



State of Oregon Department of Environmental Quality

Staff Report

Jan. 9-10, 2025

Vehicle Inspection Program Updates 2024

This package contains the following documents:

- Rule Staff Report
- Draft Rules – Edits Highlighted
- Draft Rules – Edits Included (final clean version)

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DEQ recommendation to the EQC

DEQ recommends that the Environmental Quality Commission adopt the proposed rules in Attachment A of the staff report as part of Chapter 340 of the Oregon Administrative Rules and directs DEQ to submit the State Implementation Plan (SIP) revision to the US Environmental Protection Agency for approval.

Language of Proposed EQC Motion:

“I move that the Environmental Quality Commission adopt the proposed rules and rule amendments in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and approve incorporating the rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.”

Introduction

The Department of Environmental Quality is proposing permanent rule amendments to chapter 340 section 256 of the Oregon Administrative Rules. The proposed rule amendments implement non-fee program-wide rule updates for the Vehicle Inspection Program.

If adopted, DEQ would submit some of these rules to the U.S. Environmental Protection Agency for approval and incorporation into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040.

Overview

Car and truck emissions collectively are the single greatest anthropogenic contributor to ozone pollution and significant toxic air pollutants in Oregon. The Vehicle Inspection Program performs maintenance testing required for registration of certain vehicles in the Portland-Metro and Medford-Ashland areas. This program provides multiple pollution reduction benefits for ozone, carbon monoxide, fine particulate, greenhouse gases and toxic air contaminants. It plays a significant role in ensuring that pollution reduction technology in cars is functioning as intended and that Oregon is realizing the benefits of lower-polluting vehicles. DEQ VIP is one of several pollution control strategies that collectively make up Oregon’s EPA-approved State Implementation Plan. For the Portland area, DEQ developed and updated its ozone maintenance plan in 1996 and 2007 and the Portland carbon monoxide maintenance plan in 2004. For the Medford-Ashland area, DEQ developed and updated carbon monoxide maintenance plans in

2001 and 2015. DEQ VIP helps to keep pollution levels within the EPA's allowable standards by ensuring proper maintenance of vehicle emission control systems over the life of the vehicle.

In the Portland and Medford-Ashland areas, a vehicle emissions inspection is typically required every two years, before motorists can register their vehicles with the Oregon Department of Transportation Driver and Motor Vehicle Services. VIP operates six inspection stations across the Portland-Metro area and one in Medford-Ashland. Also, DEQ's VIP is now testing around 10% of the regulated vehicles using a remote on-board diagnostic (OBD) testing method through its trademark DEQ Too program. That is approximately 76,000 vehicles in the Portland-Metro area and 10,000 in the Medford area each year.

DEQ VIP inspects light- and heavy-duty gasoline vehicles, as well as light-duty diesel vehicles weighing up to 8,500 pounds. In the Portland area, vehicle inspection is required for model years beginning in 1975. In Medford-Ashland, inspections are required for vehicles up to twenty years old. The DMV issues a four-year registration for the newest model year. The four most current model-year vehicles do not require an emission inspection. Vehicles registered in the Portland-Metro or Medford-Ashland vehicle inspection areas that are operated temporarily in another state must either comply with the other state's emissions compliance provisions, verify the area is not subject to emission compliance, or travel to Oregon for an emissions test.

The proposed rules, if adopted by the commission, would: a) update reciprocity provisions for vehicles that are temporarily operating less than 150 miles outside of the Oregon border, b) clarify testing exemptions and c) codify the remote on-board diagnostic test method and operations in rule.

Washington and Idaho are states that border Oregon and no longer perform emissions testing as of 2023. The current rule requires vehicle owners who are temporarily operating their vehicle less than 150 miles from the Oregon border to drive back to Oregon for an emissions test. This outdated rule can be a hardship for students, caregivers, active military personnel and others.

