



2024 VIP Rulemaking Advisory Committee

Vehicle Inspection Program

Meeting 1
April 24, 2024

Welcome

- This is the first rule advisory committee meeting for the 2024 vehicle inspection program rulemaking.
- Vehicle Inspection Program = VIP
- Rule Advisory Committee = RAC

Introductions

- Portillo Consulting
- DEQ Staff
- RAC Members

Agenda

- Introductions
- Expectations and Conduct
- Meeting Process and Procedures
- Rule Background and Reason for Rulemaking
- Discussions on Proposed Rule Topics and Potential Changes
- Timeline
- Review and Closing

Expectations and Conduct

- Prepares for and sets aside time for the meetings;
- Provides DEQ staff with copies of relevant research and documentation cited during the meeting;
- Stays focused on the specific agenda topics for each meeting;
- Comments constructively and in good faith;
- Consults regularly with constituencies to inform them on the process and gather their input;
- Treats everyone and his or her opinions with respect;
- Allows one person to speak at a time;
- Is courteous by not engaging in sidebar discussions; and
- Avoids representing to the public or media the views of any other committee member or the committee as a whole.

Meeting Process and Procedures

How RAC members can participate in this meeting:

- Please stay muted until called on
- If you want to contribute to the meeting, please raise your hand using the raise hand function,
- Please feel free to include resources in the chat, they will be added to the official minutes,
- Meeting is recorded for the public.

Resources for RAC Members:

- [Rulemaking Webpage](#)
- [DOJ Public Records and Meetings Manual](#)
- [OAR Chapter 350; Division 256 Motor Vehicles](#)

Definitions

- VIP: Vehicle Inspection Program
- EQC: Environmental Quality Commission
- OAR: Oregon Administrative Rules
- ORS: Oregon Revised Statutes
- E-Certificate: Online Certificate of Compliance
- OBD: On Board Diagnostics
- Remote Testing: Use of OBD to transmit data to DEQ services
- MIL/DTC: Malfunction Indicator Lamp/Diagnostic Trouble Code
- Participant: Dealer, Fleet, or Host in the DEQ Too program
- Host: Participant who tests the public
- Dealer: Participant who tests their inventory
- Fleet: Participant who tests their vehicles

Background

- Oregon Vehicle Inspection Program carries out its emission testing program through seven Clean Air Stations, 6 in Portland and one in Medford.
- The program also tests vehicles through one of approximately 200 private sector [DEQ Too service providers](#)
- Testing is required for all non-exempt passenger vehicles every two years
- Vehicles registered within the two testing boundaries must pass an emissions test to be re-registered with the ODOT and DMV
- As of 2019, nearly 25% of vehicles only pass testing due to repairs made for the sake of emissions testing

Background

- DEQ Too program started in 2016 to increase the options available to the public for testing
- DEQ Too is a program in which third parties enter into a contractual agreement with the DEQ to be able to serve as a testing site and submit the data to DEQ for testing approval
- There are three types of participants in the DEQ Too program
 - Fleets
 - Dealers
 - Hosts

Reason for Rulemaking

- OAR 340-256-0358 grants DEQ authority to operate DEQ Too program
 - Limited in scope
 - Difficult to enforce
 - Program operates through agreements rather than rule
 - Rules are more transparent, consistent, and enforceable

Reason for Rulemaking

- DEQ identified a need to update OAR 340-256-0370, reciprocity rules, due to the end of Washington and Idaho vehicle inspection programs
 - Reciprocity effectiveness impacted due to these changes
 - Rule creates a burden on Oregonians
- Updating rules to include an exemption of specific model years
 - Current rule requires clarification to ensure alignment with statute and current implementation practices.

DEQ Too or Remote OBD?

- For the purpose of writing the rule, "Remote OBD" will be used for the submission
- DEQ Too is the branded name for Oregon DEQ's Remote OBD program
 - This is similar to other branded names, e.g. Kleenex vs tissue or Xerox vs copy
- This RAC may use Remote OBD and DEQ Too interchangeably

Rule Topics

- Remote OBD Testing/DEQ Too
- Reciprocity for vehicles temporarily located out of state
- Exemption for 4 newest model years

Current Terms and Conditions

Current Terms and Conditions

- The following subjects all currently exist in the Terms and Conditions. DEQ is considering these subjects being put into rule:
 - Requirements for Vehicles to be Tested
 - Determination of Test
 - Testing Device Use
 - Oversight and Auditing
 - Host Requirements
 - Dealer and Fleet Requirements
 - Device Manufacturer Requirements

Requirements for Vehicles to Be Tested

- Hosts
 - Vehicles must be registered in the Portland Vehicle Inspection Area or Medford AQMA as specified in OAR 340-204-0080
 - Shall not test vehicles that are intended for registration outside of boundaries
 - May only test light duty vehicles that are model year 2005 and newer
- Fleets and Dealerships
 - Only test vehicles that are owned by fleet or dealership

Determination of Test Results

- DEQ is the only entity authorized to determine and provide emissions testing results to vehicle owners (ORS 468A.365)
- Participants shall not make statement or determinations regarding a vehicle passing or failing a test

Requirements for Vehicle Testing

- Shall not deny testing for MIL/DTC light being on if customer requests remote OBD testing
- Vehicle shall not have visible smoke when testing
- Will not alter the OBD system
- Will not alter any data transmission from OBD system

Testing Device Use

- Device Manufacturers/Providers are required to provide training materials. DEQ may supplement with minimum additional content
- Interface software is allowed, but not required
- Must remain at specified address for the business it is approved for
- DEQ must be notified if the device is lost, stolen, or replaced

Potential Changes

Oversight and Auditing

- DEQ staff can visit business premises with or without advance notice for the purpose of confirming compliance
- DEQ is not required to announce themselves or introduce themselves as DEQ employees
- Participants must respond within 15 days to a written request for information regarding adherence to compliance

Device Usage Fees

- Currently, Hosts can charge a fee to use an OBD device so long as it is not equal to the cost of a Clean Air Certificate Fee
 - Must be clearly identified as a 'Device Usage Fee'
 - Must make it clear that DEQ does not require the charge
 - DEQ does not require a fee to use an OBD device at Host locations
 - Dealerships and Fleets do not have fees because they cannot test consumer owned vehicles
- DEQ Clean Air Stations (CAS) do not charge a fee for testing vehicles
 - Fees are only charged for the Clean Air Certificate and for Registering a vehicle if the customer chooses to do so.

Potential Changes and Additional Considerations

- Not currently in Terms and Conditions:
 - Device-Usage Fee
 - Device Ownership
 - Program Service Level (Volume of Tests)
 - Testing Denials
 - Violations, Enforcement, and Penalties
 - Device Usage Restrictions

Device Usage Fee

- 30% of hosts charge within \$1 of the Clean Air Certificate
- 20% charge over the Clean Air Certificate
- Charging a Device Usage Fee increases the total cost to the public

Charge of Hosts	Number of Hosts	Percent of Hosts
Charge = 0	7	5%
Charge > 0	141	95%
Charge >= 10 & <20	18	12%
Charge =20	47	32%
Charge >= 20	120	81%
Charge =24 or 26	44	30%
Charge >=26 & <=50	27	18%
Charge = 50	3	2%
Total Hosts	148	

Device Usage Fee

- Some Participants charge no fee at all
- During pre-RAC listening sessions with participants, host locations not charging a device usage fee indicated that testing drove revenue for other services

Device Usage Fee

- DEQ is currently not aligned with other state agencies operating similar public/private partnerships
- ODFW partners with private retailers to sell licensing and tags
 - ODFW does not allow additional charges to provide the service per OAR 635-010-0180 (4)
- DMV partners with DEQ to sell vehicle registrations at the time of testing at Clean Air Stations
 - DMV does not allow additional charges to be assessed by DEQ per their inter-agency agreement

Device Usage Fee Questions

- What value is received or what need is filled by assessing a device usage fee?
- Device usage fees provide different accessibility for certain customers based on residence, income level, etc.
 - Is this accessibility difference acceptable?
 - Are there any options to offset the resulting inequities in accessibility?

Device Usage Fee Questions

- Should Hosts be allowed to charge additional fees for testing?
 - If yes:
 - What is an acceptable fee amount?
 - Should DEQ standardize or cap fees?
 - If no:
 - Is there an alternative approach to compensate host locations for providing testing as a service?
 - What could that look like?
- Should DEQ prohibit other fees related to testing (e.g. convenience, labor, etc.)?

Device Ownership

- DEQ currently requires Participants to own their OBD devices
- DEQ has offered the suggestion of the Agency owning devices used in the OBD program
- A hybrid model may be an option, allowing participants to:
 - Purchase a device themselves, or
 - Have DEQ purchase the device and use it on loan from the agency
- Device manufacturers are required to provide training to use their devices.

Device Ownership Questions

- Should DEQ continue requiring Participants to own their devices?
- Should DEQ own the devices and lease/loan them to Participants?
- Should Participants be offered a hybrid model allowing them to choose to own the device outright or use a device leased/loaned by DEQ?
- If DEQ provides devices, should Participants be required to pay for replacing a damaged or lost device?

Program Service Levels (Volume)

- DEQ also has an interest in hosts testing a minimum volume of vehicles to add value to the DEQ Too program
- DEQ is also considering minimum OBD testing volume requirements for participating hosts

Program Service Levels (Volume) Questions

- If the EQC were to establish volume requirements, DEQ would consider geographic location, population density, and service deserts. What other factors should be cons?
- Should DEQ have minimum testing volumes on Participants?
- Should minimum testing volumes be different depending on what type of Participant is being evaluated?

Testing Criteria

- Will test any vehicle meeting requirements above regardless of MIL/DTC status
- Will not test if any visible smoke
- Vehicle must be on and running
- Will not alter the OBD system and will not alter any data transmission from vehicles OBD system
- Will not test if there is a device attached to the port
- Will not test through another device in the port
- May align with [OAR 340-256-0355](#) as a reference

Testing Denial Questions

- If DEQ moved forward with the prior requirements what, if any, concerns are there?
- Are there any potential denials that are missing from the prior requirements that should be added?

Violations, Enforcement, and Eligibility

- DEQ is considering developing rules that would describe what would happen to DEQ Too Participants if they violate DEQ Too program rules
- Under DEQ's contracting authority DEQ is able to terminate agreements when a participant violates the terms and conditions of DEQ Too contracts

Violations, Enforcement, and Eligibility Questions

- Should DEQ have stronger enforcement mechanisms than what are currently in the terms and conditions?
 - What would that system look like?

Outstanding DEQ Too Questions

- Any additional comments or questions?

Time Permitting

- Four-year Exemption
- Reciprocity and Boundary

Timeline

- Estimated Documents Sent for RAC 2 Review May 3
- RAC 2 – May 17
- Estimated Documents Sent for RAC 2 Review June 4
- RAC 3 – June 20

Review and Closing

- Thank you all for your time and dedication!

Title VI and alternate formats

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