehicle credits and debits accrued and annual sales. Medium- and heavy-duty truck fleets will be required to conduct a one-time reporting regarding information on their operations and fleets.

## Training

DEQ will provide technical assistance to affected parties to implement the provisions of this rulemaking including: how to submit fleet reporting information, how to submit credit and debit information, and how to submit sales information.

# Five-Year Review

## Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also 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 adopted these rules.

## Exemption from five-year rule review

The Administrative Procedures Act exempts some of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

## Five-year rule review required

No later than Nov. 18, 2026, DEQ will review the newly adopted rules for which ORS 183.405 (1) requires review to determine whether:

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

Rules Subject to Five Year Review				
340-257-0055	340-257-0200	340-257-0210	340-257-0220	340-257-0230
340-261-0010	340-261-0020	340-261-0030	340-261-0040	340-261-0050
340-261-0060	340-261-0070	340-261-0080	340-261-0090	

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3).

# Accessibility Information

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

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



# Draft Rules – Edits Highlighted

## Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

## Division 12

### ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

#### 340-012-0054

#### Air Quality Classification of Violations

##### (1) Class I:

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

Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

(j) Exceeding a hazardous air pollutant emission limitation;

(k) Failing to comply with an Emergency Action Plan;

(l) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established under New Source Review/Prevention of Significant Deterioration (NSR/PSD);

(m) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;

(n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;

(o) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;

(p) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit or with an emission limitation or a performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;

(q) Causing emissions that are a hazard to public safety;

(r) Violating a work practice requirement for asbestos abatement projects;

(s) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;

(t) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;

(u) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;

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

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

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

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

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

**(2) Class II:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) **Class III:**

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

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

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

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

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

**History:**

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

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

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

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

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

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

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

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

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

DEQ 21-1992, f. & cert. ef. 8-11-92  
DEQ 2-1992, f. & cert. ef. 1-30-92  
DEQ 31-1990, f. & cert. ef. 8-15-90  
DEQ 15-1990, f. & cert. ef. 3-30-90  
DEQ 4-1989, f. & cert. ef. 3-14-89  
DEQ 22-1988, f. & cert. ef. 9-14-88  
DEQ 22-1984, f. & ef. 11-8-84  
DEQ 5-1980, f. & ef. 1-28-80  
DEQ 78, f. 9-6-74, ef. 9-25-74

### **340-012-0140**

#### **Determination of Base Penalty**

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

(2) \$12,000 Penalty Matrix:

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

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

(B) Open burning violations as follows:

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

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

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

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

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

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

(ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.

(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.

(F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.

(I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.

(J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.

(K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(M) Any violation of a hazardous waste statute, rule, permit or related order by:

(i) A person that is a large quantity generator or hazardous waste transporter.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Class I:

(i) Major — \$12,000;

(ii) Moderate — \$6,000;

(iii) Minor — \$3,000.

(B) Class II:

(i) Major — \$6,000;

(ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

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

(3) \$8,000 Penalty Matrix:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

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

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

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

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

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

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

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

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

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

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

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

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

- (vi) A person that has or should have a WPCF individual stormwater UIC system permit.
- (vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.
- (G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.
- (H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.
- (I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.
- (J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.
- (K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator, unless listed under another penalty matrix.
- (L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.
- (M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.
- (N) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.
- (O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.
- (P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.
- (Q) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 by a person registered as an importer of finished fuels unless the violation is otherwise classified in this rule.
- (R) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 5,000 metric tons per year.
- (b) The base penalty values for the \$3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Class I:

(i) Major — \$1,000;

(ii) Moderate — \$500;

(iii) Minor — \$250.

(B) Class II:

(i) Major — \$500;

(ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

**Statutory/Other Authority:** ORS 468.020 & 468.090 - 468.140

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

**History:**

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

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

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DEQ 19-1998, f. & cert. ef. 10-12-98  
DEQ 9-1996, f. & cert. ef. 7-10-96  
DEQ 4-1994, f. & cert. ef. 3-14-94  
DEQ 21-1992, f. & cert. ef. 8-11-92  
DEQ 33-1990, f. & cert. ef. 8-15-90  
DEQ 15-1990, f. & cert. ef. 3-30-90  
DEQ 4-1989, f. & cert. ef. 3-14-89

**Chapter 340**  
**Division 257**  
**OREGON LOW EMISSION AND ZERO EMISSION VEHICLES**

**340-257-0010**

**Purpose**

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

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

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

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

**History:**

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

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

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

**340-257-0020**

**Applicability and Effective Date**

(1) This division is in effect as of January 1, 2006 as it and applies to and establishes requirements for automobile manufacturers, Oregon motor vehicle dealers, and all 2009 and subsequent model year passenger cars, light-duty trucks, medium-duty vehicles, and medium-duty passenger vehicles registered, leased, rented, delivered for sale or sold in the State of Oregon, except as provided in OAR 340-257-0060 Exemptions.