DEQ proposes to update the rule language covering the "at least 150 miles from the Oregon border" requirement because 150 miles from the Oregon border may be vastly different depending on where the vehicle is temporarily located. Also, the "at least 150 miles" does not consider the testing location within Oregon. With Washington no longer requiring vehicle testing and Idaho removing the requirement in mid-2023, DEQ would like to update the rule language to better align with these changes.

In 2020, DEQ made revisions to the program, which included changes for required emissions testing for new vehicles. These changes included a change in the requirement for new vehicles to be tested from two years after initial registration to four years. DEQ proposed and the Environmental Quality Commission adopted changes to OAR 340-256-0300, but the proposed rules did not include a specific exemption for the

first four model years of vehicles from emissions testing requirements. Therefore, DEQ also proposes to include an exemption of the testing requirement for the first four model years of vehicles and has included a demonstration that shows minimal increase in emissions in the VIP boundary areas due to the proposed change.

Remote OBD testing through the DEQ Too program is conducted through a telematics device either at a DEQ Too host location, a participating vehicle dealership or a participating fleet. The device transmits the vehicle's onboard diagnostics data to DEQ to determine the results of the emissions test. Since its launch as a pilot in 2016, the DEQ Too program has been operating under the broad authority of the existing rule in ORS 340-256-0465. Codifying the remote OBD testing procedures for DEQ Too in rule will better prepare VIP for potential growth, increased program transparency and improved quality assurance.

DEQ's rule requires vehicles registered in the Portland-Metro or Medford-Ashland vehicle inspection areas that are temporarily out-of-state to ensure compliance with the other state's inspection maintenance requirements.

The rulemaking included input from affected parties, such as community members accessing emissions testing resources, DEQ Too hosts, dealerships, telematic providers and environmental justice advocacy organizations.

Statement of need

What need would the proposed rule address?

Washington and Idaho are states that border Oregon and no longer perform emissions testing as of 2023. The current rule requires vehicle owners who are temporarily operating their vehicle less than 150 miles from the Oregon border to drive back to Oregon for an emissions test. This outdated rule can be a hardship for students, caregivers, active military personnel and others.

Existing rules regarding the testing exemption for new vehicles are require more specificity to align with long-standing practice. Oregon statute requires that vehicles get a four-year registration from the DMV in their first model year, there is no testing requirement for that registration. Following this period, vehicles are re-registered and tested every two years.

The remote OBD testing program under the trademark of DEQ Too, has been operating through agreements of terms and conditions with program partners. The existing statute, under which the program operates, requires additional rule language to meet the needs of program administration and participants.

How would the proposed rule address the need?

With Washington no longer requiring vehicle emissions testing and Idaho removing the requirement in mid-2023, DEQ would like to update the rule language. Extending the boundary and setting a clear boundary will address the hardship created by the existing rule.

Oregon DEQ is including testing exemption language to reflect the current practices and existing statute in order to include these exemptions in rule and our State Implementation Plan.

Codifying the remote OBD testing procedures into rule creates transparent requirements for the DEQ Too program for both participants and the public. Once established, the proposed rules provide sufficient instructions for long-term program operations. Codifying these requirements also provides clarity and consistency in these operations.

How will DEQ know the rule addressed the need?

DEQ Too will continue to operate as intended and may see increased success under the clarity of the new rule.

The rule addresses the need by eliminating the outdated and inaccurate existing rule language.

Rule language would reflect current practices in the vehicle registration process.

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.

The proposed rules are not different from or in addition to federal requirements. Since the VIP is included in Oregon's State Implementation Plan, DEQ must include a demonstration to the EPA that the proposed testing exemption will not interfere with the Portland-metro or Medford-Ashland areas maintaining compliance with the National Ambient Air Quality Standards.

What are the scientific, economic, technological, administrative and other reasons for exceeding applicable federal requirements?

The DEQ Too Program is a voluntary partnership between the DEQ and private entities in an effort to increase accessibility of testing sites for the public and decrease the volume at DEQ VIP stations. While these rules are not federally required, the program operates within the suite of programs DEQ uses to meet federal and state Clean Air Act requirements.

