



State of Oregon Department of Environmental Quality

Written Comments

Commute Options Rulemaking 2021

Advisory Committee Meeting 4, Nov. 18, 2022

This document is a compilation of written comments received related to the fourth meeting of the advisory committee for the Commute Options 2021 Rulemaking held Nov. 18, 2022.

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Kathy Fitzpatrick - Mid-Columbia Economic Development District	2
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DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.oregon.gov.

Category 1: Rules that establish a statewide employer commute option program and applicability.

(1) The purpose of the Statewide Employee Commute Program is **to reduce greenhouse gas and other vehicle emissions** through employer support of employees commuting by means other than driving alone.

Comment: This question has been asked at every meeting: if the purpose of this program is to reduce GHGs, then why not include EVs as a commute option? This is a DEQ program, so it makes sense that the main goal is GHG reduction. If it were a DLCD program, the main goal could be improving livability via SOV reduction. Or if an ODOT program, the main goal could be reducing congestion via SOV, Trip, or VMT reduction. But the DEQ Commute Option program language also includes SOV and trip reduction, which is confusing, because if the focus is reducing GHGs, you could still reduce GHGs by using electric vehicles even if SOV, Trips, and VMT levels remain the same. If there are reasons besides reducing GHGs to include SOV or Trip reduction as goals in the DEQ rule, then it's important to explain what those reasons are. Otherwise, you will continue to get the electric vehicle question.

Comment in support of Paige West's comment regarding using the presence of transit resources as the one measurement of commute options : Transit is only one option of many commute options. Carpools, vanpools, vansharing, and remote work are other great options that work especially well in more rural areas. Transit shouldn't be used as the marker for judging the availability of commute options in an area. It doesn't make sense to exclude large worksites outside of the MPOs because of minimal local transit services when there are other good and even better commute mode options for these types of worksites and workers. Even in transit-rich Portland, transit doesn't work for everyone, especially shift workers. And for some workers in the Portland area, taking transit may be possible, but could require long hours of travel because of poor connections and frequency. Using transit as the only measurement for availability of commute options doesn't give an accurate assessment of any one region.

Statewide Employee Commute Option Program Employee Count

Comment: Do you need to call out that contractors aren't included in the employee count? Or is the word "employee" enough to make that clear?

Category 2: Rules about requirements and enforcement within a statewide commute options program

Are these requirements clear and easy to understand?

Comment: I think the requirements (the WHAT) are easy to understand, but employers are going to need technical assistance (the HOW) to develop programming that will achieve the goals. In my experience, the ETC designation is usually given to someone in the Human Resources department who has no time capacity (or prior experience/knowledge) to develop and manage a commute options program. The DEQ rules don't specify what % FTE must be assigned to the ETC position, so what will happen is that the ETC responsibilities will be dumped on someone who already has too much on their plate. If you really want employers to implement an effective program, you should require a certain % of FTE for the ETC.

- (1) DEQ encourages employers to enter partnerships with nearby employers and any transportation management agencies or transportation option providers serving the region.

Comment: This should be a requirement. If you really want employers to launch successful programs, they will need expert advice to help them develop and implement the program. You could require that the ETC meet with a Transportation Options or TDM staff twice a year. At the very least provide each employer with an active connection to the TO provider in their region.

Are the requirements achievable for most employers?

Comment: Commute Options programs are really difficult to implement successfully if you don't have the expertise and the experience. Yes, the requirements are achievable, but only if a specific % FTE is dedicated to the ETC role and to the work that should be done in partnership with the TO and TDM experts. There is a whole world of mode shift strategies and program infrastructure and these tools are necessary to be successful. The Transportation Options members of the RAC have been recommending stronger requirements and a lot more employer support (technical assistance) because we know that that's what it will take to actually make a difference. Honestly, it's going to be pretty easy for most employers to do the paperwork and check some boxes and not achieve any actual reduction in GHGs, Trips, or VMT. There may be some employers who embrace this new rule because it aligns with their values, but again—you are not setting them up for success unless you provide technical assistance that comes scheduled with the program.

Category 4: Rules describing commute options and partnership opportunities

Comment: Is there a way to make sure that employers and employees are taking advantage of tax incentives like the IRS Transportation Commuting Benefits? One of the comments during the meeting made by Sharla Moffet, OBI, was that employers are really focused right now on how reduce their tax burden. I don't think enough employers look into or take advantage of the commute tax benefits: https://www.irs.gov/publications/p15b#en_US_2022_publink1000193740. Employees should also be aware of their commute tax benefits.

Category 5: Rules describing voluntary participation in a statewide commute option program

The draft rules in this category describe the elements of a voluntary or “opt-in” commute option program that smaller employers or those outside metropolitan planning organization boundaries could join.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Would these incentives encourage an employer to opt-in?

Comment: I agree with Sharla Moffet and Lindsay that the incentives as presented are not compelling. The list of requirements (all that paperwork) with the vague promise of connection to technical and financial assistance programs and some DEQ logo-d shwag just doesn't look interesting enough to even help me as a TO provider through the door of an employer. You've got to first approach employers with meaningful assistance and tools and they need to understand what those are in the first minute of talking to them. No one has the time to research “technical and financial assistance programs”. You've got to have concrete solutions in bullet points in the first paragraph of your approach.

Note: Dennis Bell said that those incentives would be enough for his business, but he's got 15 vanpools running that Cherriots is subsidizing and managing! He's saving tons of money and is able to retain and recruit employees with this commute assistance, so he is already well aware of the benefits.

What would be helpful for the Transportation Options providers in the rural areas is to have a professional-looking DEQ pamphlet explaining the Voluntary program and detailing more of the commute options and strategies that might appeal to rural employers like vanpools and carpools. Sometimes the hardest part is just making that first connection with an employer and a nice-looking pamphlet might help us to get in the door.

However, even just establishing a Voluntary Commute Option program is more than we had before, so I'm happy about that, although I feel like the approach is backward: "Here are all our requirements for you to comply with our agenda and meet our goals." --Not sure how that is going to appeal to anyone. My hope is that this could be the start of future commute options programming in the rural areas. It's important that there is recognition and awareness of the commute challenges in the rural areas—and real tools someday to help.

I recommend taking a look at the WSDOT proposal for the rural Mobility Coalitions (draft attached) which proposes to launch tools that could achieve the CTR goals across the rural areas of the state, not just in the urban areas. I think that agencies should develop CTR rules with the main goal of helping businesses solve their commute challenges. A program is always more successful if it meets the needs and the goals of your partner.. I realize that this committee is supposed to help design a program to do that, but I think that a larger portion of the program itself should be spent building the main framework around the individual employer's needs and providing them with the resources necessary to do achieve their goals.

Commute Trip Reduction Expansion: Mobility Coalitions

The TDM Executive Board and Technical Committees and WSDOT are developing recommendations for the legislature to expand commute trip reduction. At the next TDM Technical Committee Meeting, members will discuss increased investments in the current commute trip reduction program and investments in a new program that might better meet previously established emphasis areas, which include disadvantaged populations, rural communities, and non-commute travel. WSDOT staff were asked to draft a new program to enable these discussions.

New program proposal: Mobility Coalitions

Create and support 30-40 mobility coalitions who deliver mobility solutions to disadvantaged populations and rural communities. Mobility solutions emphasize:

- use of existing transportation services and systems (e.g. transportation demand management in the form of transit, vanpool, human services transportation, active transportation, ridehailing, telework, food/medication delivery) and
- development of new solutions for places and populations that lack transportation options (e.g. multimodal deserts; rural and other low-population-density areas, cross-county, shift workers)

These solutions support broader transportation goals, including greenhouse gas emission reduction, health, safety, resiliency, and accessibility.

How would it work?