(2) This division is in effect as of January 1, 2022 as it applies to and establishes requirements for medium- and heavy-duty truck manufacturers, Oregon truck dealers, and all 2025 and subsequent model year medium-duty trucks, and heavy-duty trucks produced and

delivered for sale in the State of Oregon, except as provided in OAR 340-257-0060 Exemptions.

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

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

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

**History:**

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

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

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

**340-257-0030**

**Definitions and Abbreviations**

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

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

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

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

(b) Is a replica vehicle under ORS 801.425.

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

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

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

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

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

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

(7) "Common ownership or control" means ownership or control by the same individual(s), corporation(s), partnership(s), association(s), or parent company(ies). A business entity operated by, and vehicles managed day to day by, the same directors, officers, or managers, or by corporations controlled by the same parent company or the same majority stockholders, are considered to be under common control even if title to vehicles is held by different business entities.

(85) "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.

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

(106) "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.

(117) "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).

(128) "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).

(139) "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).

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

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

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

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

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

(194) "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.

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

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

(2245) "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.

~~(2316)~~ "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.

~~(2417)~~ "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.

~~(25)~~ "Motor carrier" means a person that transports passengers or property for compensation. A motor carrier, or person who is an employee or agent of a carrier is not a broker when it arranges or offers to arrange the transportation of shipments that it is authorized to transport and that it has accepted and legally bound itself to transport.

~~(26)~~ "Multi-building campus/base" means a property typically operated by a single person with several buildings, often serving multiple purposes.

~~(2718)~~ "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.

~~(2819)~~ "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.

~~(29)~~ "NZEV" means "near-zero-emission vehicle" as defined at 13 CCR § 1963(c).

~~(30)~~ "Operating authority number" means the motor carrier's registration, as required by 49 U.S.C. 13902, 49 CFR part 365m 49 CFR part 368, and 49 CFR 392.9a to operate a commercial motor vehicle to transport goods or passengers for hire across state lines.

~~(3210)~~ "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

~~(3221)~~ "PZEV" means partial zero emission vehicle.

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

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

(3522) "Small volume manufacturer" is defined as set forth in CCR, Title 13, section 1900(b)(22), and incorporated herein by reference.

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

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

(3823) “TZEV” means transitional zero emission vehicle.

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

(4024) "ZEV" means zero emission vehicle.

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

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

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

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

**History:**

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

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

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

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

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

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

**340-257-0040**

**Requirement to Meet California Vehicle Emission Standards**

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

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

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

**History:**

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

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

**340-257-0050**

**Incorporation by Reference**

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

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

(a) Section 1900: Definitions. California ~~effective-adopted~~ date ~~7/25/16~~9/21.

(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-adopted~~ date ~~9/28/18~~9/21.

(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~~12/12/18.

(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-adopted~~ date ~~9/9/21~~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-adopted~~ date ~~9/9/21~~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-adopted~~ date ~~9/9/21~~11/9/07.

(r) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California adopted date 9/9/21.

~~(sf)~~ 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.

~~(ts)~~ 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.

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

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

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

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

~~(yx)~~ Section 2111: Applicability. California ~~effective-adopted~~ date 9/9/21~~12/8/10~~.

~~(zy)~~ Section 2112: Definitions. California ~~effectiveadopted~~ date 9/9/21~~12/5/14~~.

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

~~(bbaa)~~ Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California ~~effective-adopted~~ date 9/9/21~~12/26/95~~.

~~(ccbb)~~ Section 2114: Voluntary and Influenced Recall Plans. California ~~effectiveadopted~~ date 9/9/21~~11/27/99~~.

~~(ddee)~~ Section 2115: Eligibility for Repair. California ~~effective-adopted~~ date 9/9/21~~12/26/95~~.

~~(eedd)~~ Section 2116: Repair Label. California ~~effective-adopted~~ date 9/9/21~~12/26/95~~.

~~(ffee)~~ Section 2117: Proof of Correction Certificate. California ~~effective-adopted~~ date 9/9/21~~1/2/95~~.

~~(ggff)~~ Section 2118: Notification. California ~~effective-adopted~~ date 9/9/21~~12/26/95~~.