What alternatives did DEQ consider and why are you not pursuing them?

DEQ considered not proposing the adoption of the rules.

DEQ did not pursue the alternative of not proposing these rules because that would not achieve the intended policy goals of the program.

Rules affected, authorities, supporting documents

Lead division

Air Quality Division

Program or activity

Vehicle Inspection Program

Chapter 340 action

Adopt				
256-0466	256-0467	256-0468	256-0469	256-0471
Amend				
256-0010	256-0300	256-0370	256-0465	200-0040

Statutory Authority - ORS				
468.020	468A.365	468A.380	468A	468A.360
468A.810	467.030	468A.350-468A.400		

Statutes Implemented - ORS				
468A.035	468A.135	468A.350-468A.400	468A.810	808.350
803.415	815.295	815.300		

Rules Included in the Oregon State Implementation Plan				
256-0010	256-0300	256-0370	256-0465	

Documents relied on for rulemaking

Document title	Document location
DEQ Remote OBD Cost Estimates	https://www.oregon.gov/deq/rulemaking/Pages/vip2024.aspx

Vehicle Inspection Program 4-Year Exemption 110L Anti-Backsliding Demonstration	https://www.oregon.gov/deq/rulemaking/Pages/vip2024.aspx
Proposed VIP Changes - Summary for Policy Makers - Draft 2024-09-25b	Available upon request
2019 Oregon Air Quality Monitoring annual report	https://www.oregon.gov/deq/rulemaking/Pages/vip2024.aspx
Oregon DEQ Remote OBD Specification document for telematic providers	https://www.oregon.gov/deq/rulemaking/Pages/vip2024.aspx

Rules summary

As OAR 166-500-0030(1)(e) requires, the following are included to provide a brief summary of the proposed new rules and the existing rules affected by this rulemaking.

OAR chapter 340, division 200

Rule Number	Rule Title	Explanation
0040	State of Oregon Clean Air Act Implementation Plan	Changing date to reflect amending the Clean Air Act State Implementation Plan to incorporate Vehicle Inspection Program rule updates

OAR chapter 340, division 256

Rule Number	Rule Title	Explanation
0010	Definitions	Amends existing language and additional language to include new definitions, renumbering definitions
0300	Emission Control System Inspection: Scope	Amends language to include new language describing the testing exemption for vehicles four-years after the vehicles designated model year.
0370	Emission Control System Inspection: Renewal of Registration for Light-duty Motor Vehicles and Heavy-duty Gasoline Motor Vehicles Temporarily Operating Outside of the Oregon Vehicle Inspection Boundaries	Amends rule language to include removal of outdated and unclear language. Updates include new language that provides clarity on boundary position and rule requirements.
0465	Emission Control System Inspection: Test Equipment Criteria for	Amends language including the title. Language updates clarify terminology for agency

Rule Number	Rule Title	Explanation
	On-Board Diagnostic Test Program	infrastructure related to requirements. Language updates remove unclear rule.
0466	Emissions Control System Inspection: Test Equipment Criteria for Remote OBD Test Method	Adopts new program rules and requirements for test equipment
0467	Remote OBD Testing Program: Requirements for Host Participation and Test Method in the Remote OBD Testing Program	Adopts new program rules and requirements for participating hosts in the remote OBD program
0468	Emission Control System Inspection: Requirements for Dealership Participation in Remote OBD Testing Program	Adopts new program rules and requirements for participating dealerships in the remote OBD program
0469	Emission Control System Inspection: Requirements for Fleet Participation in Remote OBD Testing Program	Adopts new program rules and requirements for participating fleets in the remote OBD program
0471	Violations and Disqualification from Participation in Remote OBD Testing Program	Adopts new program rules that address violations and disqualifications, including the process for challenging violations

Fee analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and economic impact

The proposed rules would have little change to existing fiscal impacts for DEQ and the DEQ Too program participants. Operating with a different reciprocity boundary and continuing to register vehicles on the DMV timeline would have no fiscal impact for DEQ or the motoring public. Changes to the DEQ Too rules would also have little change to the fiscal impact for program participants as these entities have been operating for several years under terms and conditions developed under OAR 340-256-0358. This rulemaking and fiscal and economic impact statement codify the program in rule.

As of 2024, DEQ only charges a fee for obtaining a Clean Air Certificate per OAR 340-256-0320, which is not within the scope of this rulemaking.

DEQ will continue to incur the ongoing costs required to support the technology systems for the DEQ Too program. These costs include the maintenance, operation and replacement of equipment. Other technology costs include website support and web domain credentials (e.g., server costs, staff hours) [Table 1].

Testing participants will have costs related to agreements with device provider participants. DEQ has no influence or control over these costs and the decision to participate in DEQ Too and with device providers is voluntary.

Customers who choose to have their vehicle emissions tested through a DEQ Too host participant may be charged third-party fees that are in addition to the cost of the Clean Air Certificate. The proposed rules do not require any additional charge to customers. DEQ does not charge additional fees for tests conducted at Clean Air Stations and the decision to test at DEQ Too host site is voluntary.

Statement of cost of compliance

State agencies

Table 1 shows the positions, estimated hours and full rate costs of VIP staff and services to run the DEQ Too Program. These costs are already being incurred as the agency began operating the program as a pilot several years ago.

Table 1			
Cost of Program Operation on Agency			
Remote OBD Rulemaking, Aug. 12, 2024			
Titles and Hours		Rates	
Job Title and Hours Per Month		Full Rate Per Hour and Full Rate Per Month	
Environmental Engineer 2 - SR30 - Exempt	18.0	\$78.44	\$1,411.92
Information Systems Specialist 5 - SR28 - Non- Exempt	4.0	\$100.34	\$401.36
Public Service Representative 4 - SR20 - Non-Exempt	96.0	\$75.86	\$7,282.56
Operations & Policy Analyst 3 - SR30 - Exempt	80.0	\$96.88	\$7,750.40
Accounting Technician - SR19 - Non-Exempt	3.0	\$76.19	\$228.57
Public Service Representative 4 - SR20 - Non-Exempt	3.0	\$68.80	\$206.40
Administrative Specialist 2 - Non-Exempt	3.0	\$75.86	\$227.58
Office Specialist 2 - SR15 - Non-Exempt	3.0	\$65.80	\$197.40
Office Specialist 2 - SR15 - Non-Exempt	3.0	\$65.80	\$197.40
Business Operations Manager 3 - Exempt	2.0	\$136.85	\$273.70

Table 2 shows the costs for IT that can be directly tied to the Remote OBD testing program trademarked under DEQ Too. 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.

Table 2 Cost of IT Hardware and Software Remote OBD Rulemaking, Aug. 12, 2024	
Development and Production SQL Servers	Development and Production Application Servers
\$1,423/year	\$468/year

Local governments

There are no fiscal impacts anticipated for local governments.

Public

The requirements of the proposed rules have no direct fiscal impact on the public. Where someone chooses to test their vehicle will determine the potential fiscal impact on that person.

Large businesses - businesses with more than 50 employees

Device manufacturers and some vehicle dealerships may be large businesses. However, as they offer a variety of services and have been involved in the DEQ Too Program from its initial stages, the expected impacts for these businesses are minimal. Additionally, participation in DEQ Too is optional, and not a requirement imposed by these rules.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 Cost of compliance effect on small businesses

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

There are 346 businesses currently enrolled in the DEQ Too Program as testing participants. Assuming all participants are small businesses, defined as having 50 or fewer employees, the areas of the businesses impacted are broken down into three categories:

- Dealership: 185
- Fleets: 13
- Hosts: 148

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

Small businesses who voluntarily enroll into the program will have to keep a copy of their enrollment forms, a record of receipts from DEQ Too tests charged to a customer and must display DEQ-required signage.