The state provides funds and technical assistance to local organizations who want to form coalitions that address otherwise unmet transportation needs. Local coalitions engage their communities to identify mobility gaps, develop plans to address the gaps, deliver projects to address the gaps, and measure and report performance results. The program involves a mix of ongoing formula funding and competitive funding for pilot and start up projects.

Why is this a good idea?

Mobility coalitions are well positioned to know the needs of a community and the solutions that would work for a community.

- Provide fast, local, and more equitable solutions for people that need access to health care, jobs, education, food, medicine, and family.
- Create local capacity to develop mobility solutions:
 - for populations that are otherwise deprioritized due to lack of resources
 - that fall into the void between commute trip reduction, transit, rural, and special needs transportation
- Complement existing federal and state programs (e.g. Rural Mobility, Commute Trip Reduction, Regional Mobility Grants, Transit Tier List, FTA 5310, FTA 5311, CMAQ) and increases local capacity to use these programs.

The concept is proven in our state and elsewhere in the country. The handful of mobility coalitions in Washington have developed and delivered mobility services in otherwise underserved areas. They

must compete for funding and, as a result, their future is uncertain. This same fate previously befell Growth and Transportation Efficiency Centers and Agency Council on Coordinated Transportation local coalitions. In these examples, local coalitions proved that they are well positioned to understand the needs of a community and deliver solutions that work. The gap: funding to sustain the organizations.

What resources would be necessary?

\$25M/biennium, operating funds

- \$6M formula funds to local grantees to establish and maintain mobility coalitions, develop and deliver mobility plans and projects, measure and report performance.
- \$14M competitive funds to local grantees to start up mobility projects.
- \$5M and 8 FTEs for state administration and technical assistance. Seven locally based state staff would administer funding agreements, support the development of coalitions, mobility plans and performance reporting.



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January 4, 2023

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Karen,

Thank you for the opportunity to provide comments on the DEQ Commute Options draft rule language. I have reviewed the draft rule language, and while I am generally supportive of the overall goals of the program, I have concerns with the practical administration (for both DEQ and employers) and the overall effectiveness of the rules as they are currently drafted.

Attached is a copy of the draft rules with my comments, questions, and concerns. Tyler Deke, Bend MPO Manager and alternate RAC member, has also provided comments in the attached draft. Additionally, I've outlined the following general areas of concern and some possible suggestions of how these issues may be addressed.

Applicability

The rules are not clear as to which employers and which sites they would apply to. DEQ should consider taking on the role of identifying employers it believes meet the thresholds and provide a process for verification and rebuttal^[TD1].

Additionally, DEQ should consider conducting an engagement process to let employers know this is happening and to gather their input. An option could be to partner with Chambers of Commerce or other similar business-focused groups to help provide information about the program (requirements, timing, potential resource needs, available support such as templates, etc.).

Pilot Program/Phase Rollout

It is difficult to understand the magnitude of the rules on a local scale without understanding how many and which specific employers locally would be subject to the rules. Based on my cursory review of which local employers may be subject to the rules, I believe it would be difficult for a number of those

employers to reasonably implement a successful commute options program. With that, a higher threshold (i.e. 300 or more employees) should be considered for the initial program implementation.

A pilot program or phased rollout of the rules should be considered focusing on the largest employers and specific sectors that are better suited to implement and where it could be most successful (i.e. white collar, traditional schedules, shift employment, non-seasonal work, etc.).

The established State of Oregon Employment Department categories, data sets, definitions, and size thresholds (if existing), should be consulted to provide guidance on which sectors may be most appropriate and to help for tracking and consistency.

Regional Programs/Shared Resources

Consideration should be given to setting up and funding for regional commute options programs that employers could (optionally or by requirement) participate in to manage their programs and plans on a more local level. This would provide expertise and resource leveraging for [employers]^[TD2]. DEQ should consider funding for these programs, as they will require staffing to help employers develop programs, implement the programs, and track progress.

Program Administration

As currently drafted, I have concerns with the ability to implement and administer the program, both for DEQ and employers. Without a more uniform, automated electronic program for plan creation, employee surveying, reporting, and monitoring, I believe the program will be extremely difficult for employers and DEQ staff to manage. Templates should be provided for the plan, surveys, and reporting.

Baselines and Target

I have concerns with how the targets (and baselines) are set, as outlined in the attached draft. DEQ should consider an alternative to the proposed target structure such as establishing the mode split or auto trip rate "max" target for the different regions by industry, work type (9-5 vs. shift work), and site location (i.e. proximity to frequent transit stop).

Again, thank you for the opportunity to provide comments on the draft rules. Please let me know if you have any questions. I look forward to participating in the next phase of this rulemaking process.

Sincerely,

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State of Oregon Department of Environmental Quality

**Commute Option Rulemaking Advisory
Committee Discussion Document: draft
rules for statewide employee commute
option program**

This document is a compilation of draft rules for a statewide employee commute option program presented to the rulemaking advisory committee for discussion on November 18, 2022.

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Category 1: Rules that establish a statewide employer commute option program and applicability.

The draft rules in this category would:

- establish a statewide employee commute option program that DEQ would administer;
- describe the geographic areas within which DEQ would require certain employers to offer commute option programming to their employees;
- describe how the employer should count the number of employees at worksites to determine if they are subject to commute option program rule requirements.
- establish an annual reporting requirement for DEQ on commute option rule effectiveness.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Does the geographic scope seem appropriate to address emissions from the regions emitting the most vehicular greenhouse gasses, outside of the Portland metro region?

Does the geographic scope adequately consider the presence or absence of transportation infrastructure and commute options?

[Note: DEQ would calculate vehicle miles traveled and GHG reductions the program achieves.]

Commented [BG1]: Major concerns with the practicality of DEQ administering, monitoring, and tracking hundreds, and possibly thousands of employers.

Commented [TD2R1]: Will DEQ have funding and staffing resources to make these calculations?

340-254-0090

Statewide Employee Commute Option Program

- (1) The purpose of the Statewide Employee Commute Program is to reduce greenhouse gas and other vehicle emissions through employer support of employees commuting by means other than driving alone.
- (2) Employers with worksites located outside the Portland Air Quality Maintenance Area must provide commute options to encourage their employees to reduce auto trips to the worksite if:
 - (a) the employer has one or more worksites located within a metropolitan planning organization boundary comprising a population of at least 50,000 people; and
 - (b) more than 100 employees report to any one worksite within the metropolitan planning organization boundary.
- (3) DEQ will annually report on its website the estimated reduced vehicle emissions and vehicle miles traveled that the Statewide Employee Commute Options Program has achieved.

340-254-0100

Statewide Employee Commute Option Program Employee Count

- (1) The count of employees at a covered work site must include:
 - (a) Employees from all shifts, Monday through Friday, during a 24-hour period, averaged over a 12-month period; and
 - (b) Employees on the employer's payroll for at least six consecutive months at one work site; and
 - (c) Part-time employees assigned to a work site 80 or more hours per 28-day-period.
- (2) The count of employees at a work site may exclude volunteers, employees with a disability (as defined under the Americans with Disabilities Act), employees working on a non-scheduled work week, and employees required to use a personal vehicle as a condition of employment.

Commented [TD3]: Most large retail employers likely have corporate headquarters offices in other states. Has this posed any challenges for the commute options program in the Portland area? Have some national level retailers simply ignored the rules?

Commented [BG4]: Applicability needs to be clarified. Are employers with multiple small sites (each under 100 employees at an individual work site) exempt? What if one site has over 100 employees but the other sites are less than 100, then are the smaller sites still subject to the requirements? How would this apply to chain businesses, what about franchises with different owners, grocery stores, etc?

Commented [TD5R4]: This issue is also applicable to our government employers, including the City of Bend, Deschutes County, Bend La Pine School District and the Deschutes National Forest. Each entity has more than 100 employees, but those employees are spread across work locations.

Commented [BG6]: It's difficult to understand how many businesses and what types of businesses this would impact locally. Would it be possible to get a list of local businesses this would likely apply to?