- (~~hhgg~~) Section 2119: Record keeping and Reporting Requirements. California ~~effective~~ adopted date 9/9/2111/27/99.
- (~~iihh~~) Section 2120: Other Requirements Not Waived. California effective date 1/26/95.
- (~~jjii~~) Section 2122: General Provisions. California effective date 12/8/2010.
- (~~kkjj~~) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California ~~effective~~ adopted date 9/9/2111/26/95.
- (~~llkk~~) Section 2124: Availability of Public Hearing. California effective date 1/26/95.
- (~~mmH~~) Section 2125: Ordered Recall Plan. California ~~effective~~ adopted date 9/9/2111/26/95.
- (~~nnmm~~) Section 2126: Approval and Implementation of Recall Plan. California ~~effective~~ adopted date 9/9/2111/26/95.
- (~~oonn~~) Section 2127: Notification of Owners. California ~~effective~~ adopted date 9/9/2111/26/95.
- (~~ppoe~~) Section 2128: Repair Label. California ~~effective~~ adopted date 9/9/2111/26/95.
- (~~qqpp~~) Section 2129: Proof of Correction Certificate. California ~~effective~~ adopted date 9/9/2111/26/95.
- (~~rrqq~~) Section 2130: Capture Rates and Alternative Measures. California ~~effective~~ adopted date 9/9/2111/27/99.
- (~~ssH~~) Section 2131: Preliminary Tests. California ~~effective~~ adopted date 9/9/2111/26/95.
- (~~ttss~~) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.
- (~~uutt~~) Section 2133: Record keeping and Reporting Requirements. California ~~effective~~ adopted date 9/9/2111/26/95.
- (~~vvuu~~) Section 2135: Extension of Time. California effective date 1/26/95.
- (~~wwvv~~) Section 2141: General Provisions. California ~~effective~~ adopted date 9/9/2111/2/8/10.
- (~~xxww~~) Section 2142: Alternative Procedures. California ~~effective~~ adopted date 9/9/2112/23/90.
- (~~yyxx~~) Section 2143: Failure Levels Triggering Recall. California ~~adopted~~ effective date 9/9/2111/27/99.

(~~zzyy~~) Section 2144: Emission Warranty Information Report. California ~~effective-adopted~~ date ~~9/9/2111/27/99~~.

(~~aaaaz~~) Section 2145: Field Information Report. California ~~effective-adopted~~ date ~~9/9/218/7/12~~.

(~~bbbaaa~~) Section 2146: Emissions Information Report. California ~~effective-adopted~~ date ~~9/9/2111/27/99~~.

(~~cccbbb~~) Section 2147: Demonstration of Compliance with Emission Standards. California ~~effective-adopted~~ date ~~9/9/2112/5/14~~.

(~~dddeee~~) Section 2148: Evaluation of Need for Recall. California ~~effective-adopted~~ date ~~9/9/2111/27/99~~.

(~~eeeddd~~) Section 2149: Notification of Subsequent Action. California ~~effective-adopted~~ date ~~9/9/212/23/90~~.

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

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

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

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

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

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

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

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

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

**History:**

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

DEQ 13-2013, f. & cert. ef. 12-19-13  
DEQ 6-2011, f. & cert. ef. 4-29-11  
DEQ 6-2006, f. & cert. ef. 6-29-06  
DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

### **340-257-0055**

#### **Enforcement of Advanced Clean Trucks Requirements**

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

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

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

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

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

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

### **340-257-0080**

#### **ZEV Sales Requirement**

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

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

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

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

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

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

**History:**

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

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

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

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

**340-257-0090**

**ZEV Credit Bank and Reporting**

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

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

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

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

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

(a) For ZEVs delivered for sale in Oregon:

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

(B) Model year of vehicle qualifying for credit;

(C) CARB Executive Order number;

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

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

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

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

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

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

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

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

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

(C) Model year of vehicle(s);

(D) For ATPZEVs, the Federal test group;

(E) The CARB Executive Order number;

(F) Number of vehicles delivered;

(d) For TZEVs delivered for sale in Oregon:

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

(B) Model year of vehicle qualifying for credit;

(C) CARB Executive Order number;

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

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

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

(8) A manufacturer with an account in the ZEV Credit Bank may acquire credits from another manufacturer with an account in the ZEV Credit Bank. However, if the credits are to

be used for future compliance with the ZEV sales requirement at CCR Title 13, section 1962.1, the transaction must be recorded in the ZEV Credit Bank and certified by both parties to the transaction.

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

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

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

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

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

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

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

**History:**

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

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

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

DEQ 13-2013, f. & cert. ef. 12-19-13  
DEQ 6-2011, f. & cert. ef. 4-29-11  
DEQ 6-2006, f. & cert. ef. 6-29-06  
DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06

### **340-257-0200**

#### **Fleet Reporting Applicability**

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

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

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

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

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

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

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

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

(b) Vehicles awaiting sale; and

(c) Emergency vehicles.