DEQ does not expect the proposed rules to result in a large increase in the volume of work completed by small businesses who choose to participate. If adopted, there may be an increase in workload in the first few months as the program formalizes in 2025. Examples of this work would be completing any documents that are required by the proposed rules, a potential increase in interest to join the program due to increased awareness, or updates to websites for the DEQ Too Program. Such increases are not expected to be substantial or overly burdensome.

Recordkeeping requirements for complying with the proposed rulemaking are not overly burdensome for small businesses. The proposed rules require all participating businesses to keep and maintain the appropriate records with no special consideration given to the size of the business.

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

Participants must procure all equipment, supplies and labor necessary for them to successfully complete the DEQ Too emissions test. Testing equipment is purchased or leased by the participant from third party device manufacturers. DEQ is not a party in those transactions or agreements. There are no projected additional costs for labor or administration for small businesses to comply with the proposed rule.

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

Currently there are 185 dealerships, 148 hosts, 13 fleets and three device manufacturers in the DEQ Too Program.

DEQ hosted a Rules Advisory Committee to inform the development of the proposed rules (see Advisory Committee section), that included six representatives of the current DEQ Too Program to provide their feedback and insights on the proposed rules. Two were hosts, two from dealership associations, and two from device manufacturers.

Both S-Type (Shared/Snapshot) device manufacturers were invited as well. Most tests performed by participants of the DEQ Too Program use the S-Type device as it can be utilized across any vehicle that meets the requirements for remote OBD testing.

Documents relied on for fiscal and economic impact

Document title	Document location
DEQ Remote OBD Cost Estimates	DEQ Remote OBD Cost Estimates.xlsx

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ did ask for the committee's recommendations on the following:

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

Advisory committee provided additional context regarding small business. The committee also agreed with DEQ fiscal analysis that proposed rules had no significant change in current fiscal impact.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have no effect on the development costs because the program has not demonstrated an impact on housing costs in the past. The proposed rules would be codifying a program that has been operating via agreements between DEQ and the participant. None of the economic data obtained during the program operations indicate an impact on development costs of a single-family dwelling. As the rulemaking relates to mobile source emissions inspections, the proposed rules do not increase nor decrease the cost of construction or development of a single-family dwelling as described by ORS 183.534.

Racial equity

ORS 183.335(2)(b)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state. Adoption of this rule codifies a program that relates to controls for mobile source emissions that are used in air pollution reduction efforts to comply with both federal and state requirements. Reducing air pollution both statewide and at the local level through mobile source vehicle testing has the potential to reduce the impact of pollution on marginalized communities and increase racial equity in Oregon. The analysis of this proposed rulemaking has no data suggesting a positive or negative impact on racial equity in this state. It has been assumed that increasing the availability of vehicle emissions testing locations and times through the remote DEQ Too Program will benefit all members of the community.

Environmental justice considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues. DEQ considered these effects by analyzing the current program for any negative impacts on environmental justice issues and convening a rule advisory committee with members who represent communities focused on environmental justice. DEQ considered environmental justice issues related to the proposed rulemaking by opening the rules for 30 days for public comment and hosting a public hearing where members of the public were able to voice comments on the rule and raise any environmental justice concerns with the proposed rule language.

Land use

Land-use considerations

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

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

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

Statewide goals also specifically reference the following DEQ programs:

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

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

EQC prior involvement

DEQ presented an overview of the Vehicle Inspection Program to the Environmental Quality Commission on Nov. 22, 2024. The overview was designed to introduce and familiarize the EQC with the entire Vehicle Inspection Program in preparation for the introduction of the attached proposed rules and rule amendments.

Advisory committee

Background

DEQ convened the 2024 VIP Rulemaking advisory committee three times. The committee included representatives from the various impacted industries, automotive service providers, state and local agency representatives, and air quality advocates.