Ideally, DEQ would be responsible for identifying and notifying employers that they believe are subject to these rules and provide an avenue for employers to verify or contest applicability.

Commented [BG7]: This is confusing and needs to be clarified.

Commented [TD8R7]: While I understand the focus is on the regular work week (M-F), some of our largest employers (hospital and big box retailers) are fully staffed every day. Should the program also include Saturday and Sunday for those employers?

Commented [BG9]: remove part-time

Commented [TD10]: What is the basis for the part-time employee requirement? Should the hour total be higher (e.g. 120 hours, 160 hours)?

Commented [BG11]: what does this mean?

Category 2: Rules about requirements and enforcement within a statewide commute options program

The draft rules on the following page would require the employer to:

- Register with DEQ and designate a responsible person for commute option programming, an Employee Transportation Coordinator
- Survey employees biannually about how they get to work and calculate an auto trip rate
- Set an auto trip rate reduction target
- Design and implement an auto trip reduction plan and revise as necessary

The draft rules also establish “good faith effort” as the compliance standard and define what DEQ deems a good faith effort.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Are these requirements clear and easy to understand?

Are the requirements achievable for most employers?

Is trip reduction plan revision an appropriate requirement if the employer doesn’t meet target auto trip rates?

Does “good faith effort” need additional definition?

340-254-0110

Requirements of the Statewide Employee Commute Option Program

To comply with the Statewide Employee Commute Option Program, an employer must:

- (1) Register all covered worksites with DEQ on one DEQ-supplied form.
- (2) Designate an Employee Transportation Coordinator responsible for implementing commute option programming at the worksite and reporting to DEQ.
- (3) Notwithstanding the allowance of 340-254-140(3), conduct a survey of counted employees upon registration and then biannually and with each survey calculate an auto trip rate for the worksite.
- (4) Establish a target auto trip rate for all covered worksites. If the employer has multiple covered worksites, the employer may establish different target auto trip rates for each covered worksite or may establish one target auto trip rate that applies to all covered worksites. 340-254-120 establishes the standards DEQ deems acceptable for setting a target auto trip rate.
- (5) Design and implement an auto trip reduction strategy that DEQ deems is reasonably likely to achieve and maintain the target auto trip rate at the worksite.
- (6) Revise and implement the revised auto trip reduction strategy if:
 - (a) the employer has not achieved the target auto trip rate within 6 years from the date of the first survey; or
 - (b) the auto trip rate has increased since the prior biannual employee survey.

340-254-0130

Statewide Employee Commute Option Program Enforcement Procedures

- (1) Enforcement procedures and civil penalties in OAR, chapter 340, division 12 apply. Under 340-012-0053(2) and 340-012-0054(2)(g), violations of the Statewide Employee Commute Option rules are Class Two violations. Failure to achieve an auto trip rate is not a violation; failure to make a good faith effort toward, or prepare and implement a plan designed to achieve, an auto trip rate is a violation. Civil penalties are determined under 340-012-0045.
- (2) DEQ deems a good faith effort to include all of the following actions:
 - (a) employer conducts an initial employee survey and calculates an auto trip rate;
 - (b) employer selected auto trip reduction strategies that have a reasonable likelihood of achieving the target auto trip rate based on studies and reports on DEQ's Employee Commute Options webpage or equivalent documentation;
 - (c) employer fully implemented all selected strategies intended to achieve the target auto trip rate.

Commented [BG12]: an employer subject to 340-254-0090(2) . .

Commented [BG13]: not clear if only applicable to worksites over 100 employees.

Commented [BG14]: establish definition

Commented [TD15]: A template(s) for establishing the program should be provided. Training opportunities should also be available to these Coordinators. Would funding also be available to help employers establish programs?

Commented [BG16]: Referenced subsection doesn't exist.

Biannually needs to be defined (2 times per year or everyother year).

How to calculate needs to be very clear. "Auto Trip Rate" needs to be defined.

DEQ should provide survey template and questions for program consistency and administration. If possible, DEQ should consider providing a single webbased platform for employers to use for both surveying and reporting to DEQ.

Commented [TD17]: Appreciate the flexibility here, as the type of work can vary significantly among employment sites.

Commented [BG18]: methodologies

Commented [BG19]: Very subjective. What's the resolution if not in agreement.

Commented [BG20]: Numbering off

Category 3: Rules about setting a target auto trip rate and developing a trip reduction plan

The draft rules in this category describe the three options for the employer to choose an appropriate target auto trip rate most appropriate for their worksite and geographic location. The draft rules also list the requirements for a trip reduction plan.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Is it helpful for employers to have flexibility around setting auto trip rates appropriate to the geographic location?

Note: the 2019 American Community Survey drive-alone Journey to Work rate for select counties:

Jackson: 81%

Marion: 78%

Linn: 77%

Deschutes: 71%

Lane: 71%

Note: DEQ suggests that involving employees in the selection of a target auto trip rate could also serve to promote commute option programming at the worksite.

340-254-0120

Options for setting a worksite target auto trip rate

- (1) The employer must use one of the following three methodologies to establish a target auto trip rate:
 - (a) 10% less than the auto trip rate measured in the initial employee survey; or
 - (b) 5% less than the auto drive-alone Journey to Work rate of the 2019 American Community Survey for the county in which the employer is located; or
 - (c) in consultation with worksite employees.
- (2) An employer with more than one covered work site as defined in 340-254-0090 may average its target trip reduction among those work sites.
- (3) The employer may include work sites with 100 or fewer employees in the interest of averaging trip reductions among all work sites, but the employer must then survey employees at all included work sites and include all survey results in the employer's report to DEQ.

340-254-0150

Requirements of an auto trip reduction plan

An auto trip reduction plan must include:

- (1) The results of the initial employee survey or comparable documentation, including a calculated auto trip rate at the work site;
- (2) The target auto trip rate for each or all covered worksites, established under the standards in 340-254-120.
- (3) Any employee commute option programs currently in use at the work site;
- (4) New commute options the employer intends to implement at the worksite that are reasonably likely to achieve and maintain the target auto trip rate;
- (5) Empirical evidence or references (e.g. government or consultants' reports), that current and newly offered commute options are reasonably likely to achieve and maintain the target auto trip rate;
- (6) Any unique aspects of the business or work site influencing the trip reduction strategies selected;
- (7) A schedule for implementing each of the selected commute option measures;
- (8) A narrative description of employer policies that support equitable accessibility and distribution of commute option benefits to employees of color and other protected class employees, and across job types and salary ranges.

Commented [TD21]: If available, suggest using the 5-year averaged data, not single year ACS data. Single year data in the small MPOs may be less reliable.

Commented [BG22R21]: The ACS data on this topic is very unreliable based on other RAC members comments.

Commented [BG23]: Concerns with the targets. ACS data (b) is a poor data source and should not be included. (c) seems arbitrary.

These do not take into account if an employer is already performing well.

Does it make more sense for DEQ to establish the mode split or auto trip rate "max" target for the different regions by industry, work type (9-5 vs. shift work), and site location (i.e. proximity to frequent transit stop).

These targets don't account for the baseline/starting point and would seem to penalize employers who are already doing well.

Commented [BG24]: DEQ should provide plan templates (by industry).

Have a number of questions and concerns with plan requirements as they relate to program logistics for both DEQ and employers. What are the "start/stop dates," annual on a calendar year? Concerns with DEQ ability to review a significant number of plans and the timing - and how that relates to reporting.

Concerns with plan inconsistency from one employer to the next. Capacity of DEQ to review all plans. Plans should be automated and web-based as much as possible.

Still not clear if the end goal is to maintain a "good" mode split or to continually keep lowering the SOV trips overtime.

Commented [BG25]: These almost seem to be penalizing employers who are already using commute options.

