

State of Oregon
Department of Environmental Quality

Memorandum

Date: March 31, 2011
To: Environmental Quality Commission
From: Dick Pedersen, Director
Subject: Agenda item C, Rule adoption: Oregon Low Emission Vehicles – 2011 Update
April 21-22, 2011, EQC meeting

Why this is important Oregon is one of 14 states that opted in to California's low-emission vehicle standards. The Clean Air Act requires that opt-in states keep their rule requirements identical to California's Low Emission Vehicle program. This proposal amends Oregon's rules to reflect the latest changes in California's program. Periodic rule updates will be needed as California's program continues to evolve.

DEQ recommendation and EQC motion DEQ recommends that EQC amend the Oregon Low Emission Vehicle rules to align them with the current California emission standards for light duty vehicles as presented in attachment A.

Background and need for rulemaking Under the Clean Air Act, only California is allowed to set vehicle emission limits that are tighter than federal standards. However, after such standards are adopted, Oregon and other states may opt in to the same requirements. Oregon first adopted California's standards in 2005 and California's requirements have been modified several times since Oregon's rules were last amended. As an opt-in state, Oregon must periodically update its rules to incorporate changes to California's clean car program. The proposed revisions will incorporate the latest changes so Oregon's regulations match California's clean car requirements.

Oregon's low-emission vehicle rules were originally proposed at the request of former Governor Kulongoski to reduce the greenhouse gas emissions of new light duty cars and trucks sold in Oregon. The rules result in 30 percent greenhouse gas emission reductions in new vehicles when the requirements become fully effective in 2016, as well as saving vehicle owners money at the pump due to improved fuel efficiency. The rules also cut the emission of traditional tailpipe pollutants that produce ground-level ozone, or smog, and reduce the emission of benzene and other hazardous air pollutants. Finally, the program includes zero-emission vehicle provisions that encourage the availability and use of all-electric and other vehicles that have no direct emissions.

Effect of rules This rulemaking proposal would modify several aspects of Oregon's low-emission

vehicle rules. These changes include:

- A new option to use new federal motor vehicle greenhouse gas standards to show compliance with California's greenhouse gas limits (harmonization provisions)
- Changes to zero-emission vehicle rules allowing more plug-in hybrids, along with test procedures for plug-in hybrid electric vehicles
- A new option for manufacturers to show they meet greenhouse gas limits across multiple states in lieu of state-by-state compliance (compliance pooling)
- A new diagnostic system requirement for diesel engines
- A new window label showing approximate greenhouse gas emissions
- Other miscellaneous minor changes

The most significant changes proposed in this rulemaking are the “harmonization” provisions that align Oregon's low-emission vehicle rules with a new federal and California agreement giving manufacturers a new option to show they comply with motor vehicle greenhouse gas standards.

In 2010, federal regulators, California, and the auto industry reached an agreement that facilitated the adoption of nationwide greenhouse gas vehicle emission standards through 2016. Oregon's adoption of California's low emission vehicle rules, along with the other opt-in states, was instrumental in leading to this agreement. Under the agreement, California is allowing auto manufacturers the option of complying with California's greenhouse gas vehicle standards by showing compliance with the new federal standards during model years 2012 to 2016. California and federal regulators are working together to coordinate state and federal emission requirements for the period after 2016.

In the 2010 agreement, California also agreed that data and procedures used to show compliance with federal corporate average fuel economy rules could be used to show compliance with greenhouse gas limits. Because Oregon's program must be identical to California's, this change to California's rules (harmonization provisions) must be adopted into DEQ's program.

The adoption of national greenhouse gas vehicle standards and the compliance agreement developed between California, federal regulators, and the auto industry provides a better overall environmental outcome for both Oregon and the nation. While the new federal standards phase in more slowly than California's standards, they equal California's standards in 2016. Because the federal rules apply to all light-duty cars and trucks nationally, they achieve greater total greenhouse gas reductions than the California standards applied in only 14 states. Oregon's low-

emission vehicle program will evolve over time to reflect the next phase of vehicle greenhouse gas standards developed by California for 2016 and beyond.

Another important aspect of DEQ's rule proposal allows greater use of plug-in hybrid electric vehicles to meet the requirements for zero-emission vehicles. Existing requirements rely more heavily on fuel cell vehicles, but progress on fuel cell technology has been slower than anticipated and costs remain high. The proposed rule revisions take advantage of recent improvements in plug-in hybrid electric vehicle technology by recognizing their contribution to achieving zero-emission vehicle technology.

While harmonization synchronizes California's emission limits with EPA's limits in 2012 to 2016, compliance pooling is another streamlining feature that applies only to the model years 2009 to 2011. Compliance pooling gives manufacturers the choice of demonstrating compliance with California's greenhouse gas limits in all the states that opted in to California's standards as a whole. The compliance pooling method is expected to be more efficient for manufacturers than requiring them to show how they comply in each state separately. This means an auto manufacturer could be allowed to exceed greenhouse gas vehicle standards in any individual state as long as the total combined vehicle emissions across all opt-in states meet the greenhouse gas reduction standards. This approach gives automakers and retailers more flexibility to serve the needs of local markets, while achieving the total greenhouse gas reductions required by opt-in states. Since greenhouse gas emissions are a global problem, compliance pooling can provide an efficient method for showing that total greenhouse gases are reduced across all opt-in states as a whole. In contrast, under harmonization in the period 2012 to 2016, compliance will be determined by EPA for the nation as a whole.

Key issues

Automakers are interested in using the compliance pooling and harmonization provisions of California's current rules. Oregon's adoption of these measures will provide a uniform regulatory environment for manufacturers. Automakers also encourage opt-in states to be diligent in updating their state rules to stay current with changes in California's clean car program.

Commission authority

The commission has authority to take this action under ORS 468.020, 468A.025, and 468A.360.

Stakeholder involvement

The Oregon low-emission vehicle program primarily applies to auto manufacturers that must deliver cars for sale in Oregon. Because all states that adopt California's vehicle emission standards must have identical requirements, the provisions of this rule proposal are not subject to modification and are well understood by the auto industry. DEQ contacted industry representatives who indicated no pre-proposal workshops or meetings would be needed.

Auto dealers and the Division of Driver and Motor Vehicles are also affected by the low-emission vehicle program and similarly felt no need for meetings to address the new provisions before being officially proposed for public comment. As a result, DEQ did not conduct an advisory committee process.

