



State of Oregon Department of Environmental Quality

Annual Legislative Rulemaking Report Rules Adopted in 2024

[ORS 183.403](#); [ORS 192.245](#)

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Introduction

This report satisfies the requirements of ORS 183.403 and ORS 192.245 that require administrative agencies to annually submit a report to the legislature describing their rulemaking activities.

Permanent rules

The Department of Environmental Quality adopted, amended, repealed or suspended 167 rules during 2024.

Temporary rules

The Department of Environmental Quality adopted, amended or suspended 4 temporary rules during 2024.

List of temporary rules amended

340-257-0050, 340-261-0020, 340-261-0040, 340-261-0050

Justification for temporary rules

DEQ 16-2023 (Heavy-Duty Engine and Vehicle Exhaust Emission Standards)

Rule No. 340-257-0050, 340-261-0020, 340-261-0040, 340-261-0050

Statement of need for the rule

What need is DEQ trying to address?

CARB recently adopted minor amendments to the ACT rule. These amendments provide additional compliance flexibilities for manufacturers to meet the requirements and DEQ's intended action addresses some practical implementation challenges. It ensures these compliance flexibilities are incorporated to allow manufacturers to take advantage of them when implementation of the ACT rule begins with the 2025 vehicle model year. Adoption of the rule also ensures Oregon's program maintains identity with California's rules, as required under Section 177 of the Clean Air Act.

Following the adoption of prior amendments to delay the HD Omnibus rule for one year, DEQ staff continued to engage in conversations with manufacturers, dealers, fleets and clean air advocates. Several manufacturers have recently communicated to DEQ that in 2025 they are:

- 1) Expecting to have very limited availability of engines that are compliant with the HD Omnibus rule.

Translation or other formats

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- 2) Expecting to limit their use of compliance flexibilities that are available under the rule such as credit purchases and emission offset projects.
- 3) Expecting to place restrictions on dealers that order new vehicles such as requiring a zero-emission vehicle to be sold prior to releasing any diesel-powered vehicles for sale.

CARB staff have addressed similar truck availability concerns in a memo to their board.¹ This situation has raised concern among fleet owners and managers that there will be an extremely limited supply of new conventionally fueled medium- and heavy-duty vehicles available for sale in Oregon next year.

How would the proposed rule address the need?

The proposed temporary rule clarifies that compliance determination and sales reporting requirements are both defined when vehicles are produced and delivered for sale in the state, increases the deficit makeup period from one year to three years, incorporates an additional certification pathway for complete medium-duty zero emission vehicles, and modifies the manufacturer definition as well as adding a definition for secondary vehicle manufacturer. Manufacturers have indicated to DEQ some of the challenges with meeting the existing ACT requirements and are choosing to impose sales mandates on dealers and fleets to ensure they can comply. These changes provide additional options for truck manufacturers in meeting their compliance obligations.

The proposed temporary rule would delay the implementation of the HD Omnibus rules for one year. It will provide the manufacturers and buyers with compliance certainty for the year 2025 and continue to allow the delivery and sale of federally certified engines for an additional year. If the proposed temporary rules are adopted, the HD Omnibus rules go into effect with engine model year 2026 and/or vehicle model year 2027 depending on the specific rule section. The rule also incorporates minor changes to the HD Omnibus rule, to include additional flexibilities for manufacturers to certify complete medium duty ZEVs and eliminates language referring to trailers that was overturned in a court challenge. This allows manufacturers additional certification options and provides clarity on who the regulations apply to.

Finding that a failure to act promptly would result in serious prejudice to the public interest or the interest of parties concerned

Finding of serious prejudice

Failing to act promptly would result in serious prejudice to the interests of vehicle and engine manufacturers, public and private fleets that are seeking to acquire new medium- and/or heavy-duty vehicles in 2025 and vehicle dealers that sell new medium- and heavy-duty vehicles. If the EQC fails to act, public and private fleets may not be able to purchase compliant new medium- and heavy-duty vehicles as their needs dictate, vehicle dealers may need to stop selling or sell fewer new medium- and heavy-duty vehicles and vehicle and engine manufacturers may stop selling these vehicles and engines into Oregon.

Consequences of not taking immediate action

If the commission does not adopt these temporary proposed rules, DEQ's existing rules would conflict with California's rules as amended in October 2024. This conflict would likely create risk for companies selling new medium- and heavy-duty vehicles in Oregon which could lead to temporary stoppages of sales or manufacturer-led restrictive sales mandates of these new vehicles into Oregon. This supply restriction could create problems for both public and private fleets that need to purchase new vehicles in 2025 either as replacements or for fleet expansion. Not taking action could also harm businesses that rely on revenue from the sale of these vehicles.

Affected parties

¹ California Air Resources Board Memorandum: [California Truck Availability Analysis](#), September 2024, accessed on 10/14/2024.

- Public and private fleets that need to acquire new medium- and/or heavy-duty vehicles in 2025
- Vehicle dealerships that sell new medium- and heavy-duty vehicles with internal combustion or zero emission engines
- Vehicle manufacturers that sell medium- and heavy-duty vehicles with internal combustion or zero emission engines
- Engine manufacturers that sell internal combustion engines that are included in medium- and heavy-duty vehicles

Why or how failing to act immediately would cause the harm described above

The harm described above would occur if EQC does not act immediately because engine and vehicle manufacturers are restricting the sale of new medium- and heavy-duty engines and vehicles into Oregon. It would also not make available the additional options vehicle manufacturers could utilize to comply with the Advanced Clean Truck Rule. That would likely lead to a cascade of impacts that are described above.

Explanation of why ORS 183.335(5) was most appropriate

If EQC adopts the proposed temporary amendment, this will prevent the harm described above because it provides additional options vehicle manufacturers can factor into their compliance approach for the Advanced Clean Truck Rule. It gives manufacturers more time and flexibility to make up any deficits accrued for a model year, especially in the face of supply chain issues or market conditions. Additionally, clarifying when a vehicle is delivered for sale for a manufacturer to claim credit, provides more certainty for the manufacturer in determining their sales allocations for zero emission and internal combustion engines. For the HD Omnibus Rule, delayed implementation would provide more time for engine manufacturers to bring CARB certified products to market. Delaying for another year also gives DEQ the ability to learn from the California implementation for model year 2024 and 2025.

Obtaining copies of report

Any person can obtain a copy of the report by:

- Using the link to the report posted on [DEQ's rulemaking web page](#).
- Contacting the DEQ Agency Rules Coordinator at: 700 Multnomah St. NE, 6th Floor, Portland, OR 97232

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