Commented [BG26]: DEQ should establish metrics for different options and "safe harbor" assumptions for "reasonably likely to achieve . . ."

Commented [TD27]: Having some template-type language available would be beneficial for many employers.

Commented [BG28R27]: Different templates catered to different types of employers should be considered.

Commented [BG29]: Concerns about equity impacts on lower income employees and those who cannot afford to live close to work or close to transit ("drive to qualify").

Commented [TD30R29]: Housing costs (both owner and rental) have increased significantly in most Oregon MPOs over the past few years. Those costs are forcing a lot of low and moderate income workers to live outside the MPO areas. In many areas, there are limited travel options for longer distance commuters.

(9) The name, title, telephone number, electronic mail address and business mailing address of the person the employer has designated to be the employee transportation coordinator for the work site (employee transportation coordinator does not have to be located at the work site); and a signed statement certifying that the documents and information submitted in the plan are true and correct to the best of that person's knowledge.

(10) The employer may develop one auto trip reduction plan for all covered work sites but must select strategies based on the specific transportation characteristics of each covered work site.

340-254-0160

Auto Trip Reduction Plan Approval and Deficiency Notification

(1) DEQ will ~~strive to approve a~~ submitted auto trip reduction plan in writing or notify the employer in writing of deficiencies in a submitted auto trip reduction plan, based on the criteria in OAR 340-254-0150, within 90 days.

(2) The employer will have 60 days from the date of DEQ's notification to correct any auto trip reduction plan deficiencies and resubmit the auto trip reduction plan to DEQ.

(3) If the employer objects to any condition or limitation in DEQ's notification of deficiencies, the employer may request a contested case hearing before the Commission or its authorized representative. The employer must request a hearing in writing to the Director and send the letter to DEQ within 20 days of writing the Director. Any subsequent hearing will be conducted under the provisions of ORS 183 and OAR 340, division 11.

Commented [BG31]: Subjective. Consider something along the lines of "DEQ will review and approve a submitted auto . . ."

Commented [TD32R31]: Will DEQ have sufficient staffing resources to review potentially hundreds of plans in a timely manner?

Category 4: Rules describing commute options and partnership opportunities

The draft rules in this category describe a range of commute options employers may include in their auto trip reduction strategies. DEQ does not intend that any of these options be required, but rather that employers select the options that will be most effective at their worksite and be most helpful to their workforce.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

What additional options should we list in the rules?

340-254-0170

Commute options to reduce worksite auto trips

Employee commute option programs may include, but are not limited to:

- (1) Policies that support rural and long-distance commuters, such as:
 - (a) coordinating a carpool matching program;
 - (b) preferential parking for carpools at the work site;
 - (c) providing or subsidizing an employee vanpool.
- (2) Policies that provide employees financial incentives to choose **commute options**, such as:
 - (a) Ending parking subsidies, whereby the employer eliminates the portion of the parking cost the employer pays and the employee pays that parking cost. To minimize adverse financial effects on lower income employees, DEQ encourages a parking cash out program.
 - (b) Parking cash out, whereby the employer ends parking subsidies, begins to charge employees for parking and provides an amount equivalent to the previous subsidy to each employee. Employees have the choice of spending the subsidy equivalent on parking at the work site or retaining the subsidy equivalent if they choose not to drive to and park at the work site.
 - (c) Employer-funded transit passes if transit service provides convenient access to the worksite.
- (3) Policies that subsidize public and private high-occupancy transportation, such as:
 - (a) partially or fully subsidize public transit passes;
 - (b) partially or fully subsidize vanpool fare.
- (4) Policies that make active transportation convenient, affordable and attractive, such as:
 - (a) providing facilities such as covered, secure bicycle parking, showers and lockers;
 - (b) partially or fully subsidize electric micro-mobility memberships, where those services are available;
 - (c) offer employees an active transportation stipend for purchase or maintenance of active transportation equipment and supplies;
 - (d) provide "last mile" shuttles to transport employees safely from transit hubs or pedestrian areas to the worksite.
- (5) **Policies that help employees balance work and family responsibilities, such as:**
 - (a) offering remote work and telecommuting;
 - (b) offering flexible scheduling, including compressed work weeks;
 - (c) providing an emergency ride home;
 - (d) providing on-site or nearby child care.

Commented [BG33]: Data on the effectiveness of these different strategies could be helpful to provide weighted scoring/point system for the different options. Again, a path of some sort of "safe harbors" defined by DEQ for different industries/locations should be considered (i.e. if you do these XYZ things, you're covered).

Commented [TD34]: I believe vanpools in Central Oregon are being subsidized using state STIF funding (administered by ODOT Public Transit). Depending on funding availability, that could be a good source of funding for vanpool programs statewide.

Commented [BG35]: need to clearly define or alter language (i.e. "options other than commuting by single occupancy vehicles")

Commented [BG36]: Remote work and telecommuting is one of the most effective options. This should be pulled out of subcategory (5)(a) and be its own category with specifics (i.e. at least one shift per week, etc. . .).

Consider rewording this category header to focus on flexibility of location and schedule and not family. These strategies are effective for everyone with the ability to participate, regardless of family situation.

(6) Policies that educate about and support employee participation in commute option programming, such as:

- (a) annual celebrations, competitions, or festivals that promote commute options
- (b) recognition of employees or workgroups using commute options
- (c) buddy systems or mentoring of employees new to commute options
- (d) membership in a transportation management agency that can offer technical, educational and promotional assistance.

Commented [BG37]: This section all seems very subjective and squishy.

340-254-180

Statewide Employee Commute Option Program Partnerships

- (1) DEQ encourages employers to enter partnerships with nearby employers and any transportation management agencies or transportation option providers serving the region.
- (2) Different employers with work sites located near each other or having common transportation needs may develop a joint auto trip reduction plan for all covered work sites. The plan must address each of the employers' total covered work sites separately from the other employers' covered work sites. Each employer must report initial and biannual survey findings for its own covered worksites.
- (3) Multiple employers may share the resources of one Employee Transportation Coordinator.

Commented [BG38]: Need to clarify that a 3rd party could report on behalf of an employer, so long the reporting was done individually for each employer.

340-254-190

Statewide Employee Commute Options Recordkeeping Requirements

Employers must maintain records at a covered work site for at least three years, and must make those records available to the DEQ upon request. Records must include:

- (1) The contents and results of employee surveys or other information gathering efforts;
- (2) A full description of all measures and incentives offered to employees and the associated employee responses;
- (3) Other information associated with the development, implementation, evaluation, or modification of the auto trip reduction program.

Category 5: Rules describing voluntary participation in a statewide commute option program

The draft rules in this category describe the elements of a voluntary or “opt-in” commute option program that smaller employers or those outside metropolitan planning organization boundaries could join.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Would these incentives encourage an employer to opt-in?

If not, what other ideas do you have?

340-254-0200

Voluntary Participation in Statewide Employee Commute Option Program)

(1) Any employer not located in the Portland Air Quality Maintenance Area may voluntarily participate in the Statewide Employee Commute Option Program.

(2) Employers who choose to voluntarily participate in the Statewide Employee Commute Program must:

- (a) register with DEQ;
- (b) provide DEQ with name, electronic mail address, phone number and mailing address of the person responsible for commute option programming at the employer;
- (c) conduct initial and then biannual employee surveys, including a calculated auto trip rate;
- (d) biannual reporting to DEQ;
- (e) written documentation of commute options offered and equitable distribution of offerings among employees of color and other protected class employees;
- (f) all submittals to DEQ must be signed by the responsible person.