Public comment	DEQ held a public comment period from Dec. 17, 2010, to Jan. 27, 2011, and included a public hearing in Portland. Results of public input are provided in attachment C.
Next steps	If approved by EQC, these rule amendments will become effective upon filing with the Secretary of State.
Attachments	<ul style="list-style-type: none">A. Proposed rule revisionsB. Summary of public comments and agency responsesC. Presiding Officer's report on public hearingD. Relationship to Federal Requirements questionsE. Statement of Need and Fiscal and Economic ImpactF. Land Use Evaluation Statement
Available upon request	<ul style="list-style-type: none">1. Description of California amendments2. California rulemaking documents3. Written comments received

Approved:

Division: _____

Section: _____

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DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 257

OREGON LOW EMISSION VEHICLES

340-257-0030

Definitions and Abbreviations

The definitions in OAR 340-200-0020, the definitions in CCR, Title 13, sections incorporated by reference, 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 CCR Title 13 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

(1) "Assembled ~~V~~yehicle" means a motor vehicle that:

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

(b) Is a replica vehicle under ORS 801.425.

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

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

(2) "ATPZEV" means advanced technology Partial Zero Emission Vehicle as defined in CCR, Title 13, section 1962.1(i). California effective date 2/13/2010.

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

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

(5) "Custom ~~V~~yehicle" means a motor vehicle that:

(a) Is a street rod under ORS 801.513; or

(b) Was manufactured to resemble a vehicle at least twenty-five (25) years old and of a model year after 1948; and

(A) Has been altered from the manufacturer's original design; or

(B) Has a body constructed from non-original materials.

(6) "Emergency vehicle" means a vehicle as defined in ORS 801.260 that is equipped with lights and sirens as required under ORS 820.350 and 820.370 and that is any of the following:

(a) Operated by public police, fire or airport security agencies.

(b) Designated as an emergency vehicle by a federal agency.

(c) Designated as an emergency vehicle by the Director of Transportation.

(76) "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) California effective date 12/8/2010 and 1961.1(b) California effective date 4/1/2010.

(87) "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) California effective date 12/8/2010 and 1961.1(b) California effective date 4/1/2010.

(98) "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), and incorporated herein by reference. California effective date 4/1/2010

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

(119) "Independent low volume manufacturer" is defined in CCR, Title 13, section 1900(b)(8) and incorporated herein by reference. California effective date 4/17/2009.

(124) "Intermediate volume manufacturer" is defined in CCR, Title 13, section 1900(b)(9) and incorporated herein by reference. California effective date 4/17/2009.

(132) "Large volume manufacturer" is defined in CCR, Title 13, section 1900(b)(10) and incorporated herein by reference. California effective date 4/17/2009.

(143) "Light duty truck" is any 2000 and subsequent model year motor vehicle certified to the standards in CCR, Title 13, section 1961(a)(1) California effective date 12/8/2010, 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.

(154) "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.

(1~~65~~) "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 having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

(1~~76~~) "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.

(1~~87~~) "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.

(1~~98~~) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases from passenger cars and light duty trucks in any model year subject to this regulation delivered for sale in Oregon.

(20~~49~~) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(21~~0~~) "PZEV" means ~~P~~partial ~~Z~~zero ~~E~~mission ~~V~~ehicle as defined in CCR, Title 13, section 1962.1(~~j~~) California effective date 2/13/2010.

(22~~4~~) "Small volume manufacturer" is defined as set forth in CCR, Title 13, section 1900(~~b~~)(22) California effective date 4/17/2009, and incorporated herein by reference.

(23~~2~~) "ZEV" means ~~Z~~zero ~~E~~mission ~~V~~ehicle as defined in CCR Title 13, section 1962.1(~~j~~) California effective date 2/13/2010.

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

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

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0050

Incorporation by Reference

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

(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 California Code of Regulations (CCR), Title 13 as incorporated by reference herein:

(a) Section 1900: Definitions. California effective date ~~1/1/2006~~ 4/17/09.

(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 ~~12/4/03~~ 12/8/10.

(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 3/26/04.

(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 ~~1/1/06~~ 12/8/10.

(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 ~~01/01/06~~ 4/1/10.

~~(f) Section 1962: Zero Emission Vehicle Standards for 2005 and Subsequent Model Passenger Cars, Light Duty Trucks and Medium Duty Vehicles. California effective date 3/26/04.~~

(f) Section 1962.1: Zero-Emission Vehicle Standards for 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 2/13/10.

- (g) Section ~~1962.1~~ 1962.2: Electric Vehicle Charging Requirements. California effective date ~~7/24/02~~ 4/17/09.
- (h) Section 1965: Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles. California effective date ~~12/04/03~~ 6/16/08.
- (i) Section 1968.2: Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date ~~04/21/03~~ 6/17/10.
- (j) 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 ~~04/21/03~~ 11/9/07.
- (k) Section 1976: Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions. California effective date ~~11/27/99~~ 12/8/10.
- (l) Section 1978: Standards and Test Procedures for Vehicle Refueling Emissions. California effective date ~~12/4/03~~ 12/8/10.
- (m) Section 2035: Purpose, Applicability and Definitions. California effective date ~~12/26/90~~ 11/9/07.
- (n) 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 ~~11/27/99~~ 11/9/07.
- (o) 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 ~~11/27/99~~ 11/9/07.
- (p) Section 2039: Emission Control System Warranty Statement. California effective date 12/26/90.
- (q) Section 2040: Vehicle Owner Obligations. California effective date 12/26/90.
- (r) Section 2046: Defective Catalyst. California effective date 2/15/79.
- (s) Section 2109: New Vehicle Recall Provisions. California effective date 12/30/83.
- (t) Section 2111: Applicability. California effective date ~~8/24/02~~ 12/8/10.
- (u) Section 2112: Definitions. California effective date 11/15/03.
- (v) Appendix A to Article 2.1. California effective date ~~11/15/03~~ 8/16/2009.

(w) Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California effective date 1/26/95.

(x) Section 2114: Voluntary and Influenced Recall Plans. California effective date 11/27/99.

(z) Section 2115: Eligibility for Repair. California effective date 1/26/95.

(aa) Section 2116: Repair Label. California effective date 1/26/95.

(bb) Section 2117: Proof of Correction Certificate. California effective date 1/26/95.

(cc) Section 2118: Notification. California effective date 1/26/95.

(dd) Section 2119: Record keeping and Reporting Requirements. California effective date 11/27/99.