The advisory committee information is located on the [rulemaking web page](#).

Rulemaking Advisory Committee Members	
Name	Representing
Zach Edwards	Ashland Automotive
Carol Kilner	BL-Innovare
Mike Christopherson	DEQ Too Business Alliance
Tracy Olander	DMV
John Wasiutynski	Multnomah County
Mary Peveto	Neighbors for Clean Air
Jon McKinley	Opus Inspection
Greg Remensperger	Oregon Auto Dealers Assoc.
Diane Sparks	Oregon Independent Auto Dealers Association
Charlie Fischer	OSPIRG

Meeting notifications

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

- Sent GovDelivery bulletins, a free email subscription service, to the following lists:
 - Rulemaking
 - DEQ Public Notices
 - Vehicle Inspection Program Updates
- Sent a one-time notice to notified subscribers to describe how to sign up for advisory committee meeting notices, and people who signed up for the advisory committee bulletin.
- 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 met with staff and discussed proposed program requirements. Recordings of RAC meetings may be found on the rulemaking web page.

Public engagement

Public notice

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

- On Sept. 27, 2024, Filing notice with the Oregon Secretary of State for publication in the October 2024 Oregon Bulletin
- Posting the notice, invitation to comment and draft rules on the [web page for this rulemaking](#)
- Emailing interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ Public Notices
 - Vehicle Inspection Program Updates
- Emailing the following key legislators required under [ORS 183.335](#):
 - Rep. Pam Marsh, Chair, House Committee on Climate, Energy, and Environment
 - Rep. Bobby Levy, Vice-Chair, House Committee on Climate, Energy, and Environment
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Comment deadline

DEQ only considered comments on the proposed rules that DEQ received by **4 p.m., Pacific Standard Time on Thursday, Nov. 7, 2024.**

Public hearing

DEQ held a public hearing on Oct. 28, 2024. DEQ did not receive any comments at the hearing. Later sections of this document include a summary of the 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 officer:

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

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

No person presented any oral testimony or written comments.

Summary of public comments and DEQ responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from Sept. 27, 2024, until 4 p.m. on Nov. 7, 2024.

DEQ did not change the proposed rules in response to comments. DEQ did make clarifications to supporting documentation in response to comments.

Comments received by close of public comment period

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

Commenter	Comments
EPA	1-7

Summary and Response of Comment 1

Summary

In response to DEQ’s use of a two-year exemption baseline for the 110(l) demonstration to adopt changes to OAR-256-0300, the commenter recommends that DEQ either substantiate the use of the two-year exemption modeling baseline or run the model with no new car exemption.

Response

DEQ appreciates this comment and has made changes. DEQ has updated language within the preamble to provide further information on registration periods for vehicles. DEQ has made edits to language to clarify the state’s vehicle registration period found in ORS 803.415. The language found in ORS 803.415(10) states “The following vehicles have a four-year registration period: (a) New vehicles registered under ORS 803.420 (Registration fees) (6)(c) for which new registration plates will be issued...” The issuance of a four-year registration on vehicles within their first model year institutes a four-year window in which these cars are not required to undergo DEQ emissions testing for the purpose of registration renewal.

DEQ codified this practice in this rulemaking to clarify vehicle testing requirements and bring them in line with the joint practices of DEQ and DMV. Because these rules are part of the State Implementation Plan, it is important that any change to the rules undergo additional scientific scrutiny to prove that it will not relax efforts to maintain the state’s responsibility to the national ambient air quality standards. To provide evidence that the rules changes continue to satisfy the SIP requirements, the state presented a 110(l) demonstration that showed the impacts from the change in testing requirements.

The demonstration utilized a MOVES model with a two-year testing requirement for all vehicles including those in their first four model years as the baseline. The demonstration then compared that baseline against a MOVES model that includes a two-year testing requirement for all vehicles except those in their first four model years. The results of that run can be found in the supporting documents under “Vehicle Inspection Program 4-Year Exemption 110L Anti-Backsliding Demonstration”.

In EPA’s MOVES 5 Technical Guidance, EPA notes that “Older vehicles typically have experienced more deterioration in emission control systems.” Considering the small impact demonstrated in the MOVES run described above and the fact that vehicles with 0 to 2 years of operation have more efficient emission controls with little likelihood for deterioration, DEQ concludes that the proposed rule changes do not risk the attainment of the Portland-Vancouver AQMA or the Medford-Ashland AQMA.

Summary and Response of Comment 2

Summary

The commenter notes that Figure 1 in the 110(l) demonstration shows design values for ozone during the 2017-2019 period to be in exceedance of the 2015 8-hour Ozone Standard. The commenter recommends including more information to support attainment.

Response

DEQ appreciates the comment and has made the following changes to the 110(l) demonstration. DEQ has clarified the language in the demonstration. The elevated design values seen from 2017 to 2019 are due to an increase in VOCs resulting from wildfires. While the emissions from the wildfire could be removed from the EPA Air Quality System through an exceptional events demonstration, such demonstration was not conducted because Oregon was able to maintain attainment with the 2015 8-Hour Ozone Standard.

Summary and Response of Comments 3-5

Summary

Commenter requests DEQ update the 110(l) demonstration by including additional figures to represent the change in emissions for all vehicle emissions and clarifying the information presented in the existing tables.

Response

DEQ appreciates the comment and has made the following changes to the 110(l) demonstration. Table 5 has been included in the demonstration to represent PM emissions.

Summary and Response of Comment 6

Summary

Commenter requests that DEQ specify which of the rules for adoption are also to be included in the SIP. And that those rules are not included in the final SIP modification submittal to the EPA.

Response

DEQ appreciates the comment and as made the following changes to the Rules affected, authorities and supporting documents section of the preamble. DEQ created a separate table in the Rules affected, authorities, supporting documents labeled “Rules Included in the Oregon State Implementation Plan.” This table provides a clear list of the rules for adoption that are included in the SIP.

Summary and Response of Comment 7**Summary**

Commenter recommends that DEQ clarify the proposed amendments to OAR 340-256-0370 are equivalent to or a relaxation from the previous rules. The commenter recommends that DEQ consider preparing a separate 110(I) Demonstration for this amendment to the rule.

Response

DEQ would like to make the following clarification to the proposed amendments to OAR 340-256-0370. The proposed amendments change the reciprocity exemption border for vehicles registered in the Portland and Medford testing boundary but temporarily operating over the reciprocity border specified in the proposed rule. The border is changing due to the elimination of vehicle inspection and maintenance programs in the states around Oregon. Requiring vehicles to drive from the reciprocity border back to Oregon to perform inspection and testing within the Portland or Medford testing boundary would result in additional vehicle miles traveled and would increase vehicle emissions both within Oregon and those bordering states. Adopting the new rules would allow for the state of Oregon to maintain equivalent operations under the rule and prevent a relaxation in our efforts to reduce vehicle emissions and vehicle miles traveled. No changes were made in response to this comment

Implementation

Notification

The proposed rules would become effective six months after the filing, which will occur on approximately Jan. 10, 2025. DEQ would notify affected parties by:

- GovDelivery
- Email sent out to current DEQ Too participants

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).

Rules exempt from five-year review				
256-0010	256-0300	256-0370	256-0465	200-0040

Five-year rule review required

No later than Jan. 9, 2030, 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.

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).

Rules subject to five-year review				
256-0466	256-0467	256-0468	256-0469	256-0471

Supporting documents

The following supporting documents can be found on the [Vehicle Inspection Program Updates 2024 rulemaking page](#):

- DEQ Remote OBD Cost Estimates
- Vehicle Inspection Program 4-Year Exemption 110L Anti-Backsliding Demonstration
- Oregon DEQ Remote OBD Specification document for telematic providers

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities.

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