



# 2024 VIP Rulemaking Advisory Committee

## Vehicle Inspection Program

Meeting 2  
Sept. 3, 2024

# Welcome

- This is the third rule advisory committee meeting for the 2024 vehicle inspection program rulemaking.

# Introduction

- DEQ Staff
- RAC Members
  - Organization

# Agenda

- Expectations and Conduct
- Goal
- Points of Discussion
- Timeline
- Review and Closing
- Public Comment

# 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
- Avoids representing to the public or media the views of any other committee member or the committee as a whole

# Goals for RAC 3

- Review remaining Rule Proposals
- Discuss potential changes to prior topics
- Review Fiscal Impact Statement

# Rule updates and DEQ Too Program in Rule

- "In Rule"
- Where to find rules
  - [Secretary of State Website](#)
  - "OAR" - Oregon Administrative Rules
  - Chapter 340 (DEQ Rules)
  - Division 256 (Motor Vehicles)
- Rule Amendments and Minor Changes

# Test Requirements

- Dealerships and Fleets have specific requirements to operate as one of those entities
- Current Terms and Conditions for Hosts do not specify a business type other than
  - “business that will act as a Device-Borrowing Location that has an S-type device that is used on location voluntarily by a motorist or by the Host on behalf of the volunteering motorist.”
- Propose adding the following for Hosts
- 340-256-0467 (1) (a):
  - Must have provided a commercially viable primary automobile service or automobile service - related product for at least 12-months. A person who proposes to operate solely as an emissions testing business is not eligible;



# Feedback on 340-256-0467 (1) (a)

- Suggest definitions of
  - Automotive service
  - Automotive product

# Fee Definition

- Proposing to change language from “Device Usage Fee” to “Third Party Fee”
  - Yes or No
    - Please elaborate
  - Suggested alternatives?

# Testing

- Tests will be administered by the Host facility staff
  - Currently customers or Hosts can perform the test
    - Feedback suggested that Hosts use their staff to perform the test
  - Propose to allow Hosts to make determination

# Definitions

- Telematic Devices
  - Propose striking from definitions
  - Only for specific SAE requirements which is referenced and defined in 340-256-0466

# Definitions

- Test Equipment
  - Refer to definition as stated in 340-256-0465
    - This equipment must contain the standard terminal Diagnostic Link Connector for OBD systems and be capable of the following:
      - (1) Making an automatic pass/fail decision based on malfunction indicator light observations and vehicle OBD system download;
      - (2) Transferring electronic vehicle test result to the VIP central data server DEQ online computer servers for emissions data;

# ORS 468.066: History of compliance with environmental quality laws

- (2) Intentionally left blank —Ed.
- (a) Information that an applicant may be required to provide under this section includes, but is not limited to:
  - (A) A list of the applicant's current corporate officers, managers, members of the board of directors, general partners or other persons who exercise substantial control on behalf of or over the applicant;
  - (B) A list of:
    - (i) Parent corporations, or similar business entities, that exercise substantial control over the applicant; and
    - (ii) Subsidiary corporations, or similar business entities, over which the applicant exercises substantial control; and
  - (C) Notices or other documents stating that a person has violated the provisions of ORS 448.305 (Special ordinance authority of certain cities), 454.010 (Definitions for ORS 454.010 to 454.040) to 454.040 (Determination of costs payable by users), 454.205 ("Municipality" defined) to 454.255 (Plans and cost estimates), 454.505 (Definitions for ORS 454.505 to 454.535) to 454.535 (Sewage Treatment Works Construction Account) and 454.605 (Definitions for ORS 454.605 to 454.755) to 454.755 (Fees for certain reports on sewage disposal) and ORS chapters 459, 459A, 465, 466, 468, 468A and 468B, any rule or standard adopted under those statutes or any order or permit issued by the department or the Environmental Quality Commission.
- (b) Information provided to the department under this section that has not previously been made publicly available is confidential and not subject to public disclosure under ORS 192.311 (Definitions for ORS 192.311 to 192.478) to 192.478 (Exemption for Judicial Department). [2021 c.307 §1]

# Application Requirements

- The application must include, at minimum;
  - Name
  
- Proposed additions
  - Physical Address of Remote OBD device
  - Remote OBD device Serial or ID Number
  - Additional Fee to be charged, if any
  - DBA Name

# Potential Implementation

- If approved by EQC:
  - DEQ will update program website, language, and documents
  - All current members of the Remote OBD program will be grandfathered into the program under the new rules
  - DEQ will send form and format requirements to current Participants
    - Once delivered to Participants will have 90 days to confirm they wish to remain in the program
  - Participants will have to post required signage as ascribed in Form and Format and maintain a copy of their application documentation on site



# Fiscal Impact Statement

# Fee Analysis

- This rulemaking does not involve fees
  - For context:
    - Fees in this statement is referring to the price of a Clean Air Certificate *not* fees that may be charged by Participants