(ee) Section 2120: Other Requirements Not Waived. California effective date 1/26/95.

(ff) Section 2122: General Provisions. California effective date ~~1/26/95~~ 12/8/2010.

(gg) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California effective date 1/26/95.

(hh) Section 2124: Availability of Public Hearing. California effective date 1/26/95.

(ii) Section 2125: Ordered Recall Plan. California effective date 1/26/95.

(jj) Section 2126: Approval and Implementation of Recall Plan. California effective date 1/26/95.

(kk) Section 2127: Notification of Owners. California effective date 1/26/95.

(ll) Section 2128: Repair Label. California effective date 1/26/95.

(mm) Section 2129: Proof of Correction Certificate. California effective date 1/26/95.

(nn) Section 2130: Capture Rates and Alternative Measures. California effective date 11/27/99.

(oo) Section 2131: Preliminary Tests. California effective date 1/26/95.

(pp) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.

(qq) Section 2133: Record keeping and Reporting Requirements. California effective date 1/26/95.

(rr) Section 2135: Extension of Time. California effective date 1/26/95.

- (ss) Section 2141: General Provisions. California effective date ~~12/28/00~~12/8/10.
- (tt) Section 2142: Alternative Procedures. California effective date 2/23/90.
- (uu) Section 2143: Failure Levels Triggering Recall. California effective date 11/27/99.
- (vv) Section 2144: Emission Warranty Information Report. California effective date 11/27/99.
- (ww) Section 2145: Field Information Report. California effective date 11/27/99.
- (xx) Section 2146: Emissions Information Report. California effective date 11/27/99.
- (yy) Section 2147: Demonstration of Compliance with Emission Standards. California effective date ~~8/21/02~~8/16/09.
- (zz) Section 2148: Evaluation of Need for Recall. California effective date 11/27/99.
- (aaa) Section 2149: Notification of Subsequent Action. California effective date 2/23/90.
- (bbb) Section 2235: Requirements. California effective date 9/17/91.

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

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

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0060

Exemptions

The following vehicles are not subject to this division:

- (1) Military tactical vehicles;
- (2) Vehicles sold for registration and use in a state that is not subject to the California vehicle emission standards;
- (3) Previously registered vehicles with more than seven thousand five hundred miles, provided that for vehicle dealers, the mileage at the time of sale is determined by the odometer statement when the dealer acquired the vehicle;
- (4) Vehicles available only for rent to a final destination in a state that is not subject to the California vehicle emission standards;

(5) Vehicles purchased by a nonresident before establishing residency in the State of Oregon, regardless of the mileage on the vehicle;

(6) Vehicles purchased by Oregon residents while assigned to active ~~military duty government service~~ outside the State of Oregon;

(7) Vehicles transferred ~~by inheritance or as a result of divorce, dissolution, or legal separation from one person to another due to: death, inheritance, devise or bequest; divorce, dissolution, annulment or legal separation; merger or consolidation; bankruptcy; court judgment or decree; or possessory lien, seizure or foreclosure; and~~

(8) Emergency vehicles; ~~when a public safety agency has demonstrated to the Department's satisfaction that a vehicle that will meet said agency's needs is not otherwise reasonably available.~~

(9) A vehicle acquired by an Oregon resident to replace a vehicle registered to such resident that was stolen, damaged or failed beyond reasonable repair while out of state, provided that such replacement vehicle is acquired out of state when the previously-owned vehicle was either stolen, damaged, or failed beyond reasonable repair; ~~and~~

(10) Custom and ~~A~~assembled vehicles that:

(a) Will be maintained for occasional transportation, exhibitions, club activities, parades, tours, testing of operation, repair, maintenance and similar uses; and

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

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

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0070

Fleet Average Non-Methane Organic Gas (NMOG) Exhaust Emission Requirements, Reporting, and Compliance.

(1) Fleet average requirement. Effective model year 2009 and each model year thereafter, each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars, light duty trucks and medium duty vehicles delivered for sale in Oregon must not exceed the Fleet Average NMOG Exhaust Emission Requirement set forth in CCR, Title 13, section 1961 California effective date 12/18/2010. Compliance will be based on the number of vehicles, subject to this regulation, delivered for sale in ~~the State of~~ Oregon.

(2) Fleet average NMOG exhaust emission credits and debits. Effective model year 2009, each vehicle manufacturer may accrue NMOG emission credits and debits and use credits in accordance with the procedures in California Code of Regulations, Title 13, section 1961 California effective date 12/18/2010. Debits and credits accrued and used will be based on the number of vehicles, subject to this division, produced and delivered for sale by each manufacturer in ~~the State of~~ Oregon.

(3) Reporting. Effective model year 2009, and for each model year thereafter, each manufacturer must submit report to DEQ by March 1 ~~a report to the Department that includes:~~

~~(a) Pre-model year data that projects the fleet average NMOG exhaust emissions for vehicles expected to be delivered for sale in Oregon and~~

~~(b) End-of-model-year~~ data that calculates the fleet average NMOG exhaust emissions for the model year just ended.

The report must follow the procedures in CCR, Title 13, section 1961 California effective date 12/18/2010 and be in the same format used to report such information to the California Air Resources Board.

(4) Compliance with fleet average NMOG requirement. Effective model year 2012, if a report submitted by the manufacturer under subsection(3)(b) of this rule demonstrates that the manufacturer is not in compliance with the fleet average emission standard, the manufacturer must submit to ~~the Department~~ DEQ within 60 days a Fleet Average Remediation Report. The Fleet Average Remediation Report must:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in CCR, Title 13, section 1961 (c)(3) California effective date 12/18/2010;

(b) Identify all vehicle models delivered for sale in Oregon, their corresponding certification standards, and the percentage of each model delivered for sale in Oregon and California in relation to total fleet sales in the respective state; and

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

(5) For model years 2009 through 2011, manufacturers must submit the Fleet Average Remediation Report, if needed, to DEQ ~~the Department~~ by March 1, 2012. If debits are accrued in all three years, one year of debits must be equalized by the end of the 2012 model year.