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

**Statutes/Other Implemented:** ORS 468.020

### **340-257-0210**

#### **General Requirements**

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

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

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

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

### **340-257-0220**

#### **Fleet Reporting Requirement**

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

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

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

(c) Name of the responsible official;

(d) Responsible official's email address;

(e) Responsible official's phone number;

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

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

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

(i) Federal Taxpayer Identification Number;

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

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

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

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

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

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

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

(2) For each person required to report, they shall report general information about the vehicle home base. Vehicles that accrue a majority of their annual miles in Oregon but are not assigned to a particular location in Oregon must be reported as part of the person's headquarters or another location where the vehicles' operation is managed. The person must report for each vehicle home base:

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

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

(i) Administrative/office building;

(ii) Distribution center/warehouse;

(iii) Hotel/motel/resort;

(iv) Manufacturer/factory/plant;

(v) Medical/hospital/care;

(vi) Multi-building campus/base;

(vii) Restaurant;

(viii) Service center;

(ix) Store;

(x) Truck/equipment yard; or

(xi) Any other facility type;

(c) Name of responsible official;

(d) Responsible official's email address;

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

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

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

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

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

(a) Number of vehicles in each vehicle group;

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

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

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

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

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

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

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

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

### **340-257-0230**

#### **Fleet Reporting Recordkeeping**

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

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

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

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

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

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**340-261-0010**

**Purpose**

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

**Stat. Auth.:** ORS 468.020, 468A.025, 468A.050, 468A.279 & 468A.360

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

**340-261-0020**

**Applicability**

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

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

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

**340-261-0030**

**Definitions and Abbreviations**

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

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

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

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

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

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

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

### **340-261-0040**

#### **Requirement to Meet California Vehicle Emission Standards.**

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

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

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

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

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

### **340-261-0050**

#### **Incorporation by Reference**

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

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

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

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

(a) Section 1956.8(a) – (f) and (i): Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California adopted date 9/9/21. Except that CCR Title 13, Section 1956.8(a)(2)(F) “Transit Agency Diesel-Fueled Bus Engine Exemption Request” shall be disregarded and is not incorporated by reference.

(b) Section 1971.1: On-Board Diagnostic System Requirements – 2010 and Subsequent Model-Year Heavy-Duty Engines. California adopted date 9/9/21.

(c) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California adopted date 9/9/21.

(d) Section 2121: Penalties. California adopted date 9/9/21. Except that the reference in this regulation to “a violation of Health and Safety Code Section 43105” shall be disregarded and is not incorporated by reference.

(e) Section 2137: Vehicle, Engine, and Trailer Selection. California adopted date 9/9/21.

(f) Section 2139: Testing. California adopted date 9/9/21.

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

(h) Section 2140: Notification and Use of Test Results. California adopted date 9/9/21.

(i) Section 2166: General Provisions. California adopted date 9/9/21.

(j) Section 2166.1: Definitions. California adopted date 9/9/21.

(k) Section 2167: Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors. California adopted date 9/9/21.

(l) Section 2168: Required Corrective Action and Recall for Emission-Related Component Failures. California adopted date 9/9/21.

(m) Section 2169: Required Recall or Corrective Action Plan. California adopted date 9/9/21.

(n) Section 2169.1: Approval and Implementation of Corrective Action Plan. California adopted date 9/9/21.

(o) Section 2169.2: Notification of Owners. California adopted date 9/9/21.

(p) Section 2169.3: Repair Label. California adopted date 9/9/21.

(q) Section 2169.4: Proof of Correction Certificate. California adopted date 9/9/21.

(r) Section 2169.5: Preliminary Tests. California adopted date 9/9/21.

(s) Section 2169.6: Communication with Repair Personnel. California adopted date 9/9/21.

(t) Section 2169.7: Recordkeeping and Reporting Requirements. California adopted date 9/9/21.

(u) Section 2169.8: Extension of Time. California adopted date 9/9/21.

(v) Section 2423(n): Exhaust Emission Standards and Test Procedures – Off-Road Compression-Ignition Engines. California adopted date 9/9/21.

(w) Section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. California adopted date 9/9/21.

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

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

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

(c) Section 95662: Definitions. California adopted date 9/9/21.

(d) Section 95663: Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles. California adopted date 9/9/21.

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

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

### **340-261-0060**

#### **Exemptions**

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

(2) New diesel-fueled buses sold to any transit agency are exempt from OAR 340-261-0050.

(3) Emergency vehicles, as defined in ORS 801.260, and ambulances, as defined in ORS 801.115, are exempt from OAR 340-261-0050.

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

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

### **340-261-0070**

#### **Recalls**

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

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

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

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

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

### **340-261-0080**

#### **Inspections and Information Requests**

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

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

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

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

### **340-261-0090**

#### **Severability**

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

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

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



# Draft Rules – Edits Incorporated

## Division 12

### ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

#### 340-012-0054

#### Air Quality Classification of Violations

(1) **Class I:**

(a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;

(b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit that includes permit conditions required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;

(c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;

(d) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from DEQ;

(e) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;

(f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;

(g) Exceeding a Plant Site Emission Limit (PSEL);

(h) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;

(i) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

(j) Exceeding a hazardous air pollutant emission limitation;

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

(w) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);

(x) Failing to install certified vapor recovery equipment;

(y) Delivering for sale a noncompliant vehicle by a vehicle manufacturer in violation of Oregon Low Emission and Zero Emission Vehicle rules set forth in OAR 340 division 257;

(z) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;

(aa) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements or to meet credit retirement and/or deficit requirements under OAR 340 division 257;

(bb) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;

(cc) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(dd) Failing to comply with any of the clean fuel standards set forth in OAR 340-253-0100(6) and Tables 1 and 2 of OAR 340-253-8010;

(ee) Committing any action related to a credit transfer that is prohibited in OAR 340-253-1005(8);

(ff) Inaccurate reporting that causes illegitimate credits to be generated in the Oregon Clean Fuels Program, OAR chapter 340, division 253, or that understates a regulated party's true compliance obligation denominated in deficits under such program;

(gg) Making misstatements about material information or knowingly or recklessly providing false information when submitting an application for a carbon intensity score under OAR 340-253-0450;

(hh) Failing to timely submit a complete and accurate annual compliance report under OAR 340-253-0100(8);

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

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

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

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

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

**(2) Class II:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(3) Class III:**

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

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

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

(d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;

(e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project;

(f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

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

(h) Failing to keep records under OAR 340-253-0600, except as provided in subsection (2)(s).

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

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

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

**History:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **340-012-0140**

#### **Determination of Base Penalty**

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

(2) \$12,000 Penalty Matrix:

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

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

(B) Open burning violations as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Class I:

(i) Major — \$12,000;

(ii) Moderate — \$6,000;

(iii) Minor — \$3,000.

(B) Class II:

(i) Major — \$6,000;

(ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

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

(3) \$8,000 Penalty Matrix:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Class I:

(i) Major — \$1,000;

(ii) Moderate — \$500;

(iii) Minor — \$250.

(B) Class II:

(i) Major — \$500;

(ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

**Statutory/Other Authority:** ORS 468.020 & 468.090 - 468.140

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

**History:**

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

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

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

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

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

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

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

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

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DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01  
DEQ 19-1998, f. & cert. ef. 10-12-98  
DEQ 9-1996, f. & cert. ef. 7-10-96  
DEQ 4-1994, f. & cert. ef. 3-14-94  
DEQ 21-1992, f. & cert. ef. 8-11-92  
DEQ 33-1990, f. & cert. ef. 8-15-90  
DEQ 15-1990, f. & cert. ef. 3-30-90  
DEQ 4-1989, f. & cert. ef. 3-14-89

**Chapter 340**  
**Division 257**  
**OREGON LOW EMISSION AND ZERO EMISSION VEHICLES**

**340-257-0010**

**Purpose**

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

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

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

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

**History:**

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

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

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

**340-257-0020**

**Applicability and Effective Date**

(1) This division is in effect as of January 1, 2006 as it applies to and establishes requirements for automobile manufacturers, Oregon motor vehicle dealers, and all 2009 and subsequent model year passenger cars, light-duty trucks, medium-duty vehicles, and medium-duty passenger vehicles registered, leased, rented, delivered for sale or sold in the State of Oregon, except as provided in OAR 340-257-0060 Exemptions.

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

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

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

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

**History:**

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

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

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

**340-257-0030**

**Definitions and Abbreviations**

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

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

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

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

(b) Is a replica vehicle under ORS 801.425.

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

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

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

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

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

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

(7) "Common ownership or control" means ownership or control by the same individual(s), corporation(s), partnership(s), association(s), or parent company(ies). A business entity operated by, and vehicles managed day to day by, the same directors, officers, or managers, or by corporations controlled by the same parent company or the same majority stockholders, are considered to be under common control even if title to vehicles is held by different business entities.

(8) "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.

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

(10) "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.

(11) "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).

(12) "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).

(13) "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).

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

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

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

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

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

(19) "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.

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

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

(22) "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.

(23) "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.

(24) "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.

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

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

(27) "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.

(28) "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.

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

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

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

(32) "PZEV" means partial zero emission vehicle.

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

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

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

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

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

(38) "TZEV" means transitional zero emission vehicle.

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

(40) "ZEV" means zero emission vehicle.

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

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

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

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

**History:**

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

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

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

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

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

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

**340-257-0040**

**Requirement to Meet California Vehicle Emission Standards**

(1) Starting with the 2009 model year and for each model year thereafter no person may lease, rent out, license, deliver for sale, or sell any vehicle unless such vehicle is certified to the California emission standards as required under OAR 340-257-0050(1) and (2), except as provided in 340-257-0060, Exemptions.

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

**History:**

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

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

**340-257-0050**

**Incorporation by Reference**

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

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

(a) Section 1900: Definitions. California adopted date 9/9/21.

(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 adopted date 9/9/21.

(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 12/12/18.

(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 adopted date 9/9/21.

(m) Section 1968.2: Malfunction and Diagnostic System Requirements — 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California adopted date 9/9/21.

(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 adopted date 9/9/21.

(r) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California adopted date 9/9/21.

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

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

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

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

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

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

(y) Section 2111: Applicability. California adopted date 9/9/21 .

(z) Section 2112: Definitions. California adopted date 9/9/21.

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

(bb) Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California adopted date 9/9/21.

(cc) Section 2114: Voluntary and Influenced Recall Plans. California adopted date 9/9/21.

(dd) Section 2115: Eligibility for Repair. California adopted date 9/9/21.

(ee) Section 2116: Repair Label. California adopted date 9/9/21.

(ff) Section 2117: Proof of Correction Certificate. California adopted date 9/9/21 .

(gg) Section 2118: Notification. California adopted date 9/9/21.

(hh) Section 2119: Record keeping and Reporting Requirements. California adopted date 9/9/21.

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

- (jj) Section 2122: General Provisions. California effective date 12/8/2010.
- (kk) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California adopted date 9/9/21.
- (ll) Section 2124: Availability of Public Hearing. California effective date 1/26/95.
- (mm) Section 2125: Ordered Recall Plan. California adopted date 9/9/21.
- (nn) Section 2126: Approval and Implementation of Recall Plan. California adopted date 9/9/21.
- (oo) Section 2127: Notification of Owners. California adopted date 9/9/21.
- (pp) Section 2128: Repair Label. California adopted date 9/9/21.
- (qq) Section 2129: Proof of Correction Certificate. California adopted date 9/9/21.
- (rr) Section 2130: Capture Rates and Alternative Measures. California adopted date 9/9/21.
- (ss) Section 2131: Preliminary Tests. California adopted date 9/9/21.
- (tt) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.
- (uu) Section 2133: Record keeping and Reporting Requirements. California adopted date 9/9/21.
- (vv) Section 2135: Extension of Time. California effective date 1/26/95.
- (ww) Section 2141: General Provisions. California adopted date 9/9/21.
- (xx) Section 2142: Alternative Procedures. California adopted date 9/9/21.
- (yy) Section 2143: Failure Levels Triggering Recall. California adopted date 9/9/21.
- (zz) Section 2144: Emission Warranty Information Report. California adopted date 9/9/21.
- (aaa) Section 2145: Field Information Report. California adopted date 9/9/21.
- (bbb) Section 2146: Emissions Information Report. California adopted date 9/9/21.
- (ccc) Section 2147: Demonstration of Compliance with Emission Standards. California adopted date 9/9/21.
- (ddd) Section 2148: Evaluation of Need for Recall. California adopted date 9/9/21.

(eee) Section 2149: Notification of Subsequent Action. California adopted date 9/9/21.

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

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

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

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

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

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

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

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

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

**History:**

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

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

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

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

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

**340-257-0055**

**Enforcement of Advanced Clean Trucks Requirements**

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

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

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

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

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

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

### **340-257-0080**

#### **ZEV Sales Requirement**

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

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

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

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

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

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

#### **History:**

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

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

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

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

### **340-257-0090**

#### **ZEV Credit Bank and Reporting**

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

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

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

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

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

(a) For ZEVs delivered for sale in Oregon:

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

(B) Model year of vehicle qualifying for credit;

(C) CARB Executive Order number;

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

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

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

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

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

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

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

- (A) Vehicle certification class (ATPZEV or PZEV);
- (B) Manufacturer's ZEV Credit Bank account identification;
- (C) Model year of vehicle(s);
- (D) For ATPZEVs, the Federal test group;
- (E) The CARB Executive Order number;
- (F) Number of vehicles delivered;

(d) For TZEVs delivered for sale in Oregon:

- (A) Manufacturer's ZEV Credit Bank account identifier;
- (B) Model year of vehicle qualifying for credit;
- (C) CARB Executive Order number;
- (D) Date the vehicle was delivered for sale in Oregon, and

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

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

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

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

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

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

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

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

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

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

**History:**

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

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

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

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

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

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

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

**340-257-0200**

**Fleet Reporting Applicability**

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

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

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

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

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

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

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

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

(b) Vehicles awaiting sale; and

(c) Emergency vehicles.

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

**Statutes/Other Implemented:** ORS 468.020

### **340-257-0210**

#### **General Requirements**

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

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

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

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

### **340-257-0220**

#### **Fleet Reporting Requirement**

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

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

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

(c) Name of the responsible official;

(d) Responsible official's email address;

(e) Responsible official's phone number;

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

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

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

(i) Federal Taxpayer Identification Number;

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

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

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

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

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

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

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

(2) For each person required to report, they shall report general information about the vehicle home base. Vehicles that accrue a majority of their annual miles in Oregon but are not assigned to a particular location in Oregon must be reported as part of the person's headquarters or another location where the vehicles' operation is managed. The person must report for each vehicle home base:

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

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

(i) Administrative/office building;

(ii) Distribution center/warehouse;

(iii) Hotel/motel/resort;

(iv) Manufacturer/factory/plant;

(v) Medical/hospital/care;

(vi) Multi-building campus/base;

(vii) Restaurant;

(viii) Service center;

(ix) Store;

(x) Truck/equipment yard; or

(xi) Any other facility type;

(c) Name of responsible official;

(d) Responsible official's email address;

- (e) Whether the facility is owned or leased by the person;
- (f) What type of fueling infrastructure is installed at the facility;
- (g) Whether the refueling infrastructure at the facility was initially installed on or after January 1, 2010; and
- (h) The types of trailers the reporting person pulls, if it has tractors assigned or domiciled at this facility.

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

- (a) Number of vehicles in each vehicle group;
- (b) The percent of the vehicles in each vehicle group with operating characteristics including, but not limited to: daily mileage, usage patterns, refueling, trailer towing, and other such characteristics as specified by the Department;
- (c) The average annual mileage for a typical vehicle in this vehicle group;
- (d) The average length of time a typical vehicle in this vehicle group is retained by the reporting entity after acquisition;
- (e) Whether the reporting person is the fleet owner for this group of vehicles, or if they are dispatched under the reporting person's brokerage authority; and
- (f) The start and end date of the analysis period selected by the reporting person as required under section (5).

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

- (a) A shorter analysis period may be used if the reporting person deems it more representative of periods of high vehicle utilization when answering questions about typical daily operation. For example, if a reporting person with seasonal workload fluctuations determines that a week or month during the busy season is representative, average the data records for that week or month when determining a response.
- (b) If an alternative analysis period is used, the reporting person must be prepared to describe their reasoning at the request of the Department.

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

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

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

**Statutes/Other Implemented:** ORS 468.020

### **340-257-0230**

#### **Fleet Reporting Recordkeeping**

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

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

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

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

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

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

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

**Statutes/Other Implemented:** ORS 468.020

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

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**Purpose**

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

**Stat. Auth.:** ORS 468.020, 468A.025, 468A.050, 468A.279 & 468A.360

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

**340-261-0020**

**Applicability**

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

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

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

**340-261-0030**

**Definitions and Abbreviations**

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

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

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

(2) “CCR” means California Code of Regulations.

(3) “Transit agency” means a public entity responsible for administering and managing transit services. Public transit agencies can directly operate transit service or contract out for all or part of the total transit service provided.

**Stat. Auth.:** ORS 468.020, 468A.025 & 468A.360

**Stats. Implemented:** ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

### **340-261-0040**

#### **Requirement to Meet California Vehicle Emission Standards.**

(1) Starting with the 2024 engine model year and for each engine model year thereafter no person may deliver for sale, or sell, in Oregon any new on-highway heavy-duty engine unless such engine is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(2) Starting with the 2025 model year and for each model year thereafter no person may deliver for sale, or sell, in Oregon any new medium- or heavy duty truck or trailer unless such vehicle is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(3) All motor medium- and heavy-duty truck and trailer manufacturers and dealers must comply with the sales and reporting requirements contained in this division.

**Stat. Auth.:** ORS 468.020, 468A.025 & 468A.360

**Stats. Implemented:** ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

### **340-261-0050**

#### **Incorporation by Reference**

(1) For purposes of applying the incorporated sections of the California Code of Regulations described in this rule, “California” means “Oregon” and “Air Resources Board (ARB)” or “California Air Resources Board (CARB)” means Department of Environmental Quality (DEQ) or Environmental Quality Commission (EQC) depending on context, unless otherwise specified in this division or the application is clearly inappropriate.

(2) The sections of the California Code of Regulations (CCR), Title 13 and Title 17, adopted by reference in sections (3) and (4) are in addition to, and compatible with, the CCR, Title

13, standards and requirements adopted by reference under OAR 340-257-0050. It is the intent of this rule that the standards and requirements adopted by reference under OAR 340-257-0050 also apply in Oregon to the on-highway medium- and heavy-duty engines, vehicles and trailers regulated by the CCR, Title 13 and Title 17, standards and requirements adopted by reference in this rule, to the same extent and identical to how they would apply in California.

(3) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new 2024 and subsequent model year on-highway medium- and heavy-duty engines and 2025 and subsequent model year trucks and trailers must comply with each of the following applicable standards specified in CCR, Title 13 as incorporated by reference herein:

(a) Section 1956.8(a) – (f) and (i): Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California adopted date 9/9/21. Except that CCR Title 13, Section 1956.8(a)(2)(F) “Transit Agency Diesel-Fueled Bus Engine Exemption Request” shall be disregarded and is not incorporated by reference.

(b) Section 1971.1: On-Board Diagnostic System Requirements – 2010 and Subsequent Model-Year Heavy-Duty Engines. California adopted date 9/9/21.

(c) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California adopted date 9/9/21.

(d) Section 2121: Penalties. California adopted date 9/9/21. Except that the reference in this regulation to “a violation of Health and Safety Code Section 43105” shall be disregarded and is not incorporated by reference.

(e) Section 2137: Vehicle, Engine, and Trailer Selection. California adopted date 9/9/21.

(f) Section 2139: Testing. California adopted date 9/9/21.

