



Oregon

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MEMORANDUM

TO: Ali Mirzakhali, Administrator, Air Quality Division;
Erin Saylor, Interim Manager, Office of Compliance and Enforcement

From: Leah Feldon, Director

Date: 5/15/25

Subject: Limited Enforcement Discretion and No Penalty Justification for Advanced Clean Trucks Rule, OAR Chapter 340 Division 257

Background

The Advanced Clean Trucks (ACT) Rules, adopted by the Oregon Environmental Quality Commission in 2021 (OAR 340-257-0040(2), 340-257-0050(3), 340-257-0055, and 340-257-0080(4)), mandates that manufacturers of medium- and heavy-duty vehicles (Classes 2b–8) incrementally increase the percentage of new Zero Emission Vehicles (ZEVs) sold in the state, starting with Model Year (MY) 2025. The rules include flexibilities such as credit trading, early action credits, and allowances for near-zero-emission vehicles.

While manufacturers were involved in developing the ACT framework, they now indicate that ACT requirements are too difficult to meet. Some manufacturers are limiting new internal combustion engine truck sales as a means to ensure compliance with ACT sales requirements, thereby reducing overall new truck availability to a wide range of users. The current federal administration has created significant uncertainty around ZEV incentives, electric vehicle charging investments, manufacturing and tariffs, each of which threaten a smooth transition to medium- and heavy-duty ZEVs. Further, Congress is considering action to disapprove the waiver granted to the State of California, allowing the enforcement of ACT in Oregon and other states. Collectively, these activities at the federal level are creating significant uncertainty.

Truck manufacturers and dealers have raised concerns with DEQ regarding sufficient ZEV sales to meet these requirements. The limited number of ZEV sales in addition to the scarcity of available credits for certain truck classes, may make it challenging for some manufacturers to meet ACT compliance requirements for model years 2025 and 2026. Governor Kotek directed DEQ to quickly develop a solution for the heaviest duty trucks in consideration of the current circumstances while still maintaining the integrity of the ACT program for all other vehicles.

Exceptional Circumstances & No Penalty Justification

DEQ discussions with vehicle manufacturers, dealers, and fleets as part of the current rulemaking process led DEQ to conclude additional action was necessary that was beyond the scope of the amendments proposed by DEQ staff in the Clean Truck Rules Update 2025, Notice of Proposed Rulemaking, issued on March 28, 2025. Despite the additional compliance flexibilities for manufacturers included in the adopted California amendments which are proposed to be added to the Oregon rules, the new truck market dynamics in Oregon are not functioning properly. In particular, the preferred compliance strategy of manufacturers not delivering internal combustion engine trucks to Oregon's market to avoid accruing any deficits is failing to meet the needs of dealers and fleets. Due to these factors, and the need to maintain identity with California, DEQ has proposed rule amendments that increase compliance options and flexibilities for manufacturers. However, the current lack of available vehicles, as well as federal activities that threaten incentives and investments, are creating more urgency than the current rulemaking timeline can accommodate.

According to DEQ's Enforcement Guidance for Field Staff, failing to comply with the ZEV sales requirements set forth in OAR Chapter 340, Division 257 would be a Class I violation and receive a Pre-Enforcement Notice and referral to the Office of Compliance and Enforcement for penalty assessment. The above-described circumstances are exceptional circumstances that warrant a deviation from the Enforcement Guidance.

Directive to Exercise Enforcement Discretion

Effective immediately, Oregon DEQ will refrain from pursuing enforcement or assessing civil penalties against any manufacturer of medium- and heavy-duty vehicles (Classes 2b–8) who does not meet the specified ZEV sales percentages of OAR 340-257-0040(2), 340-257-0050(3), 340-257-0055, and 340-257-0080(4) and experience deficit shortfalls for MY 2025 and MY 2026 provided the following conditions are met:

1. **Unrestricted ICE Vehicle Supply:** The manufacturer continues to supply internal combustion engine vehicles to Oregon distributors and dealers without imposing restrictions or conditions that would limit their availability;
2. **Good Faith Efforts:** The manufacturer demonstrates efforts to comply with the ACT Rule, such as participating in credit trading, investing in ZEV technologies, or other actions that support the state's emission reduction goals; and
3. **Reporting Requirements:** The manufacturer continues to submit required sales and compliance reports to DEQ, ensuring transparency and facilitating future assessments, and reports annually to DEQ on efforts to make ZEV trucks available to the Oregon market.

Credit Accrual: Manufacturers will continue to earn credits for delivery of zero emissions vehicles for sale in Oregon.

This enforcement discretion:

- Applies exclusively to medium- and heavy-duty vehicles (Classes 2b–8) in MY 2025 and 2026;
- Does not apply to any ACT Rule requirements beyond the specified regulatory provisions and model years;
- Does not change DEQ’s enforcement policy with respect to other applicable state or federal regulations; and

The intent of this enforcement discretion directive is to provide temporary relief to manufacturers facing challenges in meeting zero-emission vehicle (ZEV) sales targets, ensuring continued availability of internal combustion engine (ICE) vehicles to meet market demands, while maintaining progress toward Oregon's environmental goals. The Director may revise or rescind this memo in the event that the exceptional circumstances no longer exist or other unforeseen and relevant factors have changed.