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

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

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0090

ZEV Credit Bank and Reporting

(1) Beginning model year 2009, each intermediate volume and large volume manufacturer of ZEVs, ATPZEVs, and PZEVs may open an account in the ZEV Credit Bank operated by ~~the Department DEQ. Except as provided in section (2) of this rule, the account must be opened no later than January 1, 2009.~~

(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 ~~DEQthe Department~~ 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) ~~2004-01-2011-01~~ for reporting and tracking ZEV deliveries and placements, unless this division specifies ~~se~~ different requirements. ~~DEQThe Department~~ 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 ~~DEQthe Department~~ a Notice of Credit Generation or Notice of Credit Transfer to or from another manufacturer. Credits generated or acquired must be reported to ~~DEQthe Department~~ on or before Sept~~ember~~ 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 ~~DEQthe Department~~. 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; and

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

(b) For 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; 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, section 1962, California effective date 2/13/2010, except the multiplier applied to vehicles produced and delivered for sale in Oregon from Jan. ~~uary~~ 1, 1999 to Jan. ~~uary~~ 13, 2004 will be the highest applicable multiplier used by the CARB for the period Jan. ~~uary~~ 1, 1999 to Jan. ~~uary~~ 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 California effective date 2/13/2010, 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 years ~~2009~~. The deposit may be made only after all credit obligations for model years 2008 and earlier have been satisfied in California.

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

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

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

(c) By May 1, 2009, provide the Department 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.

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

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

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0110

Additional Reporting Requirements.

(1) The manufacturer must submit to ~~DEQ~~the Department one copy of the California Executive Order and Certificate of Conformity for certification of new motor vehicles for each engine family to be sold in the State of Oregon within thirty (30) days of ~~DEQ's~~the Department's request. If such reports are available electronically, the manufacturer must send the record in an electronic format acceptable to the director or the director's designee.

~~(2) Upon request, except as provided in section (3) of this rule, each manufacturer must report to the Department the vehicle identification numbers (VIN) and the California or federal vehicle emission category of each passenger car, light duty truck, and medium duty passenger vehicle delivered for sale in one or more of the following states: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.~~

~~(3) Section (2) of this rule does not apply during any period that vehicle titling or registration is effectively denied to passenger cars, light duty trucks, and medium duty passenger vehicles in Oregon that do not comply with the requirements of this division.~~

(24) To determine compliance with this division, ~~DEQthe Department~~ may require any vehicle manufacturer to submit any documentation ~~DEQthe Department~~ deems necessary to the effective administration and enforcement of this division, including all certification materials submitted to CARB.

(35) ~~Upon request, D~~dealers must report to ~~DEQthe Department~~ the sale of each previously-titled light-duty and medium-duty motor vehicle subject to this division. The report must include the following information and be submitted in a manner ~~DEQthe Department~~ prescribes:

- (a) The dealer's name and address;
- (b) Vehicle description including make and model year;
- (c) The vehicle identification number;
- (d) Date of sale;
- (e) The California or federal emission category to which the vehicle is certified; and
- (f) Evidence of any applicable exemption.

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

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0120

Warranty Requirements.

(1) For all 2009 and subsequent model year vehicles subject to the provisions of this division, each manufacturer must provide, to the ultimate purchaser and each subsequent purchaser, a warranty that complies with the requirements contained in CCR, Title 13, sections 2035 through 2038, 2040, and 2046.

(2) The 15-year or 150,000-mile extended warranty specified in CCR, Title 13, section 1962(c)(2)(D) for PZEVs is not included as a requirement of this rule or OAR 340-257-0050, provided that PZEVs delivered for sale to Oregon are equipped with the same quality components as PZEVs supplied to areas where the full 15-year or 150,000-mile warranty remains in effect. The provisions of this section do not amend the requirements of CCR, Title 13, section 1962(c)(2)(D) that indicate the warranty period for a zero emission energy storage device used for traction power will be 10 years or 150,000 miles, whichever occurs first.

(3) For all 2009 and subsequent model year vehicles subject to the provisions of this division, each manufacturer must include the emission control system warranty statement that complies

with the requirements in CCR, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Oregon vehicle owners of the warranty's applicability. The manufacturer must provide a telephone number that Oregon consumers can use to learn answers to warranty questions.

(4) Upon the Department's request, any manufacturer must submit to the Department Failure of Emission-Related Components reports as defined in CCR, Title 13, section 2144, for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board in lieu of submitting reports for vehicles subject to this division.

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

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

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0140

Permits and Fees

(1) "Indirect source" as defined in OAR 340-254-0030(6) includes a large or intermediate volume manufacturer for purposes of OAR 340-0254-0010. Such sources are subject to permit and fee requirements as specified in section (2) of this rule and not the provisions in OAR 340-254-0040 to 340-254-0080.

(2) Beginning January 1, 2007, each large-volume or intermediate-volume vehicle manufacturer offering light duty or medium duty vehicles for sale in Oregon must have a Motor Vehicle Indirect Source permit issued by ~~DEQthe Department~~. Each Motor Vehicle Indirect Source permit will be issued for a period of up to 10 years and is subject to an annual fee.

(3) Each large-volume and intermediate-volume manufacturer must report to ~~DEQthe Department~~ the number of light and medium-duty vehicles it delivered for sale in Oregon during the previous ~~calendar~~model year. These reports must be submitted to ~~DEQthe Department~~ by March 1 of each year except as provided in section (7) of this rule.

(4) ~~DEQThe Department~~ will assess annual permit fees for each large and intermediate-volume manufacturer for periods beginning July 1 and ending June 30 of the subsequent year except as provided in section (7) of this rule.

(5) ~~DEQThe Department~~ will assess annual permit fees by apportioning a total of \$200,000 among all Motor Vehicle Indirect Source Permit holders according to each permit holder's reported market share for the previous ~~calendar~~model year except as provided in section (7) of this rule. In the event that not all required data are reported, ~~DEQthe Department~~ will estimate

the total Oregon ~~vehicle sales market share~~ for the applicable year and the resulting fees according to means the Department judges to be appropriate.

(6) Within 60 days after reports required by this rule are due, ~~DEQ~~~~the Department~~ will notify each large and intermediate-volume manufacturer of the fee required for the next permit period. Within 30 days of receiving notice of the required permit fee, each permit holder must remit the specified amount payable to the Oregon Department of Environmental Quality. Motor Vehicle Indirect Source permits for which permit fees are not current will be deemed to have lapsed and will no longer be in effect.

(7) The initial report required by section (3) of this rule must be submitted by Oct~~ober~~ 1, 2006. The initial period for which a Motor Vehicle Indirect Source Permit is required begins Jan~~uary~~ 1, 2007 and ends Jun~~e~~ 30 of the same year. Total permit fees for the initial period will be \$200,000.

Stat. Auth.: ORS 468.065, 468A.010, 468A.015, 468A.040.

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

Summary of Public Comment and Agency Response

Title of Rulemaking: Oregon Low Emission Vehicles – 2011 Update

Prepared by: Dave Nordberg

Date: Jan. 31, 2011

**Comment
period**

DEQ held a public comment period Dec. 17, 2010, through 5 p.m. Jan. 27, 2011. DEQ held a public hearing at 7 p.m. on Jan. 24, 2011, at DEQ headquarters in downtown Portland. No members of the public attended to offer verbal comments. DEQ received twelve written comments during the public comment period. Eight expressed support for the proposed requirements and two expressed views critical of the program. One suggested corrections to the way rules incorporated by reference are cited. Another questioned when electric vehicles that could exceed 25 mph would become affordable.

**Organization
of comments
and
responses**

Comments are summarized in categories. Supporting comments are listed first followed by opposing comments, a technical comment and finally a comment posing a question. People who provided each comment are referenced by number. A list of commenters and their reference numbers follows the summary of comments and responses.

Summary of Comments and Agency Responses		
Number	Comment	DEQ response and proposed rule change
1-8	Expressed support for proposed rule changes.	DEQ acknowledges support for the proposed modifications to the low-emission vehicle rules.
9	Oregonians are not represented in California. Adopting California's rules should be put to a vote of the people under Oregon's Constitution.	Section 177 of the federal Clean Air Act allows states such as Oregon to adopt California's vehicle emission standards. Oregon's low-emission vehicle program was developed at the direction of former Governor Kulongoski to help reduce Oregon's share of global greenhouse gas pollution.
9	Emission standards should be set by the federal government, not the states. EPA is developing a single vehicle emission standard that may prohibit California and other states from adopting more stringent	The Clean Air Act allows California to set more protective vehicle standards and allows other states to opt in to those standards. California, EPA and the auto industry agreed to coordinate state and federal emission standards for the period 2009 to 2016 and are cooperating to develop new regulations for the period 2017 to 2025. Oregon cannot act on future requirements

	requirements.	until those requirements are known.
9	Emergency vehicles should not be exempt from emission standards. Such an exemption unfairly excuses government from having to meet requirements imposed on others.	DEQ understands that exemptions for emergency vehicles may be seen as unfair consideration being given to public agencies. However, this change is needed so emergency vehicles are treated the same way in Oregon as they are in California, as required by the Clean Air Act.
10	The cost/benefit relationship of vehicle emission limits becomes progressively less efficient as vehicle emission requirements are tightened. It is time to focus on other more important and cost-effective measures to reduce pollution.	DEQ acknowledges that regulations can become less cost effective as they become tighter. However, the proposed revisions modify rather than tighten the current requirements and produce a net <i>savings</i> to vehicle owners.
11	Three sections of California rules proposed to be incorporated by reference are incorrectly cited. These are California Code of Regulations, Title 13, Sections 1962, 1962.1 and 1962.2	DEQ agrees and has adjusted the citations for these provisions to reflect California's current regulations.
12	When will electric vehicles capable of traveling faster than 25 mph become affordable?	DEQ anticipates that the cost of electric vehicles will decrease significantly as technology matures and sales of electric vehicles increase. Just how soon full-function electric vehicles will be widely available at a low price depends on variables that DEQ is unable to predict.

<i>List of commenters and reference numbers</i>				
Reference Number	Name	Comment form	Location	Date on comments
1	Bart King	email	Portland, OR	12/17/2010
2	Mary McCracken	email	unknown	12/17/2010
3	Darrel & Barbara Lepiane	email	unknown	12/19/2010
4	Gordon Duvaul	email	unknown	12/19/2010
5	Rog	email	unknown	1/1/2011
6	Bryce Knapp	email	unknown	1/19/2011
7	Andrew Swanson	email	Clackamas, OR	1/23/2011
8	Douglas County Global Warming Coalition Board of Directors	letter	143 SE Lane Roseburg, OR 97470	1/26/2011
9	Terry Parker	email	Portland, OR	1/18/2011
10	TJ Reilly	email	Happy Valley, OR	12/17/2010
11	Brain Tinkler American Honda Motor Co., Inc.	email	American Honda Motor Co., Inc. 1919 Torrance Blvd.	12/17/2010
12	Alice Cotton	email	unknown	12/17/2010

State of Oregon
Department of Environmental Quality

Memorandum

Presiding Officer's Report

Date: Jan. 25, 2011

To: Environmental Quality Commission

From: Dave Nordberg, DEQ Staff

Subject: Presiding Officer's report for rulemaking hearing

Title of proposal:	Oregon Low Emission Vehicles – 2011 Update
Hearing date and time:	Jan. 24, 2011, 7 p.m.
Hearing location:	DEQ headquarters 811 S.W. 6th Ave. Portland, OR 97204

DEQ convened the rulemaking hearing on proposed changes to Oregon's low-emission vehicle rules at 7 p.m. No one other than DEQ staff attended and the hearing was closed at 7:30 p.m.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Relationship to Federal Requirements

Oregon Low Emission Vehicles - 2011 Update

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and the justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).

1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?

Context

This rulemaking amends an existing DEQ program authorized under the Clean Air Act to reduce air pollution from motor vehicles. While authorized by the Clean Air Act, Oregon's low-emission vehicle program is not required by the Act and therefore does go beyond minimum federal requirements. Under the Clean Air Act, only California is permitted to adopt vehicle emission standards that are more restrictive than federal rules. However, once California adopts such rules, other states may choose the same rules for their programs. To maintain a level of standardization for the auto industry, "opt-in" states are required to adopt California's rules identically.

Federal emission standards have two main purposes. The first, known as Tier II emission limits, sets standards for traditional pollutants that produce ground-level ozone, or smog, and carbon monoxide. The second sets fleet-average limits for the emission of greenhouse gases and was finalized in 2010. The California emission standards have three purposes. In addition to reducing traditional pollutants and greenhouse gases, California's rules include zero emission vehicle standards to promote development and commercialization of vehicles that emit no tailpipe pollution.

There are differences between the two programs at all levels. Federal Tier II emission limits for traditional pollutants focus on reducing oxides of nitrogen while California's low emission vehicle II limits focus on reducing non methane organic gases--the other primary cause of ozone. By 2020, California's limits will reduce emissions of ozone precursors, carbon monoxide and hazardous air pollutants in the range of 10 to 30 percent below Tier II requirements. Greenhouse gas emission limits for both the federal and California programs will cut carbon dioxide emissions from new light-duty vehicles 30 percent by 2016. However, California's rules achieve greater greenhouse gas reductions because they apply earlier and have a more stringent phase-in schedule. Finally, California's program for zero emission vehicles has no counterpart at the federal level. It is designed to stimulate the production and use of pollution-free vehicles such as battery electric, plug-in hybrid and fuel-cell vehicles.

Proposed rule update

Periodically, DEQ must align Oregon's low-emission vehicle rules with updates to California's program. The purpose of this rulemaking is to adopt the latest changes made to California's low-emission vehicle rules. This rulemaking will satisfy the requirement of the Clean Air Act that Oregon's vehicle emissions standards be the same as California's standards. It will also allow manufacturers to use the latest California provisions. The most notable change modifies the Zero Emission Vehicle program by allowing auto manufacturers to meet zero-emission vehicle requirements using greater numbers of plug-in hybrid electric vehicles and fewer numbers of fuel cell vehicles than previously required. This modification is estimated to be a much less expensive way to advance the development and commercialization of zero-emission vehicles than providing larger numbers of fuel cell vehicles. The other notable provisions are "compliance pooling" and "harmonization." These provisions allow manufacturers new options to demonstrate they meet greenhouse gas targets. Compliance pooling allows manufacturers to show that they meet standards in all states, as a whole, that are subject to California's emissions standards rather than showing compliance state-by-state. Harmonization allows the automakers to demonstrate greenhouse gas compliance using the same methods and data required for federal corporate average fuel economy standards. These efficiency measures are expected to save time and effort for automakers and state regulators.

2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).

As cited above, proposed modifications—and the low emission vehicle program itself—are within the federal framework established by the Clean Air Act to regulate motor vehicle emissions. Oregon's participation in the low emission vehicle program reduces emissions of traditional pollutants, hazardous air pollutants and greenhouse gases while promoting the development of pollution-free vehicles. The program is, therefore, beneficial to public health and consistent with DEQ's strategic directions.

3. If the proposal differs from, or is in addition to, applicable federal requirements, did DEQ consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.

Changes presented in this proposal are needed to meet the federal requirement that states opting in to California's low-emission vehicle program keep their state rules identical to California's emission standards. Because this is a Clean Air Act requirement, DEQ did not consider alternatives.

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

Oregon Low Emission Vehicles – 2011 Update

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	Oregon Low Emission Vehicles – 2011 Update
Statutory Authority or other Legal Authority	ORS 468.020, 468.065, 468A.010, 468A.015, 468A.025, 468A.040 and 468A.360.
Statutes Implemented	ORS 468.020.
Need for the Rule(s)	<p>In December, 2005 the Environmental Quality Commission adopted California's vehicle emission standards for new light and medium duty vehicles. This action was taken primarily to reduce greenhouse gas emissions, but the rules also reduce traditional smog-producing pollutants and promote the development and use of Zero Emission Vehicles.</p> <p>The program is implemented under section 177 of the Clean Air Act which allows states to opt in to California's vehicle emission standards if they adopt California's requirements identically. Since Oregon's Low Emission Vehicle rules were last modified, California's regulations have been amended repeatedly. This rulemaking proposes to incorporate California's revised LEV regulations into Oregon's rules. The various rule adoptions are briefly identified as:</p> <ul style="list-style-type: none"> • Evaporative and Emission Test Procedures, • OBD II and Emission Warranty Regulations, • Emission Control and Environmental Performance Label, • Zero Emission Vehicle Amendments, • Plug-in Hybrid Electric Vehicle Test Procedures, • Compliance Pooling and Harmonization, and • Emission Warranty and Test Procedures – Repeal <p>By adopting the proposed revisions, Oregon's Low Emission Vehicle program will drop outdated requirements and apply updated provisions that are in effect in California and other opt-in states.</p>
Documents Relied Upon for Rulemaking	<p>The documents used to generate this Statement of Need and Fiscal and Economic Impact are those used by the California Air Resources Board in their initial adoption of these regulations. These include:</p> <ul style="list-style-type: none"> • CARB Staff Report: Initial Statement of Reasons for Proposed Rulemaking, "<u>Proposed Technical Amendments to the Motor Vehicle Evaporative and Exhaust Emissions Test Procedures</u>," Scheduled for Consideration May 25, 2006. • CARB Staff Report: Initial Statement of Reasons for Proposed Rulemaking, "<u>Technical Status and Revisions to Malfunction and Diagnostic System Requirements for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II) and the Emission warranty Regulations</u>," Scheduled for Consideration September 28, 2006. • CARB Staff Report: Final Statement of Reasons for Rulemaking, "<u>Public Hearing to Consider Technical Status and Proposed Revisions to Malfunction and Diagnostic System Requirements and Associated Enforcement Provisions for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II) and Emission warranty Regulations</u>," Public Hearing Date: September 28, 2006. • CARB Staff Report: Initial Statement of Reasons for Rulemaking, "<u>Proposed Amendments to the Smog Index Vehicle Emissions Label</u>," Scheduled for Consideration June 21, 2007.

EQC meeting

- CARB Staff Report: Initial Statement of Reasons, "2008 Proposed Amendments to the California Zero Emission Vehicle Program Regulations," Scheduled for Consideration March 27, 2008.
- CARB Staff Report: Final Statement of Reasons for Rulemaking, "2008 Amendments to the Zero Emission Vehicle Regulations." Public Hearing Date: March 27, 2008.
- CARB Staff Report: "Initial Statement of Reasons for Proposed Rulemaking for Plug-in Hybrid-Electric Vehicles: Amendments to Test Procedures and Aftermarket Parts Certification Requirements," Scheduled for Consideration January 22-23, 2009.
- CARB Staff Report: Initial Statement of Reasons for Rulemaking, "Notice of Public Hearing to Consider Proposed Amendments to New Passenger Motor Vehicle Greenhouse Gas Emission Standards," Scheduled for Consideration September 24-25, 2009.
- CARB Staff Report: Initial Statement of Reasons for Rulemaking, "Notice of Public Hearing to Consider Proposed Amendments to New Passenger Motor Vehicle Greenhouse Gas Emission Standards for Model Years 2012-2016 to Permit Compliance Based on Federal Greenhouse Gas Emission Standards" Scheduled for Consideration February 25, 2010.
- CARB Staff Report: Initial Statement of Reasons for Proposed Rulemaking, "Notice of Public Hearing to Consider Amendments to Repeal the 2007 Amendments to California's Emission Warranty Information Reporting And Recall Regulations (EWIR) and Emission Test Procedures and Readopt the Prior EWIR Regulations and Emission Test Procedures," Scheduled for Consideration: November 19, 2009.

Hard copies of these documents are available for inspection at DEQ Headquarters, 811 SW Sixth Avenue, Portland, OR 97204. Call (503) 229-5359 to arrange an appointment to review.

Requests for Other Options

Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rules' substantive goals while reducing negative economic impact of the rule on business.

Fiscal and Economic Impact, Statement of Cost Compliance

Overview

The fiscal and economic impacts of this proposal are taken from analyses by California Air Resources Board developed for individual rulemaking between 2006 and 2010. They have not been adjusted for the effects of inflation since they were adopted.

OBD II and Emission Warranty Regulations

This rule amendment affects the On Board Diagnostic equipment used for diesel vehicles. At the time of adoption, CARB estimated the new requirements would have no significant effect on the cost of gasoline vehicles, but the cost of medium-duty diesel vehicles would increase an average of \$153 in 2013. If costs were distributed over all light and medium-duty vehicles (both gasoline and diesel) average vehicle cost would increase \$7. In addition, CARB projected that the more sophisticated diagnostic mechanism required by the regulation could be expected to increase the cost of future repairs. Staff estimated such repairs could increase the total cost of owning a light or medium-duty diesel by \$22.

Emission Control and Environmental Performance Label

Existing regulations require new vehicles to display a label indicating the relative amount of smog-forming compounds produced by each vehicle. This modification requires that the Smog Index Label also include an Environmental Performance index to show each vehicle's relative contribution of greenhouse gases. The increased size of the new label and the new requirement for color result in both capital and ongoing costs for new vehicle manufacturers. These costs are greatly affected by economies of scale. Staff estimate the new provisions will increase the cost of a new vehicle between \$20 for the very smallest manufacturers and \$0.02 for the largest manufacturers. Because capital costs are mostly for new color printers that have already been acquired to meet California's regulations, the cost of complying with the labeling requirement in Oregon could be expected to be lower.

Zero Emission Vehicle Amendments

Modifications of the Zero Emission Vehicle regulations decrease the previous emphasis on fuel cell vehicles (which remain very expensive) and increase the emphasis on Plug-in Hybrid Electric Vehicles (which are projected to be much more cost effective). The estimated cost or savings of these new provisions have a considerable amount of uncertainty due to the large degree of flexibility in the Zero Emission Vehicle program. However, having cited this cautionary note California projects these changes will produce very large savings for large vehicle manufacturers. Such savings are primarily due to the avoided costs of having to supply significant numbers of fuel cell vehicles. The cost of producing those vehicles is no longer expected to drop sharply in the near future as had been previously expected and the California Air Resources Board reacted by shifting the focus to plug-in hybrids which are more promising in the short run.

To estimate the fiscal impact of this change, staff considered five different scenarios by which manufacturers could comply. Each scenario showed vehicle manufactures would realize annual savings in California during 2012 to 2017 that ranged from \$816 million to \$1.297 billion. Considering that Oregon's market for new vehicles is approximately 10 percent of California's market one might estimate the savings from Oregon's proposed rule to be proportionate. However the number of fuel cell vehicles mandated by the existing regulations is fixed; the "minimum floor" requirement is not increased by Oregon's participation in the Low Emission Vehicle program. Removing the high cost of fuel cell vehicles from the base case of this analysis would lower the estimated annual savings to manufacturers to between \$6.6 million and \$53.4 million.

Plug-in Hybrid Electric Vehicle Test Procedures

These rulemaking provisions will have no fiscal or economic effects for Oregon. The proposed amendments to changes to test procedures are to accommodate the use of Plug-in Hybrid Electric Vehicles as an option to meet Zero Emission Vehicle requirements. California staff estimated that manufacturers choosing to produce Plug-in Hybrid Electric Vehicles would experience costs for certification testing that average less than \$15 per plug-in vehicle. These certification costs are fixed and no new costs will be incurred by extending the new test requirements to Oregon.

Also, no costs will be added due to changes for testing the range of fuel cell vehicles. These requirements are optional and would reduce the number of required test cycles. This may produce an undetermined amount of savings for fuel cell vehicle manufacturers.

Finally, this proposed rulemaking does not include California's requirements for certifying systems that convert hybrid electric vehicles to plug-in hybrid electric vehicle operation. Such vehicles would continue to be subject to federal regulations.

Therefore, the proposed test procedures for plug-in hybrid electric vehicles will have no significant economic effect.

Compliance Pooling and Harmonization

Compliance pooling regulations offer vehicle manufacturers a new alternative for demonstrating compliance with fleet-average greenhouse gas emission limits. Currently manufacturers must show they meet the fleet average limit in each state that uses California's vehicle emission standards. Because the fleet-average emissions depend on the proportion of different models sold, manufacturers must monitor the mix of vehicles sold in different states and adjust sales when necessary. Under the proposed changes, auto manufacturers will be allowed to show they comply with fleet-average greenhouse gas emission limits in states subject to California's emissions standards considered as a single group. This revision will reduce administrative workload for manufacturers. It will also allow opt-in states to consolidate their compliance verification efforts and take advantage of California's Air Resources Board's expertise in verifying manufacturers are meeting their goals.

This proposal also allows manufacturers the option to harmonize compliance demonstrations for the California greenhouse gas limits by showing they meet federal Corporate Average Fuel Economy rules. To the extent this option is applied, manufacturers could reduce administrative costs by an undetermined amount. Oregon's Low Emission Vehicle program may also benefit by having California assessing compliance with greenhouse gas emission limits for all participating manufacturers.

**EQC meeting
Evaporative and Emission Test Procedures**

These provisions (effective in California 2/17/07) have no significant economic effect as they were later repealed (effective in California 12/08/10).

Emission Warranty and Test Procedures – Repeal

This proposed action (effective in California 12/8/10) repeals the Evaporative and Emission test procedures effective in California 2/17/07. This change was prompted by a court decision that invalidated a portion of the rules making enforcement of the remaining provisions difficult. This action also makes corresponding modifications to the Applicability and General Provisions of California Code of Regulations Title 13, sections 2111 and 2141. These changes cause no net economic effect to Oregon.

Other

The proposed rulemaking also includes provisions that streamline reporting requirements and make a variety of housekeeping adjustments. The most significant change would be the elimination of the need for vehicle manufacturers to report estimated future NMOG emissions in Oregon. This and other streamlining changes are expected to reduce the administrative costs of vehicle manufacturers by a modest amount.

**Impacts on the
General Public**

Light and medium-duty diesel-powered vehicles are expected to be somewhat more expensive due to new On Board Diagnostic II systems. Light-duty diesel powered vehicles (those less than 8500 pounds Gross Vehicle Weight Rating) are estimated to cost an additional \$140 and medium-duty Light-duty diesel powered vehicles (vehicles from >8500 pounds to 14,000 pounds Gross Vehicle Weight Rating) are estimated to cost an additional \$153 in 2013. These vehicles are also estimated to experience an increase in average lifetime repairs of \$22 per vehicle. More advanced diagnostics are expected to ensure better overall vehicle maintenance, resulting in reduced air pollution and benefiting public health.

**Impacts to Small
Business
(50 or fewer
employees –
ORS183.310(10))**

**Cost of
Compliance on
Small Business
(50 or fewer
employees –
ORS183.310(10))**

a) Estimated number of small businesses subject to the proposed rule

Businesses subject to the Low Emission Vehicle program are dealers of new and used cars and trucks. The Driver and Motor Vehicles division reports Oregon has 412 new-vehicle dealers. DEQ estimates approximately half of these new-vehicle dealers are small businesses. In addition, Oregon has 1,562 other dealers essentially all of which are small businesses.

b) Types of businesses and industries with small businesses subject to the proposed rule

Same as “a” above.

c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services

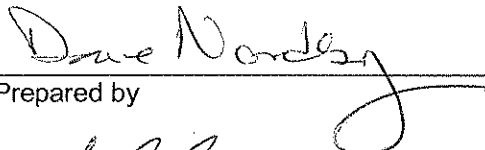
The existing Low Emission Vehicle program places very little administrative burden on small businesses which remains unchanged with this rulemaking proposal. However, this package does clarify that dealers must report the sale of previously-titled vehicles (as required by the existing OAR 340-257-0110 (5)) only upon the Department’s request.

d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule

Small businesses will have no increased cost or administrative burden as a result of the proposed rule modifications with the exception that light and medium-duty diesel vehicles they purchase are subject to the slightly increased costs described above at “Impacts on the General Public.”

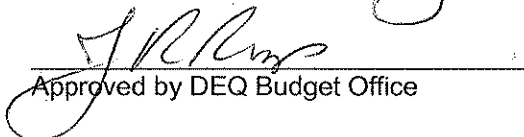
	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	DEQ notified Oregon's dealers of the proposed rulemaking by contacting the Oregon Auto Dealers' Advisory Committee administered by the Driver and Motor Vehicle division of the Oregon Department of Transportation. DEQ also notified the Oregon Auto Dealers Association of upcoming rule modifications. Given that the changes being considered have little or no effect on dealers, neither group expressed a need for early rule involvement.
Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))	Vehicle manufacturers are the most significant large businesses subject to fiscal impacts from this proposal as described in the Overview section above. Manufacturers are expected to incur modest costs as a result of OBD II, and Emissions Performance Label requirements. At the same time vehicle manufacturers are expected to realize substantial savings from changes to the Zero Emission Vehicle rules and further savings of administrative effort from the Compliance Pooling and Harmonization options and eliminating the need to report projected NMOG emissions. New vehicle dealers that are large businesses will be subject to the same effects dealers that are small businesses as described above.	
Impacts on Local Government	Local governments will feel the same effects as the general public described above.	
Impacts on State Agencies other than DEQ	Other state agencies will also be affected the same as the general public. The Driver and Motor Vehicle division of the Oregon Department of Transportation is obligated to register new vehicles that comply with the Low Emission vehicle program. That agency may realize slightly improved efficiency due to proposed changes that clarify vehicle exemptions.	
Impacts on DEQ	Proposed regulations may affect the types of implementation activities undertaken by DEQ if manufacturers apply the Compliance Pooling and Harmonization options. Such a switch may allow the department to devote time to different program needs such as computerized compliance verification processes, inspection and technical assistance. The total effort dedicated to the program would not change.	

Assumptions	This fiscal and economic impact statement is based on analyses and estimates performed by the California Air Resources Board at the time they developed the various portions of their regulations. Those estimates have not been adjusted for inflation since they were proposed.
Housing Costs	DEQ has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.
Administrative Rule Advisory Committee	Stakeholders notified at the beginning of this rulemaking were aware the Clean Air Act requires opt-in states to periodically align their states rules with the latest changes in California's LEV program rules. Stakeholders considered this update to be not controversial and did not see a need for direct involvement in developing rule provisions. Therefore, no advisory committee was formed.


Prepared by

Dave Nordberg
Printed name

12-6-2010
Date


Approved by DEQ Budget Office

Jim Roys
Printed name

12/8/10
Date

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Land Use Evaluation Statement

Rulemaking Proposal
for
Oregon Low Emission Vehicles - 2011 Update

Oregon's program is amended to add recent revisions of California's vehicle emission standards.

1. Explain the purpose of the proposed rules.

The Oregon low-emission vehicle program applies California's vehicle emission standards for new light and medium-duty cars and trucks to vehicles sold in Oregon. The program was adopted to decrease greenhouse gas emissions from new vehicles 30 percent by 2016. The program also reduces the emission of smog-forming pollutants and toxic air compounds while saving consumers money. Since Oregon's rules were last amended, California's standards have been revised several times. The Clean Air Act requires states that opt in to California's requirements to adopt rules that are the same as the underlying California program. This rulemaking proposal would satisfy that requirement by aligning Oregon's rules with California's current regulations.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes ☐ No ☒

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

The Oregon low-emission vehicle rules and associated rule amendments are not considered programs affecting land use. That is because they are not referenced in the statewide planning goals, nor are they expected to have any effects on the resources, objectives or areas identified in the statewide planning goals or contemplated land uses identified in acknowledged comprehensive plans.

However, while the proposed rule changes do not affect land use, they are part of a program that furthers the objectives of Goal 6 by protecting air quality. As noted in item 1 above, the Low Emission Vehicle program reduces the emission of greenhouse gases, traditional pollutants that cause ground-level ozone and hazardous air pollutants.

- 3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures DEQ will use to ensure compliance and compatibility.**

Not applicable.