(3) DEQ will provide employers participating in the Statewide Employee Commute Option program voluntarily and fulfilling the requirements of section (2) of this rule the following:

- (a) technical assistance, including review and assessment of the employer's commute option programming;
- (b) document templates and educational resources;
- (c) a certificate, signed by the DEQ Director, recognizing the employer for voluntary participation in the Statewide Employee Commute Options program;
- (d) DEQ-branded promotional materials (e.g. logos, certificates) that the employer may publicize;
- (e) recognition on DEQ's Employee Commute Option webpage as a commuter-friendly workplace.
- (f) connection to technical and financial assistance programs offered through entities such as transit districts, transportation option providers, transportation management agencies and local governments.

Commented [BG39]: This section seems overly regulatory for volunteer participation. Perhaps only section (2) is required for volunteer employers seeking to obtain DEQ certification. Otherwise, the templates and online resources should be open source to anyone who wants them.

From: [Elizabeth Graser-Lindsey](#)
To: [TripReduction2021 * DEQ](#)
Subject: Comments on 4th RAC meeting
Date: Wednesday, December 14, 2022 11:24:00 AM

The ECO rule should acknowledge and encourage any method of reducing GHG emissions (whether transit support or moving the business, use of EVs), hence, the rule needs to measure reduction of GHG emissions. Otherwise, GHG emissions is not incentivized or measured and won't be achieved as needed.

From: [INERFELD Rob](#)
To: [WILLIAMS Karen * DEQ](#)
Cc: [RHODES Shane A](#)
Subject: RE: DEQ Commute Option Rulemaking Advisory Committee: Meeting #4 documents to review
Date: Saturday, December 31, 2022 11:09:51 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)

Hi Karen,

Below are questions, comments and suggested changes from the City of Eugene. Please let us know if you have any questions.

Rob

Rob Inerfeld, AICP (*he/him*)

Transportation Planning Manager

City of Eugene | Public Works Engineering | Transportation Planning
99 E. Broadway, Suite 400 | Eugene, OR 97401
p: 541-682-5343 | c: 541-556-6124 | e: rinerfeld@eugene-or.gov



Respectfully acknowledging that we live and work on the land of the Willamette Valley bands of the Kalapuya people.

Category 1

340-254-0090 Statewide Employee Commute Option Program

- In section (2)(b), change “more than 100” to “100 or more.”
- Section (3): is it clear that the program measures VMT in addition to trip reduction?

340-254-0100

- Section (2): what is a “non-scheduled work week”?

Category 2

Will employers be required to maintain their commute options program in perpetuity after reaching their target? If yes, this should be made more clear in the rules. Perhaps after reaching the target they should be required or at least encouraged to consider lowering the rate more maybe by a more modest amount.

We have some questions as to what defines a worksite as it is not clear to us. We have some local examples that are pertinent to this. For example, the City of Eugene has multiple fire stations, libraries, rec centers, office buildings, an airport, wastewater treatment plant, maintenance yard, etc... Would these each be a separate worksite? Will the DEQ forms make it clear how to address these kind of issues?

340-254-0110 Requirements of the Statewide Employee Commute Option Program

- We suggest requiring annual surveys of employees. Every other year does not feel frequent enough to get an understanding of how well each employer's program is going and an annual survey does not seem burdensome.
- If you do stick with a biannual survey, then our recommendation is to require that they all be done in the same year so that it's easy and consistent data and for the employers to know when they should be surveying. So if the program starts in 2024 that could be the base data year and then surveys could be done in every even year (26,28, 30, etc.). If a new employer comes into the required program in an off year, say 2025, then they would need to survey that year for base data, in 2026 to match the statewide biennial count and then again every even year like everyone else. That would give the state great statewide data every other year.
- Section (3): there is not much detail about what the "survey of counted employees" would need to include and the product is described as an "auto trip rate." Section 340-254-0090(3) says that DEQ will report on VMT reduction but in order to do this, the employee surveys would need to gather employee information about commute trip distance. We recommend being more clear and thorough about what should be included in the employee surveys and how an auto trip rate would be calculated. It would probably make sense to collect a richer data set than just the "auto trip rate." Wouldn't it be helpful for DEQ to know what percentage of employees walk, bike, carpool, telecommute, etc... Perhaps this could be discussed at a RAC meeting.
- We acknowledge that VMT is definitely harder for employers to measure but it is a much more accurate measure of whether we are collectively reducing GHGs from transportation compared to the percentage of auto trips. Perhaps a blended approach that looks at both VMT and auto trip reduction would make the most sense.
- We suggest that you consider having DEQ create a survey that employers are required to use or at least a set of required survey questions that they could supplement with additional questions. Consider using the Get There platform to administer the survey as this will pull employers and employees into the Get There ecosystem that can be used for commute options programming.

Category 3

We suggest using drive-alone rates for MPO areas and not counties. MPO area rates will generally be lower. For example, it was 69% in the Central Lane MPO in 2019 versus 71% for

Lane County. These rules focus on MPO areas so that is the appropriate rate to use. You ask: Is it helpful for employers to have flexibility around setting auto trip rates appropriate to the geographic location? This might be helpful but at a smaller scale than an entire county or MPO area as there are large variations in how easy it is for people to get around by alternatives to driving depending on the location. This is definitely true across different parts of Eugene. For example, auto mode share is much higher in the more suburban parts of Eugene compared to the downtown and university areas. It would be interesting to see if ACS Journey to Work data is available at the census tract level.

It is not clear if employers would have to conduct an employee commute survey before determining their target rate. It seems like they should first have to determine how they are already doing in terms of auto trips before selecting a target.

340-254-0120

- We think Section (1) is extremely important and needs more dialogue among RAC members and DEQ staff.
- Section (1)(b) Employers that are already located in advantageous locations for avoiding drive alone-alone trips such as downtowns will likely already meet the option of 5% less than the ACS rate. They should still be challenged to reduce their auto trip rate especially if they don't already have a robust employee transportation options program.
- Section (1)(c) doesn't make sense as the group could decide that they are okay with not reducing their auto trip rate or having a very small reduction. Does DEQ have discretion to not approve what is selected? Involving employees in developing the commute options plan is a great idea but we don't think there should be an option that the only requirement for setting a trip reduction rate is consulting with worksite employees.

340-254-0150

- Section (1): referring back to an earlier comment, the employee survey needs to have a robust amount of information about how employees get to work (and what informs their decisions) in order to be helpful and should be more than just collecting an auto trip rate.
- Sections (3) and (4): somewhere in the rules the terms "commute options" and "commute option programs" should be defined. The term "commute options" might imply a specific commute mode but it is really the entire ecosystem of employee transportation options incentives, policies, amenities, culture, etc... that are necessary to achieve success.

Category 4

We suggest ordering this section based on the highest mode share goal splits or general use such as transit, walk, bike, parking policy, vanpool, carpool. Carpooling generally has a much

lower usage rate. We also suggest including additional options and programming ideas including bike safety education classes, taking-transit trainings, commute challenges (such as the Get There challenge), bike repair stations, bike tune-ups, fleet bikes, real time transit info, preferred shared ride parking, and on-site carshare.

340-254-0170

- Section (4)(b): remove “electric” from “electric micro-mobility memberships.” There is no reason why this should be limited to electric micro-mobility. For example, in Eugene we have a successful non-electric bike share program called PeaceHealth Rides that can be used for commuting purposes.
- Section (4)(c): using the “active transportation equipment language is too wonky. We suggest providing examples of specific type of “equipment” such as bikes, e-scooters, walking shoes, etc... Do all employers know what “active transportation” means?

340-254-180

- Since this section focuses on the statewide approach it should mention Get There which is one of the best statewide tools that we have. Get There or a more generic reference to it should really be weaved throughout the rules because it is a go-to site of for information, resources, education, encouragement, surveying, etc. ODOT and local and regional partners have invested a lot into Get There as a statewide resource and will continue to need a good statewide transportation options online resource to pull all of this together.

Category 5

Consider developing a ranking and recognition system for employers including voluntary participants that ranks them in how strong their program is and/or in how well they are doing for drive-alone trip reduction. Could use Platinum, Gold, Silver, Bronze rankings similar to League of American Bicyclists Bicycle Friendly Community program.