(g) Section 2139.5: CARB Authority to Test for Heavy-Duty In-Use Compliance. California effective date 04/21/03.

(h) Section 2140: Notification and Use of Test Results. California adopted date 9/9/21.

(i) Section 2166: General Provisions. California adopted date 9/9/21.

(j) Section 2166.1: Definitions. California adopted date 9/9/21.

(k) Section 2167: Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors. California adopted date 9/9/21.

(l) Section 2168: Required Corrective Action and Recall for Emission-Related Component Failures. California adopted date 9/9/21.

(m) Section 2169: Required Recall or Corrective Action Plan. California adopted date 9/9/21.

(n) Section 2169.1: Approval and Implementation of Corrective Action Plan. California adopted date 9/9/21.

(o) Section 2169.2: Notification of Owners. California adopted date 9/9/21.

(p) Section 2169.3: Repair Label. California adopted date 9/9/21.

(q) Section 2169.4: Proof of Correction Certificate. California adopted date 9/9/21.

(r) Section 2169.5: Preliminary Tests. California adopted date 9/9/21.

(s) Section 2169.6: Communication with Repair Personnel. California adopted date 9/9/21.

(t) Section 2169.7: Recordkeeping and Reporting Requirements. California adopted date 9/9/21.

(u) Section 2169.8: Extension of Time. California adopted date 9/9/21.

(v) Section 2423(n): Exhaust Emission Standards and Test Procedures – Off-Road Compression-Ignition Engines. California adopted date 9/9/21.

(w) Section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. California adopted date 9/9/21.

(4) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new 2025 and subsequent model year on-highway medium- and heavy-duty vehicles and trailers must comply with each of the following applicable standards specified in CCR, Title 17 as incorporated by reference herein:

(a) Section 95660: Purpose. California effective date 1/1/2015.

(b) Section 95661: Applicability. California effective date 1/1/2015.

(c) Section 95662: Definitions. California adopted date 9/9/21.

(d) Section 95663: Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles. California adopted date 9/9/21.

**Stat. Auth.:** ORS 468.020, 468A.025 & 468A.360

**Stats. Implemented:** ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

### **340-261-0060**

#### **Exemptions**

(1) All exemptions in the California rules adopted under by reference apply with the exception of the transit agency diesel-fueled bus and engine exemption described in CCR, Title 13, section 1956.8(a)(2)(F).

(2) New diesel-fueled buses sold to any transit agency are exempt from OAR 340-261-0050.

(3) Emergency vehicles, as defined in ORS 801.260, and ambulances, as defined in ORS 801.115, are exempt from OAR 340-261-0050.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

### **340-261-0070**

#### **Recalls**

(1) Any order issued or enforcement action taken by CARB to correct noncompliance with any section of CCR, Title 13, that results in the recall of any vehicle as required under CCR, Title 13, sections 2109-2135, for a vehicle subject to the requirements adopted by reference in OAR 340-261-0050, will be *prima facie* evidence concerning vehicles registered in Oregon. If the manufacturer can demonstrate to DEQ's satisfaction that the order or action is not applicable to vehicles registered in Oregon, DEQ will not pursue a recall of vehicles registered in Oregon.

(2) Any voluntary or influenced emission-related recall campaign initiated by any manufacturer as required under CCR, Title 13, sections 2113 - 2121, for vehicles subject to the requirements adopted by reference in OAR 340-261-0050, must extend to all applicable vehicles registered in Oregon. If the manufacturer can demonstrate to DEQ's satisfaction that said campaign is not applicable to vehicles registered in Oregon, the campaign will not apply in Oregon.

(3) For vehicles subject to an order of enforcement action under section (1) of this rule, each manufacturer must send to owners of vehicles registered in the State of Oregon a notice that complies with the requirements in CCR, Title 13, sections 2118 or 2127. The manufacturer must provide a telephone number that Oregon consumers can use to learn answers to questions about any recall that affects Oregon vehicles.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

### **340-261-0080**

#### **Inspections and Information Requests**

(1) DEQ may inspect new and used motor vehicles and related records for the purposes of determining compliance with the requirements of this division. DEQ inspections will occur during regular business hours on public property or on any premises owned, operated or used by any truck dealer or truck rental agency for the purposes of determining compliance with the requirements of this division.

(2) For the purposes of determining compliance with this division, DEQ may require any truck dealer or truck rental agency to submit to DEQ any documentation that DEQ deems necessary to the effective administration and enforcement of this division. This provision does not require creation of new records.

**Stat. Auth.:** ORS 468.020, 468A.025 & 468A.360

**Stats. Implemented:** ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360

### **340-261-0090**

#### **Severability**

Each section of this division is severable, and if any section of this regulation is held invalid, the remainder will continue in full force and effect.

**Stat. Auth.:** ORS 468.020, 468A.025 & 468A.360

**Stats. Implemented:** ORS 468A.010, 468A.015, 468A.025, 468A.050, 468A.279 & 468A.360