# Fiscal and Economic Impacts

- Little change to existing fiscal impacts for DEQ and the Remote OBD Program Participants as the program has operated for several years
- Testing Participants have costs that they agree to with Device Provider Participants
  - DEQ does not negotiate costs between Device Providers and Testing Participants
- Customers choose where to do their vehicle emissions testing
  - Cost varies by location
- Hosts may not charge the same price as a Clean Air Certificate in their respective areas
- Participation in the Remote OBD Program is voluntary

# Cost of Compliance

- State Agencies
  - Tables within Fiscal Statement
- Local Governments
  - No fiscal impacts anticipated
- Public
  - Can choose to go to Clean Air Station at no charge
  - Can choose to go to Participant location which has a variety of costs
    - Participants can set their charges to zero or whatever fee they decide so long as it is not the cost of a Clean Air Certificate in respective inspection areas

# Table 1: Cost of Program Operations on Agency

- Table 1 shows the positions, estimated hours, and full rate costs of VIP staff and services to run the Remote OBD Program.

Job Title and Hours Per Month		Full Rate Per Hour and Full Rate Per Month	
Environmental Engineer 2 - SR30 - Exempt	18	\$78.44	\$1,411.92
Information Systems Specialist 5 - SR28 - Non Exempt	4	\$100.34	\$401.36
Public Service Representative 4 - SR20 - Non Exempt	96	\$75.86	\$7,282.56
Operations & Policy Analyst 3 - SR30 - Exempt	80	\$96.88	\$7,750.40
Accounting Technician - SR19 - Non Exempt	3	\$76.19	\$228.57
Public Service Representative 4 - SR20 - Non Exempt	3	\$68.80	\$206.40
Administrative Specialist 2 - Non Exempt	3	\$75.86	\$227.58
Office Specialist 2 - SR15 - Non Exempt	3	\$65.80	\$197.40
Office Specialist 2 - SR15 - Non Exempt	3	\$65.80	\$197.40
Business Operations Manager 3 - Exempt	2	\$136.85	\$273.70

# Table 2: Cost of IT Hardware and Software

- Table 2 shows the costs for IT that can be directly tied to the Remote OBD Program.
- While there are other IT costs associated with running the program it is not feasible to distinguish them from other general IT functions utilized by DEQ

Development and Production SQL Servers	Development and Production Application Servers
\$1,423/year	\$468/year

# Cost of Compliance

- Large Businesses
  - Operating on assumption that Device Manufacturers may be large businesses (>50 employees), but likely have variety of services other than producing OBD products
- Small Businesses
  - Operating on assumption Hosts, Fleets, and Dealerships are all small businesses (<50 employees)
    - 185 Dealerships, 13 Fleets, 148 Hosts

# Cost of Compliance Feedback

- Does the assumption of Hosts, Dealerships, and Fleet businesses meet the less than 50 employees definition?
- Are there any businesses that exceed 50 employees aside from Manufacturers?



# Projected Costs of Services to Comply

- Anticipated Actions
  - Sending out updates
  - Recording keeping
  - Updating signage physical and digital

# Projected Cost of Labor and Equipment to Comply

- Participation is voluntary
- Businesses have full control over their staffing
- Costs of device and its services are negotiated by Device Providers and Device Testing Participants

# ORS 183.333 Policy Statement

- (3) If an agency appoints an advisory committee for consideration of a rule under subsection (1) of this section, the agency shall seek the committee's recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses. If the committee indicates that the rule will have a significant adverse impact on small businesses, the agency shall seek the committee's recommendations on compliance with ORS 183.540 (Reduction of economic impact on small business).

# ORS for Committee Discussion

- Per ORS 183.333 and 183.540, the committee to consider how DEQ could reduce the rules' fiscal impact on small business by:
  1. Establishing differing compliance or reporting requirements or timetables for small business;
  2. Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
  3. Utilizing objective criteria for standards;
  4. Exempting small business from any or all requirements of the rule; or
  5. Otherwise establishing less intrusive or less costly alternatives application to small business

# Committee Discussion

1. How can DEQ mitigate impacts by establishing differing compliance or reporting requirements or timetables for small business?
2. How can DEQ clarify, consolidate and simplify the compliance and reporting requirements under the rule for small business?
3. Where can DEQ utilize objective criteria for standards?
4. How could DEQ exempt small business from any or all requirements from rule?
5. Is there a way DEQ can establish less intrusive or less costly alternatives application to small business?

# Questions / Discussions from RAC Members

# Timeline

- Public Notice of Proposed Rulemaking
  - Submitted via [Gov Delivery](#)
  - Sept. 27, 2024
- Public Comment Period
  - Sept. 27 – Nov. 7, 2024
- Public Hearing
  - Nov. 4, 2024
- Commission Meeting
  - Jan. 9-10, 2025

# Review and Closing

- Thank you all for your time and dedication!



# Title VI and alternate formats

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