340-254-0200

- Section (1) says that any employer not located in the Portland Air Quality Maintenance Area may voluntarily participate in the statewide employee commute option program. Are there employers within the Portland area that are too small to be required to comply that might want to participate? You might also want to make it clear that this is aimed at both employers in MPO areas that have fewer than 100 employees plus all employers in rural (non-MPO) areas.

From: WILLIAMS Karen * DEQ <Karen.WILLIAMS@deq.oregon.gov>

Sent: Thursday, November 10, 2022 4:29 PM

Subject: DEQ Commute Option Rulemaking Advisory Committee: Meeting #4 documents to review

Good afternoon, Commute Options RAC.

I hope you are all preparing for a relaxing long weekend. I am sending for your review two attached documents. One document is draft rule language pertaining to a potential statewide commute options program. These draft rules would regulate certain employers outside of the Portland metropolitan region.

The second document is a compilation of maps of Oregon Metropolitan Planning Organization boundaries (except the Portland region) and the distribution of larger employers within those boundaries. I thought this would be a useful reference for you to have as you are reviewing the draft rule language.

Please do your best to read through the “Draft.254.Rules” document and think about the discussion questions I’ve posed before our meeting next Friday, November 18, 2022 at 9 a.m. As a reminder, we will be focusing on potential statewide rules at our 11/18/22 meeting. At our next meeting, likely early 2023, we will focus on revisions to the Portland-area rules.

I’m looking forward to hearing what you all think about how the draft rules are shaping up.

Best regards,
Karen

Karen Font Williams | Air Quality Planner
she/her/hers
DEQ Air Quality Division
700 NE Multnomah St., Ste. 600 | Portland, OR 97232
(503) 863 – 1664
Schedule: M – F, 8 a.m. – 5 p.m.



State of Oregon Department of Environmental Quality

Commute Option Rulemaking Advisory Committee Discussion Document: draft rules for statewide employee commute option program

This document is a compilation of draft rules for a statewide employee commute option program presented to the rulemaking advisory committee for discussion on November 18, 2022.

Category 1: Rules that establish a statewide employer commute option program and applicability.....	2
Category 2: Rules about requirements and enforcement within a statewide commute options program.....	4
Category 3: Rules about setting a target auto trip rate and developing a trip reduction plan.....	6
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Category 5: Rules describing voluntary participation in a statewide commute option program..	12

Category 1: Rules that establish a statewide employer commute option program and applicability.

The draft rules in this category would:

- establish a statewide employee commute option program that DEQ would administer;
- describe the geographic areas within which DEQ would require certain employers to offer commute option programming to their employees;
- describe how the employer should count the number of employees at worksites to determine if they are subject to commute option program rule requirements.
- establish an annual reporting requirement for DEQ on commute option rule effectiveness.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Does the geographic scope seem appropriate to address emissions from the regions emitting the most vehicular greenhouse gasses, outside of the Portland metro region?

Does the geographic scope adequately consider the presence or absence of transportation infrastructure and commute options?

Note: DEQ would calculate vehicle miles traveled and GHG reductions the program achieves.

340-254-0090

Statewide Employee Commute Option Program

- (1) The purpose of the Statewide Employee Commute Program is to reduce greenhouse gas and other vehicle emissions through employer support of employees commuting by means other than driving alone. ¹
- (2) Employers with worksites located outside the Portland Air Quality Maintenance Area must provide commute options to encourage their employees to reduce auto trips to the worksite if:
 - (a) the employer has one or more worksites located within a metropolitan planning organization boundary comprising a population of at least 50,000 people; and
 - (b) more than 100 employees report to any one worksite within the metropolitan planning organization boundary.
- (3) DEQ will annually report on its website the estimated reduced vehicle emissions and vehicle miles traveled that the Statewide Employee Commute Options Program has achieved.

340-254-0100

Statewide Employee Commute Option Program Employee Count

- (1) The count of employees at a covered work site must include:
 - (a) Employees from all shifts, Monday through Friday, during a 24-hour period, averaged over a 12-month period; and
 - (b) Employees on the employer's payroll for at least six consecutive months at one work site; and
 - (c) Part-time employees assigned to a work site 80 or more hours per 28-day-period.
- (2) The count of employees at a work site may exclude volunteers, employees with a disability (as defined under the Americans with Disabilities Act), employees working on a non-scheduled work week, and employees required to use a personal vehicle as a condition of employment.

Summary of Comments on Draft.254.Rules. Discussion.Packet_Meltzer.pdf

Page: 3

-  Number: 1 Author: nmeltzer Subject: Sticky Note Date: 11/18/2022 8:34:56 AM
Electric vehicles reduce GHG so this definition statement might need some work. I've used SOV reduction or VMT reduction in other work
-  Number: 2 Author: nmeltzer Subject: Sticky Note Date: 11/18/2022 8:36:03 AM
Can we please use "urbanized area." Using MPO boundary, which is federally defined, opens it up to arguments about state rules overreaching in federal jurisdictions
-  Number: 3 Author: nmeltzer Subject: Sticky Note Date: 11/18/2022 8:37:05 AM
Someone could easily interpret "report" as not counting employees that are already teleworking post COVID-19. Is this intentional? Or could someone immediately opt out if they have fewer than 100 employees driving every day?

Category 2: Rules about requirements and enforcement within a statewide commute options program

The draft rules on the following page would require the employer to:  ¹

- Register with DEQ and designate a responsible person for commute option programming, an Employee Transportation Coordinator
- Survey employees biannually about how they get to work and calculate an auto trip rate
- Set an auto trip rate reduction target
- Design and implement an auto trip reduction plan and revise as necessary

The draft rules also establish “good faith effort” as the compliance standard and define what DEQ deems a good faith effort.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Are these requirements clear and easy to understand?

Are the requirements achievable for most employers?

Is trip reduction plan revision an appropriate requirement if the employer doesn’t meet target auto trip rates?

Does “good faith effort” need additional definition?

 Number: 1 Author: nmeltzer Subject: Sticky Note Date: 11/18/2022 8:38:49 AM

If that plan is to fund TO work within urban areas to implement this, then that should be called out in the rules. This is adding a lot to employer tasks, esp if it's more industrial work. Where is the support for them to help implement it? Especially since there is no funding tied to them doing so?

340-254-0110

Requirements of the Statewide Employee Commute Option Program

To comply with the Statewide Employee Commute Option Program, an employer must:

- (1) Register all covered worksites with DEQ on one DEQ-supplied form.
- (2) Designate an Employee Transportation Coordinator responsible for implementing commute option programming at the worksite and reporting to DEQ.
- (3) Notwithstanding the allowance of 340-254-140(3), conduct a survey of counted employees upon registration and then biannually and with each survey calculate an auto trip rate for the worksite.
- (4) Establish a target auto trip rate for all covered worksites. If the employer has multiple covered worksites, the employer may establish different target auto trip rates for each covered worksite or may establish one target auto trip rate that applies to all covered worksites. 340-254-120 establishes the standards DEQ deems acceptable for setting a target auto trip rate.
- (5) Design and implement an auto trip reduction strategy that DEQ deems is reasonably likely to achieve and maintain the target auto trip rate at the worksite.
- (6) Revise and implement the revised auto trip reduction strategy if:
 - (a) the employer has not achieved the target auto trip rate within 6 years from the date of the first survey; or
 - (b) the auto trip rate has increased since the prior biannual employee survey.

340-254-0130

Statewide Employee Commute Option Program Enforcement Procedures

- (1) Enforcement procedures and civil penalties in OAR, chapter 340, division 12 apply. Under 340-012-0053(2) and 340-012-0054(2)(g), violations of the Statewide Employee Commute Option rules are Class Two violations. Failure to achieve an auto trip rate is not a violation; failure to make a good faith effort toward, or prepare and implement a plan designed to achieve, an auto trip rate is a violation. Civil penalties are determined under 340-012-0045.
- (2) DEQ deems a good faith effort to include all of the following actions:
 - (a) employer conducts an initial employee survey and calculates an auto trip rate;
 - (b) employer selected auto trip reduction strategies that have a reasonable likelihood of achieving the target auto trip rate based on studies and reports on DEQ's Employee Commute Options webpage or equivalent documentation;
 - (c) employer fully implemented all selected strategies intended to achieve the target auto trip rate.

Category 3: Rules about setting a target auto trip rate and developing a trip reduction plan

The draft rules in this category describe the three options for the employer to choose an appropriate target auto trip rate most appropriate for their worksite and geographic location. The draft rules also list the requirements for a trip reduction plan.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Is it helpful for employers to have flexibility around setting auto trip rates appropriate to the geographic location?

Note: the 2019 American Community Survey drive-alone Journey to Work rate for select counties:

Jackson: 81%

Marion: 78%

Linn: 77%

Deschutes: 71%

Lane: 71%

Note: DEQ suggests that involving employees in the selection of a target auto trip rate could also serve to promote commute option programming at the worksite.

340-254-0120

Options for setting a worksite target auto trip rate

- (1) The employer must use one of the following three methodologies to establish a target auto trip rate:
 - (a) 10% less than the auto trip rate measured in the initial employee survey; or
 - (b) 5% less than the auto drive-alone Journey to Work rate of the 2019 American Community Survey for the county in which the employer is located; or
 - (c) in consultation with worksite employees.
- (2) An employer with more than one covered work site as defined in 340-254-0090 may average its target trip reduction among those work sites.
- (3) The employer may include work sites with 100 or fewer employees in the interest of averaging trip reductions among all work sites, but the employer must then survey employees at all included work sites and include all survey results in the employer's report to DEQ.

340-254-0150

Requirements of an auto trip reduction plan

An auto trip reduction plan must include:

- (1) The results of the initial employee survey or comparable documentation, including a calculated auto trip rate at the work site;
- (2) The target auto trip rate for each or all covered worksites, established under the standards in 340-254-120.
- (3) Any employee commute option programs currently in use at the work site;
- (4) New commute options the employer intends to implement at the worksite that are reasonably likely to achieve and maintain the target auto trip rate;
- (5) Empirical evidence or references (e.g. government or consultants' reports), that current and newly offered commute options are reasonably likely to achieve and maintain the target auto trip rate.
- (6) Any unique aspects of the business or work site influencing the trip reduction strategies selected;
- (7) A schedule for implementing each of the selected commute option measures;
- (8) A narrative description of employer policies that support equitable accessibility and distribution of commute option benefits to employees of color and other protected class employees, and across job types and salary ranges.

(9) The name, title, telephone number, electronic mail address and business mailing address of the person the employer has designated to be the employee transportation coordinator for the work site (employee transportation coordinator does not have to be located at the work site); and a signed statement certifying that the documents and information submitted in the plan are true and correct to the best of that person's knowledge.

(10) The employer may develop one auto trip reduction plan for all covered work sites but must select strategies based on the specific transportation characteristics of each covered work site.

340-254-0160

Auto Trip Reduction Plan Approval and Deficiency Notification

(1) DEQ will strive to approve a submitted auto trip reduction plan in writing or notify the employer in writing of deficiencies in a submitted auto trip reduction plan, based on the criteria in OAR 340-254-0150, within 90 days.

(2) The employer will have 60 days  from the date of DEQ's notification to correct any auto trip reduction plan deficiencies and resubmit the auto trip reduction plan to DEQ.

(3) If the employer objects to any condition or limitation in DEQ's notification of deficiencies, the employer may request a contested case hearing before the Commission or its authorized representative. The employer must request a hearing in writing to the Director and send the letter to DEQ within 20 days of writing the Director. Any subsequent hearing will be conducted under the provisions of ORS 183 and OAR 340, division 11.

 Number: 1 Author: nmeltzer Subject: Sticky Note Date: 11/18/2022 8:40:07 AM
There is a disparity here between DEQ "striving" to review in 90 days but then employers only having 60 days for revisions.

Category 4: Rules describing commute options and partnership opportunities

The draft rules in this category describe a range of commute options employers may include in their auto trip reduction strategies. DEQ does not intend that any of these options be required, but rather that employers select the options that will be most effective at their worksite and be most helpful to their workforce.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

What additional options should we list in the rules?

Commute options to reduce worksite auto trips ¹

Employee commute option programs may include, but are not limited to:

- (1) Policies that support rural and long-distance commuters, such as:
 - (a) coordinating a carpool matching program;
 - (b) preferential parking for carpools at the work site;
 - (c) providing or subsidizing an employee vanpool.
- (2) Policies that provide employees financial incentives to choose commute options, such as:
 - (a) Ending parking subsidies, whereby the employer eliminates the portion of the parking cost the employer pays and the employee pays that parking cost. To minimize adverse financial effects on lower income employees, DEQ encourages a parking cash out program.
 - (b) Parking cash out, whereby the employer ends parking subsidies, begins to charge employees for parking and provides an amount equivalent to the previous subsidy to each employee. Employees have the choice of spending the subsidy equivalent on parking at the work site or retaining the subsidy equivalent if they choose not to drive to and park at the work site.
 - (c) Employer-funded transit passes if transit service provides convenient access to the worksite.
- (3) Policies that subsidize public and private high-occupancy transportation, such as:
 - (a) partially or fully subsidize public transit passes;
 - (b) partially or fully subsidize vanpool fare.
- (4) Policies that make active transportation convenient, affordable and attractive, such as:
 - (a) providing facilities such as covered, secure bicycle parking, showers and lockers;
 - (b) partially or fully subsidize electric micro-mobility memberships, where those services are available;
 - (c) offer employees an active transportation stipend for purchase or maintenance of active transportation equipment and supplies;
 - (d) provide “last mile” shuttles to transport employees safely from transit hubs or pedestrian areas to the worksite.
- (5) Policies that help employees balance work and family responsibilities, such as:
 - (a) offering remote work and telecommuting;
 - (b) offering flexible scheduling, including compressed work weeks;
 - (c) providing an emergency ride home;
 - (d) providing on-site or nearby child care.



Number: 1 Author: nmeltzer Subject: Sticky Note Date: 11/18/2022 11:50:39 AM

I always like to have an "other" category for someone who thinks of something really innovative. Maybe it could be "by approval,"

(6) Policies that educate about and support employee participation in commute option programming, such as:

- (a) annual celebrations, competitions, or festivals that promote commute options
- (b) recognition of employees or workgroups using commute options
- (c) buddy systems or mentoring of employees new to commute options
- (d) membership in a transportation management agency that can offer technical, educational and promotional assistance.

340-254-180

Statewide Employee Commute Option Program Partnerships

- (1) DEQ encourages employers to enter partnerships with nearby employers and any transportation management agencies or transportation option providers serving the region.
- (2) Different employers with work sites located near each other or having common transportation needs may develop a joint auto trip reduction plan for all covered work sites. The plan must address each of the employers' total covered work sites separately from the other employers' covered work sites. Each employer must report initial and biannual survey findings for its own covered worksites.
- (3) Multiple employers may share the resources of one Employee Transportation Coordinator.

340-254-190

Statewide Employee Commute Options Recordkeeping Requirements

Employers must maintain records at a covered work site for at least three years, and must make those records available to the DEQ upon request. Records must include:

- (1) The contents and results of employee surveys or other information gathering efforts;
- (2) A full description of all measures and incentives offered to employees and the associated employee responses;
- (3) Other information associated with the development, implementation, evaluation, or modification of the auto trip reduction program.

Category 5: Rules describing voluntary participation in a statewide commute option program

The draft rules in this category describe the elements of a voluntary or “opt-in” commute option program that smaller employers or those outside metropolitan planning organization boundaries could join.

Questions and considerations in preparation for November 18, 2022 RAC meeting:

Would these incentives encourage an employer to opt-in?

If not, what other ideas do you have?

340-254-0200

Voluntary Participation in Statewide Employee Commute Option Program

(1) Any employer not located in the Portland Air Quality Maintenance Area may voluntarily participate in the Statewide Employee Commute Option Program.

(2) Employers who choose to voluntarily participate in the Statewide Employee Commute Program must:

- (a) register with DEQ;
- (b) provide DEQ with name, electronic mail address, phone number and mailing address of the person responsible for commute option programming at the employer;
- (c) conduct initial and then biannual employee surveys, including a calculated auto trip rate;
- (d) biannual reporting to DEQ;
- (e) written documentation of commute options offered and equitable distribution of offerings among employees of color and other protected class employees;
- (f) all submittals to DEQ must be signed by the responsible person.

(3) DEQ will provide employers participating in the Statewide Employee Commute Option program voluntarily and fulfilling the requirements of section (2) of this rule the following:  ¹

- (a) technical assistance, including review and assessment of the employer's commute option programming;
- (b) document templates and educational resources;
- (c) a certificate, signed by the DEQ Director, recognizing the employer for voluntary participation in the Statewide Employee Commute Options program;
- (d) DEQ-branded promotional materials (e.g. logos, certificates) that the employer may publicize;
- (e) recognition on DEQ's Employee Commute Option webpage as a commuter-friendly workplace.
- (f) connection to technical and financial assistance programs offered through entities such as transit districts, transportation option providers, transportation management agencies and local governments.

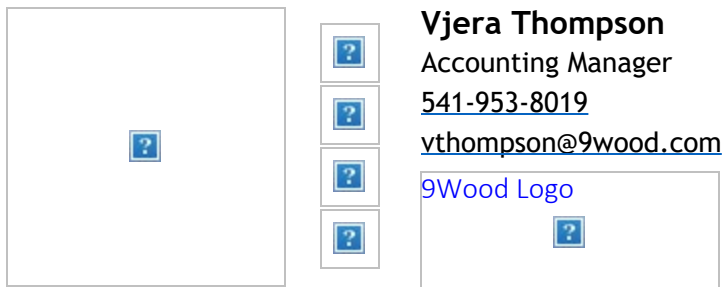
 Number: 1 Author: nmeltzer Subject: Sticky Note Date: 11/18/2022 11:33:01 AM

It's not clear that these resources will be provided to mandatory participants. I think they will be a big help and should be stated that they'll be included

From: [Vjera Thompson](#)
To: [TripReduction2021 * DEQ](#)
Subject: RE: DEQ Commute Options RAC - Please send Comments on RAC 4 by December 16, 2022
Date: Friday, December 16, 2022 2:41:09 PM

Comments on the 4th RAQ meeting:

- The existing Employee Commute Options Program has several exemptions. The proposed rules lacked any mention of similar exemptions. It would be burdensome for employers with these limitations to reduce their commuting trips, so these exemptions should be added to the new rules also.
 - Public transit is less frequent than 30 minute intervals
 - Public transit service point is further than one-half mile away
 - Shift changes that occur between 8:30 p.m. and 5:30 a.m [In Eugene, the metro area I am located in, it's not possible to use public transit to get to a shift change by 5:30; this should be moved to 7 am]
- As mentioned in the meeting, "bi-annual" should be more clearly defined.
- As mentioned in the meeting, DEQ provisions for voluntary employers should also be noted as provided to mandatory employers.
- In the "good faith" section, point c states that employer needs to "fully" implement selected strategies to be considered "good faith". I believe that "fully" implementing programs in a busy business is burdensome and another term, such as "adequately" would be more conducive to the good faith definition.



From: WILLIAMS Karen * DEQ <Karen.WILLIAMS@deq.oregon.gov>
Sent: Thursday, December 8, 2022 4:42 PM
Cc: TripReduction2021 * DEQ <TripReduction2021@deq.oregon.gov>
Subject: DEQ Commute Options RAC - Please send Comments on RAC 4 by December 16, 2022

Good afternoon, RAC.

I'm writing with a request and reminder to please send your comments on the material presented at the fourth RAC meeting by **December 16, 2022**. Please send comments to TripReduction2021@deq.oregon.gov. I don't yet have the written summary posted but I am happy to send you a link to the recording if you'd like to refresh your memory. The slides and discussion packet are posted under Advisory Committee Meetings/Meeting 4 on the [rulemaking website](#).

I'm particularly interested in your comments on all of the draft rule language presented and

responses to the discussion questions posed in the meeting (in the discussion packet and also on meeting slides). How could these proposed policies affect your employees, members, business and communities? You all represent broad and diverse constituencies and DEQ relies on your input to make good, effective policy.

Thank you, again, for your on-going engagement.

Best regards,
Karen

Karen Font Williams | Air Quality Planner
she/her/hers
DEQ Air Quality Division
700 NE Multnomah St., Ste. 600 | Portland, OR 97232
(503) 863 – 1664
Schedule: M – F, 8 a.m. – 5 p.m.

From: [Sara Wright](#)
To: [TripReduction2021 * DEQ](#)
Cc: [Zachary Lauritzen](#);
Subject: comments on draft ECO rules
Date: Friday, December 16, 2022 4:34:04 PM

Thank you for the opportunity to comment. I am providing joint comments on behalf of Oregon Environmental Council, The Street Trust, and Oregon Walks, though our organizations may also provide separate comments.

We appreciate all the work that staff has done on these rules. In general, these rules are an improvement from the status quo, though not as strong as we had hoped. We recognize that these rules are only a small part of the transportation and land use changes that are necessary to achieve the state's climate and equity goals. We also recognize that these rules will only be successful if DEQ invests in the outreach and education of employers. Robust TDM support will be necessary to maximize both the climate and equity impacts of these rules.

We offer the following revisions to the rule language.

340-254-0110 (3)

"Biannually" is widely understood to mean twice per year. For clarity, replace with say "once every two years"

340-254-0110 (6)

Six years is a long time, given the state's climate goals. Two years seems like a better review milestone.

340-254-0120 (1.c)

It would be helpful to provide guardrails around what "consultation" can be. We suggest requiring under the consultation option that the target auto trip rate be lower than the current mode share. We also suggest requiring employers to use the survey itself for the "consultation," using a question provided by DEQ staff that asks staff what they think their employer mode share target should be.

340-254-0120

We recognize the importance of allowing flexibility in the "good faith effort" definition, but we recommend including a requirement for the employer to demonstrate that they have allocated the FTE and budget to make the strategy successful. Additionally, we are concerned that employers will choose the strategies that are easiest or cheapest to implement, rather than those that are the most likely to be successful. We encourage DEQ to continue developing this element of the rule.

340-254-0170

We suggest listing these program elements in order of their success rate. It would also be helpful to provide employers with examples and information about reduction outcomes for different strategies, at least in the supporting education.

340-254-0180 (1)

We suggest adding “, nonprofit organizations” after “employers”

Outside of the specific language of the rules, there is a lot of opportunity for DEQ to invest in implementation that helps employers and employees reduce dependence on driving alone and make jobs more accessible to people who do not have ready access to a reliable private vehicle. For example, DEQ can convene and facilitate regional conversations about transit service, land use and transportation planning, and/or can support nonprofits to serve as regional TDM hubs.

We appreciate the opportunity to provide feedback.

Sincerely,

Sara Wright (*she, her*)

Transportation Program Director

Oregon Environmental Council

Mail to: PO BOX 14822, Portland, OR 97293-0822

Visit us: 537 SE Ash St., Ste. 205, Portland, OR 97214

(503) 222-1963 #116

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