



State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

July 22-23, 2021

Rulemaking, Agenda Item L House Bill 2007 Retrofit Compliance 2021

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DEQ Recommendation to EQC

DEQ recommends that the Environmental Quality Commission:

- Adopt the proposed rules seen on pages 30 through 49 as part of chapter 340 of the Oregon Administrative Rules; and
- Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and
- Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

Language of Proposed EQC Motion:

“I move that the commission adopt the proposed rules as seen in pages 30 through 49 of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules and; approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.”

Overview

The 2019 Oregon Legislature passed House Bill 2007 authorizing the Oregon Environmental Quality Commission to adopt rules to establish approved retrofit technologies for diesel engines that power certain medium- and heavy-duty trucks and to prescribe the manner for issuing a certification of compliance. The Oregon Vehicle Code, ORS 803.591, established as part of HB 2007, provides dates by which the Oregon Department of Transportation cannot issue registration renewal or certificate of title for certain medium- and heavy-duty diesel trucks registered in Clackamas, Multnomah and Washington Counties, unless they have been retrofitted and received a certification from DEQ. The proposed rules establish a path by which persons who own certain medium- and heavy-duty trucks may continue to title and register those vehicles.

Retrofit technologies are aftermarket components installed on a vehicle, in this case on diesel-fueled engines, designed to reduce emissions. House Bill 2007 (2019) directs DEQ to consider the State of California regulations for reducing diesel emissions and the technologies approved as qualifying retrofits established by the Environmental Quality Commission under ORS 468A.799 including technologies that are verified by the Environmental Protection Agency. DEQ's retrofit compliance program will ensure that only proven diesel pollution reduction technology will satisfy the requirements of the retrofit compliance pathway outlined in HB 2007 (2019).

These proposed rules align with DEQ's strategic directives for reducing diesel engines emissions. Specifically, DEQ is pursuing strategies to "replace and retire older diesel engines" and "support owners and operators upgrade their fleets." HB 2007 (2019) accelerates the transition to newer, cleaner diesel trucks in the Portland-metropolitan region. These proposed rules provide an alternative for truck owners who retrofit with approved emission control technologies.

Statement of Need

What need would the proposed rule address?

Diesel engine exhaust is a complex mixture of gases and particles. Nitrogen oxides (NO_x) and fine particulate matter (PM_{2.5}) are the diesel combustion byproducts that are of most concern. Diesel engines are very durable, meaning that many have been on the road for over 20 years. Diesel engines model year 2010 and newer are manufactured according to the Environmental Protection Agency national emission standards, requiring them to burn much cleaner, emitting over 90 percent less PM_{2.5} and NO_x emissions than pre-2010 models. Even as diesel emission reducing technology has improved over the years, Oregon experiences significant pollution from older on-road diesel engines. One method to reduce the harmful emissions from older on-road diesel engines includes the installation of appropriate retrofit technology.

HB 2007 (2019) directs the Environmental Quality Commission to adopt rules and a program to specify approved retrofit technologies required in order to register or title certain diesel trucks beyond deadlines established in ORS 803.591.

How would the proposed rule address the need?

The proposed rules provide additional detail and clarity to the direction provided in HB 2007 (2019) related to the approved retrofit technologies and the program implementation details. They establish the criteria for what constitutes approved retrofit technologies for on-road diesel engines, the manner for which Oregon DEQ will certify them and the verification required to ensure certification for the life of the retrofit technology.

How will DEQ know the rule addressed the need?

DEQ will know the rule addresses the need when vehicle registrants receive certification of retrofit compliance and prove the maintenance, inspection, recordkeeping and verification requirements identified in the rule language are met. Meeting the requirements will also address the titling and registration exception for registrants.

Rules Affected, Authorities, Supporting Documents

Lead division

Air Quality

Program or activity

Vehicle Inspection Program

Chapter 340 action

Adopt			
340-256-0500	340-256-0520	340-256-0540	340-256-0560
340-256-0510	340-256-0530	340-256-0550	
Amend			
340-256-0010			

Statutory Authority - ORS		
468.020	468A.810	468A.360

Statutes Implemented - ORS			
468A.810			

Legislation

House Bill 2007 (2019)

Documents relied on for rulemaking

Document title	Document location
House Bill 2007 (2019)	https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2007/Enrolled
Report to Task Force on Supporting Businesses in Reducing Diesel Emissions (2020)	https://olis.oregonlegislature.gov/liz/201911/Downloads/CommitteeMeetingDocument/229195
EPA Verified Technologies list for Clean Diesel	https://www.epa.gov/verified-diesel-tech/verified-technologies-list-clean-diesel
California Air Resources Board Verification Procedure: Currently Verified	https://ww2.arb.ca.gov/verification-procedure-currently-verified

Fee Analysis

This rulemaking does not involve fees.

Statement of Fiscal and Economic Impact

Introduction

DEQ proposes rules for the Environmental Quality Commission adoption under Division 256 of Chapter 340 of the Oregon Administrative Rules. The proposed rules would implement one element of House Bill 2007 (2019) codified in Oregon Laws Chapter 468A. ORS 468A.810 directs EQC to adopt rules establishing what constitutes approved retrofit technologies for diesel engines that power certain medium- and heavy-duty trucks and to prescribe the manner for issuing a certification of compliance that such diesel engines have been retrofitted with approved technology.

ORS 803.591 provides dates by which certain medium- and heavy-duty trucks will not be titled or registered in Clackamas, Multnomah and Washington Counties, unless they have been retrofitted with approved technology and received a certification from DEQ under ORS 468A.810 and the proposed rules. The proposed rules establish a path by which persons who own certain medium- and heavy-duty trucks may continue to title and register those vehicles.

Summary

ORS 803.591 directs the Oregon Department of Transportation to implement registration and titling prohibitions in Clackamas, Multnomah and Washington Counties for diesel-powered vehicles that are over a 14,000 lbs. gross vehicle weight rating (GVWR)¹ and have a 2009 or older model year engine (hereinafter referred to as medium- or heavy- duty trucks).

ORS 803.591 includes the following dates that medium- or heavy-duty trucks cannot be registered or titled based on engine age:

Jan. 1, 2023:

- A medium-duty or a heavy-duty truck powered by a model year 1996 or older diesel engine cannot be registered or renew registration

Jan. 1, 2025:

- A medium-duty truck powered by a model year 2009 or older diesel engine cannot be titled
- A heavy-duty truck powered by a model year 2006 or older diesel engine cannot be titled

Jan. 1, 2029:

- A medium-duty truck powered by a model year 2009 or older diesel engine cannot be registered or renew registration
- Publicly owned heavy-duty trucks powered by a model year 2009 or older diesel engine cannot be registered or renew registration

¹ 14,001- 26,000 lbs. GVWR is considered a medium-duty truck; 26,001 and greater GVWR is considered a heavy-duty truck

- Privately owned heavy-duty trucks powered by a model year 2006 or older diesel engine cannot be registered or renew registration

The subject medium- and heavy-duty trucks can only be titled and/or registered in those counties if they have been retrofitted and received a certification from DEQ as described in ORS 468A.810 and the proposed rules.

DEQ anticipates that persons, businesses, agencies and units of local government in Clackamas, Multnomah and Washington Counties who own or are considering purchasing a medium- or heavy-duty truck may experience fiscal or economic impacts resulting from the proposed rules. DEQ also anticipates that diesel retrofit installation companies, manufacturers of retrofit components, truck service departments, used truck parts manufacturing and distribution, as well as businesses or persons who sell new and used vehicles, may experience fiscal or economic impacts resulting from the proposed rules.

Based on data provided to the Task Force on Supporting Businesses in Reducing Diesel Emissions dated Dec. 23, 2020², the Oregon Department of Transportation anticipates there are 18,751 medium- or heavy-duty trucks within the counties subject to ORS 803.591. DEQ anticipates the medium- or heavy-duty trucks subject to the proposed rule by 2029 will be significantly less due to the rate of vehicle inventory turnover and number of vehicles suitable for retrofit technology.

DEQ's rules do not impose the titling and registration prohibitions on medium- or heavy-duty trucks that do not have approved retrofit technology installed and certified. They do detail the types of technology that will constitute approved retrofit technology and establish the process, by which persons may obtain a certification of compliance, should they chose to retrofit a truck. The proposed rules do not create any mandatory costs because no person is required to participate in the program; however, they may create fiscal and economic impacts on persons who wish to retrofit their vehicles and receive a certification of compliance in order to continue registering and titling their medium- or heavy-duty trucks in Clackamas, Multnomah and Washington Counties.

As stated above, the rules do not establish any mandatory costs because persons are not required to participate in the program. However, persons who own or are considering purchasing older medium- or heavy-duty trucks may be impacted by the rules and may experience fiscal impacts if they chose to retrofit the vehicles in order to register or title the vehicle beyond deadlines established in ORS 803.591.

Owners may choose not to participate in the program by either:

- Not registering and titling their medium- or heavy- duty trucks in the counties identified in ORS 803.591.
- Repowering those vehicles with a newer diesel engine or operating on a fuel other than diesel.

² Report on Task Force on Supporting Businesses in Reducing Diesel Emissions 2020 available at <https://olis.oregonlegislature.gov/liz/201911/Downloads/CommitteeMeetingDocument/229195>

- Selling those vehicles, or by selling those vehicles and purchasing a vehicle that would not be subject to ORS 803.591, ORS 468A.810, and the proposed rules.

DEQ anticipates the proposed rules may have a number of fiscal and economic impacts for persons or businesses that chose to retrofit medium- or heavy-duty trucks.

The direct costs associated with the compliance option for registered vehicle owners may include equipment, installation, maintenance and repair of the approved retrofit technology. Based on information that DEQ has received from retrofit installers who participated in the Rulemaking Advisory Committee, DEQ has provided estimates of the technology and installation costs for several available technologies in Table 1A, below, and anticipates that those direct costs will range from \$8,000 to \$16,000 for the equipment and \$2,000 to \$9,000 for the installation.

Based on information DEQ has received from retrofit installers who participated in the Rulemaking Advisory Committee, DEQ has also provided estimates of the maintenance and repair costs for several available technologies in Table 1B below and anticipates that those direct costs will range from \$200-\$500 for a one-year period.

The indirect costs include time spent preparing and submitting the retrofit approval application, as well as time associated with maintaining records for the retrofit certification and engaging in any necessary periodic verification, including paying for staff time, in the event of businesses. DEQ estimate the one-time preparation and submittal of the retrofit application with an additional time-cost for maintaining the annual certification.

Table 1A contains the estimated costs associated with the retrofit technology and installation:

Table 1A Approximate Costs for Diesel Particulate Filter Retrofit Technology and Installation			
Retrofit* Regeneration type:	(Approx.) Retrofit Technology Cost**	(Approx.) Retrofit installation cost***	Considerations****
Passive System	\$12,000 - \$14,000 (12.5 - 14 liter engine size)	\$2,000	Most common engine size for retrofit application
Fuel Based Active System	\$8,000 - \$16,000 range	\$4,000 - \$6,000 range	Active systems range broadly based on the configuration needs
Electric or Plug-in Active System	\$10,000 - \$16,000 range	\$6,000 – \$9,000 range	Regeneration panel installation by certified electrician
* Regeneration type depends on exhaust temperature thresholds and vehicle duty cycle			

** Retrofit costs vary based on the engine displacement and horsepower of the subject vehicle

*** Installation costs increase with optional upgrades to brackets and mounting hardware

**** Duty cycle, engine model year and condition are factors in determining if a DPF is compatible

Table 1B contains the estimated costs associated with the maintenance and reporting requirements:

Table 1B Costs associated with the maintenance and reporting requirements		
Description	Approximate Cost	Considerations*
Visual Inspection of the retrofit equipment to confirm the equipment has been effectively maintained and meets manufacturer's specifications of function and operation	\$200 - \$300	Visual inspection is an annual requirement
Report containing exhaust temperature & engine backpressure records for a 24 month period	Included in the visual inspection	Report may be required as a random audit by the agency
Opacity test	\$75 - \$100	Opacity test is an annual requirement
DPF filter cleaning	\$250 - \$500	Annual or based on manufacturer specifications
Average time for the retrofit installation process	1.5 hours consultation time 1 to 2 days for installation	Average time from consultation to installation is around 45 days
*Other costs considerations include vehicle down time for retrofit maintenance, inspection and repair and cost of staff time for businesses to conduct maintenance, inspection, and repair		

Although there are significant costs anticipated for persons to install approved retrofit technology as outlined in the rules, EQC has adopted separate rules, authorized by HB 2007 (2019), to develop and implement a grant program for Oregon with available funds from the Environmental Mitigation Trust Agreement (VW Settlement). The Diesel Emissions Mitigation Grant Program will provide grant funding, subject to availability, to support the purchase of retrofit systems, as well as cleaner burning engines and diesel equipment replacements. Vehicle owners that apply and are awarded the grant funding will be eligible for up to 100 percent of the retrofit technology cost. DEQ intends to have approximately \$8 million available to support the purchase of retrofit systems as well as cleaner burning

engines and diesel equipment replacements each year beginning in 2021 with a target of providing at least five years of funding based on available revenue. Accordingly, this program may offset some of the costs for certain approved applicants who choose to retrofit their vehicles under DEQ's rules.

Other potential sources of funding may be available through the Environmental Protection Agency Diesel Emissions Reduction Act or through Congestion Mitigation Air Quality through the Federal Highways Administration. If these sources of funding are available, they may offset some of the retrofit costs.

For persons or businesses who are retrofit installation companies, manufacturers of retrofit components, truck service departments, used truck parts manufacturing and distribution, as well as sellers of new and used vehicles, DEQ anticipates there may be a positive fiscal and economic impact. The agency anticipates retrofit manufacturers and installation companies will see an increase in sales. Retrofit installers may also see an increase of sales and demand for services identified in Tables 1A and 1B. Truck service departments, used truck parts, truck part manufacturing and distribution may experience an increase in sales due to higher demand for parts and services related to diesel retrofit components. New and used truck sales may increase as some owners may choose a newer engine model year truck, rather than a retrofit option. DEQ does not currently have information on the anticipated increase in sales, but it anticipates that the impact to these persons and businesses would roughly correlate to that volume of potential retrofits.

Statement of Cost of Compliance

State agencies

While HB 2007 (2019) includes mandatory requirements, this rulemaking does not impose any mandatory requirements for state agencies. State agencies that choose retrofit compliance as an option for medium- and heavy-duty trucks prescribed in ORS 803.591 are to incur costs associated with retrofit technology devices, installation and maintenance identified in Table 1A and Table 1B of the "Statement of Fiscal and Economic Impact" that are similar to those incurred by the public. The indirect costs include the administrative costs associated with time spent preparing and submitting the retrofit approval application, as well as the time associated with maintaining records for the retrofit certification.

Local governments

While HB 2007 (2019) includes mandatory requirements, this rulemaking does not impose any mandatory requirements for local governments. Local governments' cost to comply with the proposed rules is anticipated to be similar to the costs described under state agencies.

Public

While HB 2007 (2019) includes mandatory requirements, this rulemaking does not impose any mandatory requirements on the public at large. It is specific for medium- and heavy-duty trucks and provides a pathway for vehicles subject to registration and titling prohibitions prescribed in ORS 803.591. A person who chooses retrofit compliance as an option for subject vehicles prescribed in ORS 803.591 is anticipated to incur costs

associated with retrofit technology devices, installation and maintenance identified in Table 1A and Table 1B of the “Statement of Fiscal and Economic Impact.” DEQ estimates about one hour of time needed for indirect costs to include the time spent preparing and submitting the retrofit approval application one time, as well as a small fiscal cost associated with maintaining records for the retrofit certification annually.

Large businesses - businesses with more than 50 employees

While HB 2007 (2019) includes mandatory requirements, this rulemaking does not impose any mandatory requirements for large businesses. Businesses that choose retrofit compliance as an option for subject vehicles prescribed in ORS 803.591 are anticipated to incur costs associated with retrofit technology devices, installation and maintenance identified in Table 1A and Table 1B of the “Statement of Fiscal and Economic Impact” and similar to those that are incurred by the public. DEQ estimates about one hour of staff time for indirect costs to include the time spent preparing and submitting the retrofit approval application one time, as well as a small fiscal cost associated with maintaining records for the retrofit certification annually.

The new Retrofit Compliance Program is anticipated to create positive fiscal opportunities for diesel retrofit installation companies, manufacturers of retrofit components, truck service departments, used truck parts manufacturing and distribution, as well as new and used truck sales. Retrofit manufacturers and installation companies are anticipated to see an increase in sales. Retrofit installers are anticipated to see an increase of sales and demand for services identified in Table 1A and Table 1B. Truck service departments, used truck parts, truck part manufacturing and distribution are anticipated to see an increase in sales due to higher demand for parts and services related to diesel retrofit components. New and used truck sales may increase as some owners may choose a newer engine model year truck rather than a retrofit option.

Small businesses – businesses with 50 or fewer employees

While HB 2007 (2019) includes mandatory requirements, this rulemaking does not impose any mandatory requirements for small businesses. Businesses that choose retrofit compliance as an option for subject vehicles prescribed in ORS 803.591 are anticipated to incur costs associated with retrofit technology devices, installation and maintenance identified in Table 1A and Table 1B of the “Statement of Fiscal and Economic Impact” and similar to the public at large. DEQ estimates about one hour of staff time for indirect costs to include the time spent preparing and submitting the retrofit approval application one time, as well as a small fiscal cost associated with maintaining records for the retrofit certification annually.

Retrofitting older medium- or heavy-duty trucks may minimize financial impact to small businesses when compared to the cost of purchasing a new vehicle or newer engine year vehicle. Small businesses with vehicles subject to retrofit compliance may choose to apply for the Diesel Emissions Mitigation Grant Program and will be eligible for preference points, as a small business, for the grant project as long as the application is approved and funding is available. Other potential sources of funding may be available through the

Environmental Protection Agency Diesel Emissions Reduction Act or through Congestion Mitigation Air Quality through the Federal Highways Administration.

The new Retrofit Compliance Program is anticipated to create positive fiscal opportunities for local diesel retrofit installation companies, manufacturers of retrofit components, truck service departments, used truck parts manufacturing and distribution, as well as new and used truck sales. Retrofit manufacturers and installation companies are anticipated to see an increase in sales. Retrofit installers are anticipated to see an increase of sales and demand for services identified in Table 1A and Table 1B. Truck service departments, used truck parts, truck part manufacturing and distribution are anticipated to see an increase in sales due to higher demand for parts and services related to diesel retrofit components. New and used truck sales may increase as some owners may choose a newer engine model year truck rather than a retrofit option.

ORS 183.336 - Cost of Compliance for Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule

While HB 2007 (2019) includes mandatory requirements, no small businesses are subject to the proposed rules because the rules do not impose mandatory requirements, but merely allow persons to retrofit medium- or heavy-duty trucks and obtain a certificate of retrofit compliance if they wish to continue to title and register those vehicles in the counties prescribed in ORS 803.591. DEQ does not currently know how many small businesses would be impacted by the proposed rules because there is no data on the number of medium- and heavy-duty trucks that are registered to small businesses available. The types of small businesses that may be impacted by the proposed rule include any small businesses which have medium- and heavy-duty trucks registered in Clackamas, Multnomah and Washington Counties or ones that sell such vehicles, parts or retrofit technology. These are trucks that have diesel engines 1996 or older effective Jan. 1, 2023, and medium-duty trucks 2009 or older and heavy-duty 2006 and older effective Jan. 1, 2029. Small businesses that title a subject vehicle in 2025 will be subject if the vehicle is a medium-duty truck with a diesel engine 2009 or older and a heavy-duty truck with a diesel engine that is 2006 or older. These businesses would only be subject to the proposed rules if they choose to retrofit a vehicle under the proposed rules.

Based on data provided to the Task Force on Supporting Businesses in Reducing Diesel Emissions dated Dec. 23, 2020³, the Oregon Department of Transportation reports there are 18,751 medium- and heavy-duty trucks subject to ORS 803.591. DEQ anticipates the vehicles, which may be subject to the proposed rule by 2029, will amount to significantly less due to the rate of vehicle inventory turnover and number of vehicles suitable for retrofit technology. Small businesses with vehicles subject to retrofit compliance may choose to apply for the Diesel Emissions Mitigation Grant Program and

³ Report on Task Force on Supporting Businesses in Reducing Diesel Emissions 2020 available at <https://olis.oregonlegislature.gov/liz/201911/Downloads/CommitteeMeetingDocument/229195>

will be eligible for preference points, as a small business, for the grant project as long as the application is approved and funding is available. Other potential sources of funding may be available through the Environmental Protection Agency Diesel Emissions Reduction Act or through Congestion Mitigation Air Quality through the Federal Highways Administration.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule

The proposed rules would add reporting and record-keeping activities for small businesses that choose to participate in the program.

The projected record-keeping requirements include:

- Approved retrofit technology exhaust temperature and engine backpressure records for the past 24 months;
- Approved retrofit technology warranty repair for the past 24 months; and
- Approved retrofit technology repair other than warranty repair for the past 24 months.

The projected reporting requirements include:

- An application for Certificate of Approved Retrofit Technology Compliance (one time unless removed or certification is revoked);
- Periodic Verification Process upon request from the Department to include all of the record-keeping requirements listed in this section; and
- Annual visual inspection and opacity test results.

Other administrative activities include scheduling required services and inspections. The cost of the exhaust temperature and engine backpressure report, including a visual inspection is approximately \$200 annually, but subject for the installer to determine. The opacity test cost is approximately \$75 - \$100 annually.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule

While HB 2007 (2019) includes mandatory requirements, this rulemaking does not impose any mandatory requirements for small businesses. Businesses that choose retrofit compliance as an option for subject vehicles prescribed in ORS 803.591 are anticipated to incur costs associated with retrofit technology devices, installation and maintenance identified in Table 1A and Table 1B of the “Statement of Fiscal and Economic Impact” and similar to those incurred by the public. DEQ estimates about one hour of staff time for indirect costs to include the time spent preparing and submitting the retrofit approval application one time, as well as a small fiscal cost associated with maintaining records for the retrofit certification annually. DEQ does not have an estimate of the cost due to the business processes and hourly rates that vary and are subject to change.

d. Describe how DEQ involved small businesses in developing this proposed rule

DEQ included small business representatives on the Retrofit Compliance Program Rulemaking Advisory Committee that advised DEQ on the cost of compliance for small businesses. DEQ also provided rulemaking notices through the Oregon Trucking Association, the Association of General Contractors, the Columbia Corridor Association and the Professional Business Development. These associations include small businesses as part of their membership.

Documents relied on for fiscal and economic impact

Document title	Document location
Report to Task Force on Supporting Businesses in Reducing Diesel Emissions (2020)	https://olis.oregonlegislature.gov/liz/201911/Downloads/CommitteeMeetingDocument/229195

Advisory committee fiscal review

DEQ appointed an advisory committee for this rulemaking development.

As ORS 183.33 requires, DEQ asked for the committee’s recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 to reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and its findings appear in the approved minutes dated Jan. 26, 2021.

The committee agreed with DEQ’s analysis regarding the fiscal and economic impacts. It provided comments and questions regarding the DEQ Diesel Emissions Mitigation Grant Program and the funding needed for small businesses that choose to retrofit their subject vehicles. However, the committee also acknowledged the need for additional resources and grant programs designed to help pay for the retrofit technology and installation. It agreed there would be a fiscal impact on small businesses and discussed ways that DEQ is proposing to mitigate negative fiscal impacts. The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon as long as grant funding and technical assistance is available. Once grant funds were no longer available through the DEQ Diesel Emission Mitigation Grant Program, some committee members believed there might be a significant adverse impact to small business.

Housing Cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-squarefoot detached, single-family dwelling on that parcel. DEQ determined the proposed rules would have no effect on the development costs because they do not impose a mandatory requirement.

Federal Relationship

There is specific statutory direction to the agency (ORS 468A.810) that authorizes the adoption of these rules. There are no federal regulations regarding retrofit technology requirements for medium- or heavy-duty trucks. Furthermore, there are no federal regulations regarding the maintenance and inspection requirements for on-road diesel vehicles equipped with retrofit technology. The proposed rules refer to retrofit technologies, which provide a reduction of diesel particulate matter of at least 85 percent, which the EPA has approved or conditionally approved for use in engine retrofit programs.

Land Use

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with state wide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

EQC Prior Involvement

DEQ staff briefed the commission on the passage of HB 2017 (2019), including provisions related to on-road medium- and heavy-duty trucks registration, titling and retrofit requirements in the summer of 2019.

Staff have also discussed this rulemaking with the commission during briefings related to indirect sources of air contamination and strategies to reduce diesel engine emissions.

Advisory Committee

Background

DEQ convened the Retrofit Compliance 2021 Rulemaking Advisory Committee. The committee included representatives from construction companies, small and large fleet associations, diesel retrofit installers and manufacturers and environmental organizations, as well as state and public agencies. It met three times. The committee's web page is located at [HB 2007 Retrofit Compliance Rulemaking 2021](#).

In creating this committee, DEQ selected members that reflect the range of stakeholders the proposed rules affect, both directly and indirectly. Representatives considered the policy, fiscal and economic impacts of the proposed rules on the businesses and organizations they represent.

The committee members were:

Advisory Committee Membership		
Name	Affiliation	Representing
Larry Gesher	Association of General Contractors	Construction Companies
Warren Gadberry	Clackamas County Fleet Services	County regulated by HB 2007 (2019)
Corky Collier	Columbia Corridor Association	Small Fleets
Audrey Lawson	Commerce & Compliance Division (ODOT)	State of Oregon HB 2007 (2019) Partner Agency
Steve Hoke	Diesel Emission Service	Retrofit Technology Manufacturing, Installation and Service
Allen Schaeffer	Diesel Technology Forum	Diesel Equipment and Technology
Dave Scarfe	Elite Emission Products	Retrofit Technology Installation and Service
Tommy Moreno	Franz Bakery Corporate Fleet	Fleets regulated by HB 2007 (2019)
Kevin Brown	Manufacturers of Emission Controls Association	Emission Control Industry
David Silva	Multnomah County Fleet Services	County regulated by HB 2007 (2019)
Mary Peveto	Neighbors for Clean Air	Clean Air Community Based Organization
Rich Angstrom	Oregon Concrete & Aggregate Producers Association	Concrete & Aggregate Business
Morgan Gratz-Weiser	Oregon Environmental Council	Environmental Community Based Org.
Cory Hansen	Oregon Refuse & Recycling Association	Solid Waste Management Industry
Jana Jarvis	Oregon Trucking Association	Private Heavy Duty Fleets

Kenechi Onyeagusi	Professional Business Development	Disadvantaged, Minority-, Women- and Service-disabled Veteran-owners
Tracy Olander	Policy and Operations (DMV)	State of Oregon HB 2007 (2019) Partner Agency
David Breen	Port of Portland	Intermodal Freight, Ports, and Drayage
Jeff Bissonnette	Union of Concerned Scientists	Scientific Community
Jason Novack	United Parcel Service Fleet Services	Fleets regulated by HB 2007 (2019)
Tom Keyser	Washington County Fleet Services	County regulated by HB 2007 (2019)

Meeting notifications

To notify people about the advisory committee’s activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
 - DEQ Retrofit Compliance
 - Diesel and Biodiesel
 - VW Settlement Fund
- Sent a one-time notice to the following GovDelivery lists in addition to those listed above describing how to sign up to receive further advisory committee notices:
 - DEQ Public Notices
 - Rulemaking
 - Truck Efficiency/Reduced Idling
- Added advisory committee announcements to DEQ’s calendar of public meetings at [DEQ Calendar](#).

Committee discussions

In addition to the recommendations described under the “Statement of Fiscal and Economic Impact” section above, the committee helped determine what retrofit technology DEQ should approve and the guidelines for issuing an EQC certification confirming a diesel engine has been retrofitted with approved technology. The committee also provided input on program administration such as:

- Timelines for submitting proof of compliance and equipment inspections
- Engine model year retrofit compliance determination
- Owner/operator record-keeping requirements
- Training resources for owners/operators
- Frequency of compliance certification and retrofit maintenance documentation requirements

Identifying areas of program-focused customer service delivery

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On March 26, 2021, filing notice with the Oregon Secretary of State for publication in the April 2021 Oregon Bulletin;
- Notifying EPA by mail;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [HB 2007 Retrofit Compliance 2021](#);
- Emailing approximately 19,872 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ Public Notices
 - Diesel and Biodiesel
 - VW Settlement Fund
 - DEQ Retrofit Compliance
- Emailing the following key legislators required under [ORS 183.335](#):
 - Senate President Peter Courtney
 - Senator Lee Beyer
 - House Speaker Tina Kotek
 - Representative Pam Marsh
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Public Hearing

DEQ held one public hearing. DEQ did not receive any comments at the hearing. Later sections of this document include a summary of one comment received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding Officers' Record

Hearing 1

Date	Monday, April 26, 2021
Place	Online
Start Time	5 p.m.
End Time	6:30 p.m.
Presiding Officer	Penny Mabie

Presiding Officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people attending to indicate their intent to present comments, either by phone or through the online platform. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

Three members of the public attended the teleconference or webinar. No person presented any oral testimony or written comments at the hearing.

Summary of Public Comments and DEQ Responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from March 26, 2021, through 4 p.m. on May 18, 2021. DEQ received one comment by the close of the public comment period. The comment summary and DEQ's response, listed below, focus on the two main points in the written comment. The full text of this comment is included at the end of this report.

DEQ did not change the proposed rules in response to comments.

Comment summary

There will be economic loss from banning diesel fuel or altering diesel engines.

“This attempt to remove the diesel engine as a method of transportation is not necessary nor economical. Diesel engines are used in every form of transportation and agriculture. The diesel engine creates more power on less fuel and is more economical for the user. The radical agenda to clean the environment must also take into consideration the economic loss the individual and communities will face with these rules to ban or alter the diesel engine.”

DEQ response

EPA describes retrofit technologies as “exhaust after-treatment technologies that may be added to further reduce emissions from certified engine configurations.” DEQ is not proposing rule language to alter diesel engines or ban the use of a diesel engine or diesel fuel. The 2019 Oregon Legislature passed House Bill 2007 directing the Oregon Environmental Quality Commission to adopt rules to establish approved retrofit technologies for diesel engines that power certain medium- and heavy-duty vehicles and to prescribe the manner for issuing a certification of compliance. The proposed rules provide an exception for a person to renew registration or title a vehicle with diesel engine, subject to a phase-out deadline, prescribed by ORS 803.591. The proposed rules establish the criteria for what constitutes approved retrofit technologies for on-road diesel engines, the manner for which Oregon DEQ will certify them and the verification required to ensure certification for the life of the retrofit technology.

As mentioned, the retrofit compliance option would allow the registrant to renew or title a vehicle per the Oregon Vehicle Code found in ORS 803.591. ORS 803.591 directs the Oregon Department of Transportation to implement registration and titling prohibitions in Clackamas, Multnomah and Washington Counties for certain diesel-powered vehicles over a 14,000 lbs. gross vehicle weight rating. The statute includes dates that medium- or heavy-duty vehicles cannot be registered or titled based on engine age. It also lists exemptions. The subject medium- and heavy-duty vehicles can only be titled and/or renew registration in those counties if they have been retrofitted and received a certification from DEQ as described in ORS 468A.810 and the proposed rules. Although the proposed rules do not impose mandatory requirements, they do lay out the types of technology that will constitute approved retrofit technology and establish the process by which persons may obtain a certification of compliance.

Comment summary

Smaller transportation companies will leave the state due to cost.

“The transportation industry is mobile and will leave the State to avoid these rules. As California has found that many transportation companies just won’t operate or purchase fuel in that State. The large operations that can afford a transition will dominate the market and prices will be increased for all levels of goods that are transported by truck or rail. It is evident that you are intent on banning the use of diesel fuel all together in Oregon. This is going to greatly affect agriculture and the transportation of agricultural goods as well as all other goods transported in or out of this State.”

DEQ response

DEQ is not proposing rule language to alter diesel engines or ban the use of a diesel engine or diesel fuel. The 2019 Oregon Legislature passed House Bill 2007 directing the Oregon Environmental Quality Commission to adopt rules to establish approved retrofit technologies for diesel engines that power certain medium- and heavy-duty vehicles and to prescribe the manner for issuing a certification of compliance. The proposed rules provide an exception for a person to renew registration or title a vehicle with diesel engine, subject to a phase-out deadline, prescribed by ORS 803.591.

As stated in the public notice of this rulemaking, in the Statement of Fiscal and Economic Impact, the estimated costs associated with choosing to retrofit a truck includes direct costs for the equipment and installation, as well as costs associated with the certification process. The cost outline and details are located in Table 1A and Table 1B in the aforementioned document. DEQ acknowledges there may be a significant cost to retrofitting a diesel vehicle. In addition, there may be a cost benefit to retrofit certain vehicles when compared to the cost of purchasing a new vehicle or newer engine year vehicle.

HB 2007 (2019) included several provisions for reducing air pollution from diesel engines. One element, is the development and implementation of a grant program for Oregon with available funds from the Environmental Mitigation Trust Agreement (aka VW Settlement). The EQC adopted the grant rules in January 2021. The program will provide grant funding, subject to availability, to support the purchase of retrofit systems, as well as cleaner burning engines and diesel equipment replacements. Small businesses with vehicles subject to retrofit compliance may choose to apply for a Diesel Emissions Mitigation Grant and will receive preference points as a small business. Vehicle owners that apply and are awarded the grant funding will be eligible for reimbursement of up to 100 percent of the retrofit technology cost. DEQ acknowledges that scope of projects eligible for funding is not limited only to retrofit technology for the purpose of compliance with the proposed rules and its grant resources may not be able to fund all projects.

Implementation

Notification

The proposed rules would become effective upon filing, approximately July 26, 2021. DEQ would notify affected parties by:

- GovDelivery subscriber lists
- Website update
- Press release

Compliance and enforcement

Affected parties: Retrofit technology manufacturers, installers and registered owners submitting application documents and statements would be required to comply with program requirements.

DEQ staff: Program staff would review all applications received for completeness, to determine whether the retrofit technology constitutes Approved Retrofit Technology and if a certificate of compliance should be issued. All application documentation, reports, statements, declarations and any other documents submitted to DEQ by the person who owns or to whom the medium- or heavy-duty vehicle is registered or by the installer must contain true, accurate and complete information. Enforcement of Motor Vehicle Code violations would be reported to appropriate ODOT departments.

Measuring, sampling, monitoring and reporting

Affected parties: Retrofit technology manufacturers, installers and registered owners submitting annual inspection and periodic verification documents and statements would be required to comply with program requirements.

DEQ staff: Program staff would review annual inspections for completeness and to determine whether the technology has maintained the characteristics that made it eligible for compliance. Annual inspections include a certification signature from an installer, authorized by the Approved Retrofit Technology manufacturer or an ART manufacturer-designated representative, stating the installer or manufacturer completed a visual exhaust temperature and engine backpressure report and opacity test. Registrants will be required to participate in a Periodic Verification Process upon a request from the DEQ. The Department may conduct its PVP as a result of a random audit of a certificate of compliance or as a result of individualized suspicion regarding whether the Certificate of Approved Retrofit Compliance remains valid or should not have initially been issued.

Systems

Web site: DEQ would update its external website with the new program requirements and resource information.

Database: DEQ's Vehicle Inspection Program would expand its existing database to implement data exchange for registration and titling purposes in partnership with Driver and Motor Vehicle Services and Commerce and Compliance Division of ODOT.

Training

DEQ's Vehicle Inspection Program would provide training or guidance to staff reviewing and approving applications for retrofit technology and reviewing and approving annual inspections or periodic verification documents. Training would include instruction on interacting with stakeholders or applicants over the phone, online and in person.

Five-Year Review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts two of the proposed rules from the five-year review because the proposed rules would amend or repeal an existing rule. ORS 183.405(4).

The following rules are exempt from the five-year review:

- 340-200-0040
- 340-256-0010

Five-year rule review required

No later than July 23, 2026, DEQ will review the newly adopted rules for which ORS 183.405 (1) requires review to determine whether:

- The rule has had the intended effect
- The anticipated fiscal impact of the rule was underestimated or overestimated
- Subsequent changes in the law require that the rule be repealed or amended
- There is continued need for the rule.

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3).

The following rules are subject to the five-year review:

- 340-256-0500
- 340-256-0510
- 340-256-0520
- 340-256-0530
- 340-256-0540
- 340-256-0550
- 340-256-0560

Accessibility Information

You may review copies of all documents referenced in this announcement at:
Oregon Department of Environmental Quality
700 NE Multnomah St., Ste. 600
Portland, OR, 97232

To schedule a review of all websites and documents referenced in this announcement, call Rick Reznic, Portland Oregon, 971-673-1632.

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.state.or.us.



State of Oregon Department of Environmental Quality

Draft Rules – Edits Highlighted

HB 2007 Retrofit Compliance 2021 Rulemaking

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

Division 200

GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR 340 division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on ~~January 21~~ July 23, 2021.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

Statutory/Other Authority: 468A & ORS 468.020

Statutes/Other Implemented: ORS 468A.035 & 468A.135

History:

[DEQ 1-2021, amend filed 01/21/2021, effective 01/21/2021](#)

[DEQ 21-2020, amend filed 11/19/2020, effective 11/19/2020](#)
[DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020](#)
[DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019](#)
[DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019](#)
[DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019](#)
[DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018](#)
[DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018](#)
[DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018](#)
[DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018](#)
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 2-2017, f. & cert. ef. 1-19-17
DEQ 14-2015, f. & cert. ef. 12-10-15
DEQ 10-2015, f. & cert. ef. 10-16-15
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2015, f. & cert. ef. 4-16-15
DEQ 7-2014, f. & cert. ef. 6-26-14
DEQ 6-2014, f. & cert. ef. 3-31-14
DEQ 5-2014, f. & cert. ef. 3-31-14
DEQ 4-2014, f. & cert. ef. 3-31-14
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 12-2013, f. & cert. ef. 12-19-13
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 10-2012, f. & cert. ef. 12-11-12
DEQ 7-2012, f. & cert. ef. 12-10-12
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 18-2011, f. & cert. ef. 12-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 14-2010, f. & cert. ef. 12-10-10
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 2-2010, f. & cert. ef. 3-5-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 3-2009, f. & cert. ef. 6-30-09
DEQ 15-2008, f. & cert. ef. 12-31-08
DEQ 14-2008, f. & cert. ef. 11-10-08
DEQ 12-2008, f. & cert. ef. 9-17-08
DEQ 11-2008, f. & cert. ef. 8-29-08
DEQ 5-2008, f. & cert. ef. 3-20-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 4-2007, f. & cert. ef. 6-28-07
DEQ 3-2007, f. & cert. ef. 4-12-07
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 9-2005, f. & cert. ef. 9-9-05

DEQ 7-2005, f. & cert. ef. 7-12-05
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 1-2005, f. & cert. ef. 1-4-05
DEQ 10-2004, f. & cert. ef. 12-15-04
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 19-2003, f. & cert. ef. 12-12-03
DEQ 14-2003, f. & cert. ef. 10-24-03
DEQ 5-2003, f. & cert. ef. 2-6-03
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 5-2002, f. & cert. ef. 5-3-02
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 17-2001, f. & cert. ef. 12-28-01
DEQ 16-2001, f. & cert. ef. 12-26-01
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 4-2001, f. & cert. ef. 3-27-01
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 21-2000, f. & cert. ef. 12-15-00
DEQ 20-2000 f. & cert. ef. 12-15-00
DEQ 17-2000, f. & cert. ef. 10-25-00
DEQ 16-2000, f. & cert. ef. 10-25-00
DEQ 13-2000, f. & cert. ef. 7-28-00
DEQ 8-2000, f. & cert. ef. 6-6-00
DEQ 6-2000, f. & cert. ef. 5-22-00
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01
DEQ 15-1999, f. & cert. ef. 10-22-99
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047
DEQ 10-1999, f. & cert. ef. 7-1-99
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 5-1999, f. & cert. ef. 3-25-99
DEQ 1-1999, f. & cert. ef. 1-25-99
DEQ 21-1998, f. & cert. ef. 10-12-98
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 17-1998, f. & cert. ef. 9-23-98
DEQ 16-1998, f. & cert. ef. 9-23-98
DEQ 15-1998, f. & cert. ef. 9-23-98
DEQ 10-1998, f. & cert. ef. 6-22-98
DEQ 24-1996, f. & cert. ef. 11-26-96
DEQ 23-1996, f. & cert. ef. 11-4-96
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 15-1996, f. & cert. ef. 8-14-96
DEQ 8-1996(Temp), f. & cert. ef. 6-3-96
DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95
DEQ 19-1995, f. & cert. ef. 9-1-95

DEQ 17-1995, f. & cert. ef. 7-12-95
DEQ 14-1995, f. & cert. ef. 5-25-95
DEQ 10-1995, f. & cert. ef. 5-1-95
DEQ 9-1995, f. & cert. ef. 5-1-95
DEQ 25-1994, f. & cert. ef. 11-2-94
DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94
DEQ 14-1994, f. & cert. ef. 5-31-94
DEQ 5-1994, f. & cert. ef. 3-21-94
DEQ 1-1994, f. & cert. ef. 1-3-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 16-1993, f. & cert. ef. 11-4-93
DEQ 15-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93
DEQ 8-1993, f. & cert. ef. 5-11-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1992, f. & cert. ef. 11-12-92
DEQ 26-1992, f. & cert. ef. 11-2-92
DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92
DEQ 20-1992, f. & cert. ef. 8-11-92
DEQ 19-1992, f. & cert. ef. 8-11-92
DEQ 7-1992, f. & cert. ef. 3-30-92
DEQ 3-1992, f. & cert. ef. 2-4-92
DEQ 1-1992, f. & cert. ef. 2-4-92
DEQ 25-1991, f. & cert. ef. 11-13-91
DEQ 24-1991, f. & cert. ef. 11-13-91
DEQ 23-1991, f. & cert. ef. 11-13-91
DEQ 22-1991, f. & cert. ef. 11-13-91
DEQ 21-1991, f. & cert. ef. 11-13-91
DEQ 20-1991, f. & cert. ef. 11-13-91
DEQ 19-1991, f. & cert. ef. 11-13-91
DEQ 2-1991, f. & cert. ef. 2-14-91
DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88
DEQ 21-1987, f. & cert. ef. 12-16-87
DEQ 8-1987, f. & cert. ef. 4-23-87
DEQ 5-1987, f. & cert. ef. 3-2-87
DEQ 4-1987, f. & cert. ef. 3-2-87
DEQ 21-1986, f. & cert. ef. 11-7-86
DEQ 20-1986, f. & cert. ef. 11-7-86
DEQ 10-1986, f. & cert. ef. 5-9-86
DEQ 5-1986, f. & cert. ef. 2-21-86
DEQ 12-1985, f. & cert. ef. 9-30-85
DEQ 3-1985, f. & cert. ef. 2-1-85
DEQ 25-1984, f. & cert. ef. 11-27-84
DEQ 18-1984, f. & cert. ef. 10-16-84
DEQ 6-1983, f. & cert. ef. 4-18-83

DEQ 1-1983, f. & cert. ef. 1-21-83
DEQ 21-1982, f. & cert. ef. 10-27-82
DEQ 14-1982, f. & cert. ef. 7-21-82
DEQ 11-1981, f. & cert. ef. 3-26-81
DEQ 22-1980, f. & cert. ef. 9-26-80
DEQ 21-1979, f. & cert. ef. 7-2-79
DEQ 19-1979, f. & cert. ef. 6-25-79
DEQ 54, f. 6-21-73, cert. ef. 7-1-73
DEQ 35, f. 2-3-72, cert. ef. 2-15-72

Division 256 MOTOR VEHICLES

340-256-0010

Definitions

The definitions in OAR 340-200-0020, 340-204-0010, and this rule apply to this division. If this rule defines the same term as OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in this division.

(1) "Application Receipt Period" means the calendar days including and between September 1 and October 31 of every year that the Department will begin the process of receiving annual renewal and applications for Approved Retrofit Technology.

(2) "Approved Retrofit Technology" means on-road Diesel Particulate Matter pollution control system that meets the criteria established in OAR 340-256-0510.

(3) "Basic test" means an inspection and maintenance program designed to measure exhaust emission levels during an unloaded idle mode as described in OAR 340-256-0340.

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

(5) "CCD" means the Commerce and Compliance Division of the Oregon Department of Transportation.

(6) "Certificate of Approved Retrofit Compliance" means an electronic certification issued by the Department that attests that the Medium-or Heavy-duty Truck is equipped with Approved Retrofit Technology that complies with all applicable provisions in OAR 340-256-0510 through OAR 340-256-0560.

(7) "CO₂" means a chemical formula representing the compound carbon dioxide.

(8) "CO" means a chemical formula representing the compound carbon monoxide.

(9) "Certificate of Compliance" means a hard copy or electronic document stating that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the Commission's emission control criteria, standards, and rules. A certificate of compliance is issued by a Private Business Fleet

Vehicle Emission Inspector, a Public Agency Fleet Vehicle Emission Inspector, a Vehicle Emissions Inspector employed by DEQ, or an Independent Contractor.

(510) "Clean-Screening" means a procedure by which DEQ determines that a vehicle has acceptable emissions and then allows the vehicle owner to bypass the traditional emissions inspection station test. DEQ's decision may be the result of remotely sensing the emissions, the status of emissions equipment, or another means determined by DEQ.

(611) "Commission" means the Environmental Quality Commission.

(12) "Component Swapping" means moving components of an Approved Retrofit Technology from the Medium- or Heavy-duty Truck on which it was originally installed to another Medium- or Heavy-duty Truck in compliance with OAR 340-256-0560.

(713) "Dealer" means any person who is engaged wholly or in part in the business of buying, selling, or exchanging, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, motor vehicles.

(814) "Dealership" means a business involved in the sale of vehicles that is franchised with an automobile manufacturer as defined in ORS 650.120(9).

(915) "DEQ" means the Department of Environmental Quality.

(16) "Diesel Engine" means a compression ignition engine.

(4017) "Diesel motor vehicle" means a motor vehicle powered by a stratified charge compression-ignition internal combustion engine.

(18) "Diesel Particulate Matter" means the particles found in the exhaust of a Diesel Engine.

(419) "Director" means the director of DEQ.

(4220) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(4321) "Emissions" means gas or vapor released to the atmosphere from a motor vehicle component or resulting from fuel combustion within a motor vehicle engine.

(4422) "Emissions Inspection Station" means a facility, operated by DEQ or an Independent Contractor, for the purpose of conducting emissions inspections of vehicles required to be inspected under this Division.

(23) "EPA" means the United States Environmental Protection Agency.

(4524) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream of the exhaust ports of a motor vehicle engine.

(4625) "Factory-installed motor vehicle pollution control system" means a motor vehicle pollution control system installed by the vehicle or engine manufacturer to comply with

United States motor vehicle emission control laws and regulations published in the Code of Federal Regulations, 40 C.F.R. Parts 85 and 86.

(~~17~~26) "Franchised" means a sale entity licensed by the DMV and under an agreement as defined in ORS 650.120(5) to sell motor vehicles.

(~~18~~27) "Gas analytical system" means a device that measures the amount of contaminants in the exhaust emissions of a motor vehicle and that has been issued a license by DEQ under OAR 340-256-0450 and ORS 468A.380.

(~~19~~28) "Gaseous fuel" includes, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms.

(~~20~~29) "Gasoline motor vehicle" means a motor vehicle powered by a spark-ignition internal combustion engine.

(~~24~~30) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum design loaded weight of a vehicle.

(~~22~~31) "Heavy duty motor vehicle" means any motor vehicle with a GVWR greater than 8,500 pounds.

(32) "Heavy-duty Truck" means a Diesel Motor Vehicle, or combination of Diesel Motor Vehicles operated as a unit, that has or have a gross vehicle weight rating that is greater than 26,000 pounds.

(233) "HC" is an abbreviation that means hydrocarbon.

(~~24~~34) "Hydrocarbon" means a class of chemical compounds consisting of hydrogen and carbon.

(~~25~~35) "Idle speed" means the engine speed when accelerator pedal is fully released.

(~~26~~36) "Imported vehicle" means a vehicle legally imported from another country through channels other than the maker's official distribution system.

(~~27~~37) "Independent Contractor" means any person with whom DEQ enters into an agreement providing for the construction, equipment, maintenance, personnel, management or operation of emissions inspection stations or activities under ORS 468A.370 and these rules.

(~~28~~38) "Inspection and Maintenance Program or I/M Program" means a program of conducting regular inspections of motor vehicles, including measurement of air contaminants in the motor vehicle exhaust and an inspection of the motor vehicle pollution control system, to identify vehicles that do not meet the standards of this Division or that have malfunctioning, maladjusted or missing motor vehicle pollution control systems, and, when necessary, of requiring the repair or adjustment of vehicles to make the motor vehicle

pollution control systems function as intended and to reduce tailpipe emissions of air contaminants.

(2939) "In-use motor vehicle" means any motor vehicle that is not a new motor vehicle.

(3040) "Light-duty motor vehicle" means any motor vehicle with a GVWR of 8,500 pounds or less.

(41) "Medium-duty Truck" means a Diesel Motor Vehicle, or combination of Diesel Motor Vehicles operated as a unit, that has or have a gross vehicle weight rating that is greater than 14,000 pounds but less than or equal to 26,000 pounds.

(342) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends. If the manufacturer does not designate a production period, the model year with respect to such vehicles or engines means the 12-month period beginning January of the year in which production of the vehicle or engine begins.

(343) "Motor vehicle" or "vehicle" means any self-propelled vehicle used for transporting persons or commodities on public roads.

(344) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification that causes a reduction of pollutants emitted from the vehicle, or a system or device that inhibits the introduction of fuels that can adversely affect the overall motor vehicle pollution control system.

(345) "Motor Vehicle Fleet Operation" means ownership, control, management or any combination thereof, by any person, of five or more motor vehicles.

(346) "New motor vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who, in good faith, purchases the motor vehicle for purposes other than resale.

(347) "OBD" and "OBD-II" means the On Board Diagnostic system in a vehicle that tracks the effectiveness of the motor vehicle's pollution control system.

(348) "OBD Test" means an emissions test that downloads diagnostic information from the vehicle's OBD computer to evaluate the effectiveness of the motor vehicle pollution control system.

(349) "On-Site Vehicle Test" means an emissions test conducted at the vehicle owner's location.

(3950) "Owner" means the person having all the incidents of ownership in a vehicle. Where the incidents of ownership are in different persons, it means the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement or a lease for a term of 10 or more successive days.

(451) "Opacity" means the degree to which transmitted light is obscured, expressed in percent.

(52) "Periodic Verification Process" means the ongoing requirement to provide proof of Approved Retrofit Technology maintenance and operation to the Department to maintain the validity of a Certificate of Approved Retrofit Compliance.

(4453) "Permanent Fleet Vehicle" means a motor vehicle that the Oregon Department of Transportation identifies with permanent fleet tags, stickers, plates or other identification ODOT determines appropriate.

(4254) "Person" means an individual, public or private corporation, political subdivision, agency, board, department, or bureau of the state, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever that is recognized by law as the subject of rights and duties.

(4355) "PPM" means parts per million by volume.

(4456) "Private Business Fleet" means a group of 100 or more Oregon-registered, in-use, motor vehicles that are owned by any person, excluding those vehicles held primarily for the purpose of resale.

(4557) "Private Business Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Private Business Fleet who possesses a current and valid license issued by DEQ under OAR 340-256-0440 and ORS 468A.380.

(4658) "Public Agency Fleet" means a group of 50 or more government-owned vehicles registered under ORS 805.040.

(4759) "Public Agency Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Public Agency Fleet that possesses a current and valid license issued by DEQ under OAR 340-256-0440 and ORS 468A.380.

(4860) "Public roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof used by the public, or dedicated or appropriated to public use.

(61) "Re-Designation" means the complete removal of an Approved Retrofit Technology from the Medium- or Heavy-duty Truck on which it was original installed and the subsequent transfer of the Approved Retrofit Technology to another Medium- or Heavy-duty Truck within the person's commonly owned fleet in compliance with OAR 340-256-0560.

(4962) "Regional Authority" means a regional air quality control authority established under the provisions of ORS 468A.005 to 468A.035, 468A.075, 468A.100 to 468A.130, and 468A.140 to 468A.175.

(5063) "Remote Sensing" means a technique for determining the level of a vehicle's emissions without connecting equipment directly to the vehicle, done either by optically

measuring the pollutants in the vehicle's exhaust plume, by remotely receiving a vehicle's emissions diagnostic information, or by other means determined by DEQ.

~~(5164)~~ "Ringlemann Smoke Chart" means the Ringlemann Smoke Chart with instructions for use as published in May 1967, by the U.S. Department of Interior, Bureau of Mines, Information circular 8333.

~~(5265)~~ "RPM" means engine crankshaft revolutions per minute.

~~(5366)~~ "Self-Service Test" means a procedure for vehicle testing offered by DEQ where the vehicle owner or driver can perform an emissions test on the vehicle at a facility provided by DEQ using remote sensing, plug-in OBD emissions testing, or other means designated by DEQ.

~~(5467)~~ "Vehicle Emission Inspector" means any person employed by the Department or an Independent Contractor who possesses a current and valid license issued by the Department under OAR 340-256-0440 and ORS 468A.380.

~~(5568)~~ "VIN" or "Vehicle Identification Number" means a unique code including a serial number that identifies a specific vehicle.

~~(5669)~~ "Visible emissions" means those gases or particulates, excluding uncombined water, that separately or in combination are visible upon release to the outdoor atmosphere.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

Statutory/Other Authority: ORS 468A.360, [ORS 468A.810](#), & [ORS 468.020](#)

Statutes/Other Implemented: ORS 468A.350 - 468A.400, & [ORS 468A.810](#)

History:

[DEQ 21-2020, amend filed 11/19/2020, effective 11/19/2020](#)

DEQ 7-2005, f. & cert. ef. 7-12-05

DEQ 14-2003, f. & cert. ef. 10-24-03

DEQ 11-2001, f. & cert. ef. 10-4-01

DEQ 17-2000, f. & cert. ef. 10-25-00

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-024-0005 & 340-024-0305

DEQ 25-1996, f. & cert. ef. 11-26-96

DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94

DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 23-1984, f. 11-19-84, ef. 4-1-85

DEQ 12-1982, f. & ef. 7-21-82

DEQ 18-1980, f. & ef. 6-25-80

DEQ 22-1979, f. & ef. 7-5-79

DEQ 9-1978, f. & ef. 7-7-78

DEQ 139, f. 6-30-77, ef. 7-1-77

DEQ 89, f. 4-22-75, ef. 5-25-75

DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 8, f. 4-7-70, ef. 5-11-70

340-256-0500

Background

The 2019 Oregon Legislature passed House Bill 2007, the relevant portions of which are codified in 2019 Oregon Laws Chapter 468A and in ORS Chapter 803. ORS 803.591 prohibits registering and titling older Medium- and Heavy-duty Trucks in Clackamas, Multnomah, and Washington counties after certain deadlines unless they are equipped with Approved Retrofit Technology.

ORS 468A.810 requires the Commission to adopt rules for certification of Approved Retrofit Technologies for Diesel Engines that power certain Medium- and Heavy-duty Trucks and to prescribe the manner for issuing a certification that such Diesel Engines have been equipped with Approved Retrofit Technology.

The rules are intended to accomplish those goals.

Statutory Authority: ORS 468A.810 & ORS 468A.360.

Statutes Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0510

Requirements for Approved Retrofit Technology

To be an Approved Retrofit Technology, the retrofit technology must be:

(1) New or used equipment that:

(a) Was installed by an installer authorized by the Approved Retrofit Technology manufacturer;

(b) Was manufactured for installation on an on-road Diesel Engine and compatible with the Medium- or Heavy-duty Truck;

(c) Has a valid manufacturer's warranty;

(d) DEQ determines will provide a reduction of at least 85 percent of Diesel Particulate Matter; and

(e) Complies with the labeling requirements in OAR 340-256-0550.

(2) If the Approved Retrofit Technology is used, in addition to meeting all the requirements in subsection (1) of this rule, the equipment must be installed in compliance with the requirements in OAR 340-256-0560.

Statutory Authority: ORS 468A.810 & ORS 468A.360.

Statutes Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0520

Certificate of Approved Retrofit Compliance

(1) To obtain a Certificate of an Approved Retrofit Compliance, using a Department-approved application, a Person who owns or to whom the Medium- or Heavy-duty Truck shall be registered must submit information sufficient to allow the Department to determine that the retrofit technology meets the requirements of OAR 340-256-0510 and that the retrofit technology is in good working order, including:

(a) A statement signed by the installer of the Approved Retrofit Technology declaring that, at the time of installation, the installer was authorized to perform the installation work by the manufacturer of the Approved Retrofit Technology;

(b) A statement signed by the Person who owns or to whom the Medium- or Heavy-duty Truck shall be registered committing to and declaring the following:

(A) That, after the issuance of a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will either ensure that the Approved Retrofit Technology remains operational and functioning efficiently or notify the Department immediately in writing that the Approved Retrofit Technology is functioning with decreased efficiency or effectiveness or is no longer operational and functioning;

(B) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will notify the Department immediately in writing if, after the issuance of a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered becomes aware that changes occur such that the equipment no longer would constitute Approved Retrofit Technology;

(C) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will engage in the annual renewal and the Periodic Verification Process if and as required under OAR 340-256-0540;

(D) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will keep the records that will be required to be submitted under OAR 340-256-0540 if the Department engages that Person in the Periodic Verification Process; and

(E) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will not personally, or allow anyone else to, remove, modify, alter, or tamper with the Approved Retrofit Technology or any labels after the Department issues a Certificate of Approved Retrofit Compliance;

(c) A pre-installation compatibility assessment as prescribed by the Approved Retrofit Technology manufacturer, signed by the installer;

(d) A completed warranty registration form for the Approved Retrofit Technology;

(e) Information that demonstrates that the retrofit technology meets the requirement in OAR 340-256-0510(d). This may be: _____

(A) A Verification Letter issued by EPA showing that the retrofit technology was listed on the Verified Technologies List for Clean Diesel of EPA as of the effective date of this rule.

The letter shall describe the engine families and operating criteria appropriate for the application of the retrofit technology and shall state that the retrofit technology will result in a reduction of Diesel Particulate Matter of at least 85 percent;

(B) An Executive Order issued by the CARB showing that the retrofit technology was listed on the Currently Verified Diesel Emission Control Strategy of the CARB as of the effective date of this rule. The Executive Order shall describe the engine families and operating criteria appropriate for the installation and use of the retrofit technology and shall state that the retrofit technology results in a reduction of Diesel Particulate Matter of at least 85 percent; or

(C) Substantially equivalent information to that required under paragraphs (A) or (B) based on retrofit technology listed on either the Currently Verified Diesel Emission Control Strategy of CARB or the Verified Technologies List for Clean Diesel of EPA after the effective date of this rule that would allow the Department to determine that the retrofit technology meets the requirements in OAR 340-256-0510(d);

(f) Information sufficient to allow the Department to determine that the Approved Retrofit Technology complies with labeling requirements in OAR 340-256-0550, including, but not necessarily limited to, a copy of the label; and

(g) Any additional information requested by the Department.

(2) If the Approved Retrofit Technology is used equipment, in addition to the information in subsection (1) of this rule, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered must submit:

(a) A copy of the Department's prior approval for the used equipment installation issued under OAR 340-256-0560; and

(b) Information sufficient to allow the Department to determine that the used equipment was installed in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020).

(3) Each submission of information provided on (1)(a)(b) and (c) above must include all of the following information about the Medium- or Heavy-duty Truck upon which the Approved Retrofit Technology was installed:

(a) Model Year;

(b) Vehicle Identification Number;

(c) Vehicle Make;

(d) License Plate Number;

(e) Gross Vehicle Weight Rating;

(f) Engine Manufacturer;

(g) Engine Model Year;

(h) Engine Family Number; and

(i) Engine Displacement.

(4) All application documentation, reports, statements, declarations, and any other documents submitted to DEQ by the Person who owns or to whom the Medium- or Heavy-duty Truck is registered or Approved Retrofit Technology installer in accordance with OAR 340-256-0520(1) (2) and (3), OAR 340-256-0540(2) and (3) and OAR 340-256-0560(3) must contain true, accurate, and complete information.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0530

Issuance of a Certificate of Approved Retrofit Compliance

(1) The Department shall review all applications received, including those submitted under OAR 340-256-0520, for completeness, to determine whether the retrofit technology constitutes Approved Retrofit Technology, and to determine if a Certificate of Retrofit Compliance should be issued. The Department will review applications based on the schedule shown on its website and in the order in which they are received.

(2) Based on its review in subsection (1) of this rule, the Department shall either issue a Certificate of Approved Retrofit Compliance or deny the request for a Certificate of Approved Retrofit Compliance. The Department's decision to deny the request shall state the reason(s) for the denial. A final decision issued under this subsection (2) shall be a contested case order issued in accordance with ORS Chapter 183.

(3) The Department shall submit to the Department of Motor Vehicles a Certificate of Approved Retrofit Compliance for Medium-duty Trucks and to CCD for Heavy-duty Trucks, if the Department issues such a certificate under subsection (2) of this rule.

(4) Once issued, a Certificate of Approved Retrofit Compliance shall remain valid for the Medium- or Heavy-duty Truck to which it was issued until any of the following occur:

(a) The retrofit technology no longer constitutes Approved Retrofit Technology;

(b) The Department issues a final order revoking the Certificate of Approved Retrofit Compliance; or

(c) The Person who owns or to whom the Medium- or Heavy-duty Truck is registered fails to obtain an annual renewal under OAR 340-240-0540.

(5) Once issued a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered must comply with all of the commitments and declarations in OAR 345-256-0520(b)(A–E).

(6) Once issued a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered must keep and maintain all records of Approved Retrofit Technology filter cleaning, exhaust temperature and engine backpressure, and maintenance (warranty and other than warranty repairs) for a minimum period of 24 months.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360 & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0540

Annual Renewal and Periodic Verification Process

(1) The Department shall begin the process of receiving the annual renewal applications required by subsection (2), paragraph (a) of this rule during the Application Receipt Period.

(2) In order to maintain a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered must:

(a) Annually and within the Application Receipt Period submit, using a Department-approved application, the following information, which shall all be obtained as recently as is feasible:

(A) A supplementary certification signature from an installer, authorized by the Approved Retrofit Technology manufacturer, or an Approved Retrofit Technology manufacturer designated representative, stating that the installer or manufacturer conducted a visual, exhaust temperature and engine backpressure report and other inspection of the Approved Retrofit Technology and that it conforms to the manufacturer's specifications of function and is not operating with decreased efficiency or effectiveness at the time of inspection; and

(B) The results of an opacity test in accordance with the test procedures in Title 13, California Code of Regulations, Section 2193(d) (2020) showing a maximum smoke opacity standard not to exceed five percent for any Medium- or Heavy-duty Truck equipped Approved Retrofit Technology, regardless of its Diesel Engine model year; and

(b) Participate in the Periodic Verification Process upon a request from the Department. The Department may conduct its Periodic Verification Process as a result of a random audit of a Certificate of Approved Retrofit Compliance or as a result of individualized suspicion regarding whether the Certificate of Approved Retrofit Compliance remains valid or should not have initially been issued.

(3) Upon a request to engage in the Periodic Verification Process, the Person who owns or to whom a Medium-or Heavy-duty Truck is registered must submit the following within 60 calendar days:

(a) A completed, Department approved periodic verification application form declaring to the truth and accuracy of information provided as part of the Periodic Verification Process;

(b) Approved Retrofit Technology exhaust temperature and engine backpressure records for the past 24 months. The data must include an accurate date and time stamp that corresponds with periods of actual engine operation;

(c) Approved Retrofit Technology filter cleaning and maintenance records matching the labeling requirements contained in OAR 340-256-0550 for the past 24 months, if any such cleaning or maintenance was done during that period;

(d) Approved Retrofit Technology warranty repair for the past 24 months, if any such repair was done during that period;

(e) Approved Retrofit Technology repair other than warranty repair for the past 24 months, if any such repair was done during that period;

(f) The business address of and a signature from an installer, authorized by the Approved Retrofit Technology manufacturer, or an Approved Retrofit Technology manufacturer designated representative, attesting to the truth of the periodic verification information provided in paragraphs (b) through (e), as applicable;

(g) Any additional information and access to the Medium-or Heavy-duty Truck for inspection, if requested by the Department. Access may be required at the Person who owns or to whom the Medium- or Heavy-duty Truck is registered or installer's place of business, or other mutually agreed location and would be for the purpose of visually verifying the installation and required ongoing operation of the Approved Retrofit Technology.

(4) As part of the Periodic Verification Process, the Department may accept information required by subsection (3) paragraphs (a) through (f) of this rule from the certified retrofit installer, a retrofit manufacture representative, or from the Person who owns or to whom the Medium- or Heavy-duty Truck is registered as long as it meets the requirements of in subsection (3) paragraphs (a) through (f) of this rule.

(5) The Department shall review information submitted under subsection (3) for completeness and to determine whether the Approved Retrofit Technology has maintained the characteristics that made it eligible for a Certificate of Approved Retrofit Compliance under OAR 340-256-0530 at the time the Certificate of Approved Retrofit Compliance was issued. At the conclusion of its review, the Department shall issue a final order concluding either that the Certificate of Approved Retrofit Compliance remains valid or that the Certificate of Approved Retrofit Compliance shall be revoked. An order determining that the Certificate of Approved Retrofit Compliance shall be revoked shall include the reason(s) for the decision, and the revocation shall go into effect either after the order becomes final by default or final contested case order issued in accordance with ORS Chapter 183.

(6) The Department may issue an order determining that the Certificate of Approved Retrofit Compliance shall be revoked if a Person who owns or to whom the Medium-or Heavy-duty Truck is registered to fails to comply with the requirements of this rule. An order determining that a Certificate of Approved Retrofit Compliance shall be revoked shall include the reason(s) for the decision, and the revocation shall go into effect either after the order

becomes final by default or by final contested case order issued in accordance with ORS Chapter 183.

(7) If the Department revokes the Certificate of Approved Retrofit Compliance for a Medium- or Heavy-duty Truck under subsections (5) or (6) and a Person wishes to obtain a new Certificate of Retrofit Compliance, the Person who owns or to whom the Medium-or Heavy-duty Truck shall be registered to may:

(a) Install new or used retrofit technology that meets the requirements of OAR 340-256-0510 and apply for a Certificate of Approved Retrofit Compliance under OAR 340-256-0530; or

(b) Correct the problems that led the Department to revoke the Certificate of Approved Retrofit Compliance and reapply for a Certificate of Approved Retrofit Compliance using the process outlined in subsection (8), if this is the first time that the Person who owns or to whom the Medium-or Heavy-duty Truck shall be registered has had their Certificate of Approved Retrofit Compliance revoked.

(8) To reapply for a Certificate of Approved Retrofit Compliance, a Person who owns or to whom the Medium-or Heavy-duty Truck shall be registered shall submit to the Department:

(a) An explanation of why the Certificate of Approved Retrofit Compliance was revoked, and what the Person who owns or to whom the vehicle shall be registered will do to prevent the same problem from reoccurring;

(b) Documentation sufficient to allow the Department to conclude that the problems that led the Department to revoke the Certificate of Retrofit Compliance have been corrected;

(c) Documentation sufficient to allow the Department to conclude that the retrofit technology has the characteristics that made it eligible for a Certificate of Approved Retrofit Compliance under OAR 340-256-0530 at the time the Certificate of Approved Retrofit Compliance was issued. This must include, but is not limited to, documentation sufficient to show that the retrofit technology met the requirement in OAR 340-256-0510(d). If the Approved Retrofit Technology was used at the time of installation, this must include, but is not limited to, a copy of the Department's prior approval for the installation issued under OAR 340-256-0560 and information sufficient to allow the Department to determine that the installation was accomplished in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020); and

(d) A statement signed by the Person who owns or to whom the Medium- or Heavy-duty Truck shall be registered committing to and declaring the following:

(A) That the Person who owns or to whom the Medium- or Heavy-duty Truck shall be registered notify the Department in writing if, after the issuance of a Certificate of Approved Retrofit Compliance, they become aware that changes occur such that the equipment no longer constitutes Approved Retrofit Technology;

(B) That the Person who owns or to whom the Medium-or Heavy-duty Truck is registered must engage in the annual renewal and the Periodic Verification Process, if required under OAR340-256-0540;

(C) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will keep the records that will be required to be submitted under OAR 340-256-0540 if the Department engages that Person in the Periodic Verification Process; and

(D) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will not personally or allow anyone else to remove, modify, alter, or tamper with the Approved Retrofit Technology or any labels after the Department issues a Certificate of Approved Retrofit Compliance.

(9) Upon receipt and review of the documentation in subsection (8), the Department may, but is not required to, reissue the Certificate of Retrofit Compliance if it determines that the reapplication was complete and the problems that led it to revoke the Certificate of Retrofit Compliance have been corrected. A final decision issued under this subsection (9) shall be a final order in a contested case issued in accordance with ORS Chapter 183.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0550

Approved Retrofit Technology Labeling Requirements

(1) The Person who owns or to whom the Medium- or Heavy-duty Truck is registered must ensure each Medium- or Heavy-duty Truck containing Approved Retrofit Technology has a legible and durable label that complies with subsection (3) of this rule affixed to a conspicuous location on the engine or engine compartment and affixed to the Approved Retrofit Technology so that it can be easily read with the naked eye during daylight with or without the assistance of artificial lighting or reflective devices.

(2) No Person may remove, modify, alter, or tamper with a label in any way after it is installed.

(3) At a minimum, the label shall include the following:

(a) A unique identification number to be matched to the specific Approved Retrofit Technology family name;

(b) The Approved Retrofit Technology's manufacture name, address, and phone number;

(c) The Approved Retrofit Technology's serial number;

(d) The month and year the Approved Retrofit Technology was manufactured;

(e) The direction of the exhaust flow in the Approved Retrofit Technology; and

(f) The Approved Retrofit Technology's family name assigned by the installer of Approved Retrofit Technology in the following format: CA or US/MMM/YYYY/BART#/APP/XXXXX, where:

(A) CA designates a retrofit device that appears or previously appeared on the Currently Verified Diesel Emission Control Strategy of CARB or that appears or previously appeared on the Currently Verified Diesel Emission Control Strategy of CARB and that appears or previously appeared Verified Technologies List for Clean Diesel of EPA;

(B) US designates a retrofit device that appears or previously appeared Verified Technologies List for Clean Diesel of EPA and that does not appear or has not previously appeared the Currently Verified Diesel Emission Control Strategy of CARB;

(C) MMM designates and is to be replaced by the manufacturer code. For a retrofit device that appears or previously appeared on the Currently Verified Diesel Emission Control Strategy of CARB, MMM shall be replaced by the manufacturer code assigned by CARB's Executive Officer;

(D) MMM shall be replaced by three zeroes (000) for a retrofit device that appears or previously appeared Verified Technologies List for Clean Diesel of EPA; and

(E) YYYY designates and is to be replaced by the year of verification.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360 & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0560

Component Swapping or Re-Designation of Approved Retrofit Technology

(1) Any Person conducting Component Swapping or Re-Designation must do so in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020).

(2) A Person who owns or to whom the Medium-or Heavy-duty Truck is registered may complete Component Swapping or Re-Designation only with prior Department approval.

(3) To seek prior Department approval for Component Swapping or Re-Designation, the Person who owns or to whom the Medium-or Heavy-duty Truck is registered shall submit:

(a) A Department approved application for approval of Component Swapping or Re-Designation; and

(b) All documentation associated with the Component Swapping or Re-Designation under Title 13, California Code of Regulations, Section 2706(i) (2020) sufficient to allow the Department to determine that the Component Swapping or Re-Designation would comply with those provisions.

(4) The Department shall review all applications under subsection (3) for completeness and to determine whether the Component Swapping or Re-Designation would comply with Title 13, California Code of Regulations, