

# Proposed Rule for High Occupancy Vehicle (HOV) Facility Exemptions for Low Emission and Energy-Efficient Vehicles

The U.S. Environmental Protection Agency (EPA) is issuing a Notice of Proposed Rulemaking (NPRM) to implement elements of the 2005 Transportation Act (SAFETEA-LU) to provide exemptions for vehicles certified as low emission and energy-efficient for use in high occupancy vehicle (HOV) lanes.

## Background

In general, vehicles using state HOV facilities must have two or more occupants. However, Section 1121 of The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users Act (SAFETEA-LU), which was signed into law on August 10, 2005, allows an exemption from the HOV occupancy requirement for vehicles certified as “low emission and energy-efficient.” It requires EPA to issue regulations for certifying vehicles as “low emission and energy-efficient.” These provisions are codified at 23 United States Code (U.S.C.) 166.

Thus, this rulemaking specifically proposes the requirements for “low emission and energy-efficient,” including procedures for making fuel economy comparisons and the requirements for labeling these vehicles. As the Department of Transportation (DOT) is responsible for the planning and implementation of HOV programs, any changes to HOV programs as a result of this proposal would also be implemented by DOT and enforced by the individual states that choose to adopt these requirements. The provision allowing the HOV exemption is currently set to expire September 30, 2009.

## Low Emission and Energy Efficient Vehicle Specifications

- This proposal applies to light-duty vehicles under 8,500 pounds gross vehicle weight rating (GVWR).
- Vehicles would be required to meet the specifications for both low emission and energy-efficient to be eligible for an exemption from HOV occupancy

requirements. Some hybrid vehicles will be ineligible for the exemption because they cannot satisfy this combined requirement.

- To be considered low emission, a vehicle would have to be certified to either the federal Tier 2 bin 5 (or cleaner) or California LEV II emission standards.
- To be considered energy efficient, a vehicle would have to be:
  - o A dedicated alternative fuel vehicle, or
  - o A hybrid vehicle achieving 50 percent or better in-city fuel economy or 25 percent or better in combined city/highway fuel economy compared to a similar gasoline fueled vehicle.

## **Fuel Economy Comparison Methodology**

The vehicle fuel economy comparison is proposed to be based on a hybrid-to-gasoline vehicle comparison. Using this methodology, we are proposing to compare hybrid-electric vehicles to their gasoline counterparts (i.e. those of the same or similar make and model type such as comparing the Ford Escape Hybrid to the Ford Escape gasoline model) to determine the percent difference in fuel economy between the hybrid and the gasoline model. This method only compares hybrid vehicles to gasoline vehicles. Gasoline, diesel, and flexible-fuel vehicles would be ineligible for HOV exemption under this proposal. For hybrid vehicles that do not have a similar gasoline counterpart, such as the Toyota Prius, EPA is proposing that the comparison be based on gasoline vehicles within the same comparable class as used in EPA's annual Fuel Economy Guide, which is jointly published by EPA and DOE. The median unadjusted fuel economy of all the gasoline vehicles in that class would be determined, and then compared against the hybrid's fuel economy.

## **Labeling Requirements**

All vehicles certified as low emission and energy-efficient must be appropriately labeled for use in HOV facilities. States are responsible for labeling the vehicles. Existing labels, such as decals or license plates, are acceptable for continued use.

## **Costs and Benefits**

There are no foreseen adverse economic or air quality impacts associated with this proposal. This proposal is expected to further the intent of Congress to provide non-financial incentives to increase the purchase of hybrids and other fuel efficient vehicles.

## Public Participation Opportunities

We welcome your comments on this proposed rule. Comments will be accepted for 30 days beginning when this proposal is published in the Federal Register. All comments should be identified by Docket ID No. EPA-HQ-OAR-2005-0173 and submitted by one of the following methods:

Internet: [www.regulations.gov](http://www.regulations.gov)

E-mail: [A-and-R-Docket@epa.gov](mailto:A-and-R-Docket@epa.gov)

Mail:

Environmental Protection Agency  
Air and Radiation Docket and Information Center (6102T)  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Hand Delivery:

EPA West Building  
EPA Docket Center (Room 3340)  
1301 Constitution Avenue NW  
Washington, DC

## For More Information

You can access the rule and related documents on EPA's Office of Transportation and Air Quality (OTAQ) Web site at:

[www.epa.gov/otaq/ld-hwy.htm#hov](http://www.epa.gov/otaq/ld-hwy.htm#hov)

For further information, please contact Holly Pugliese at:

U.S. Environmental Protection Agency  
Office of Transportation and Air Quality  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
Phone: 734-214-4288

E-mail: [pugliese.holly@epa.gov](mailto:pugliese.holly@epa.gov)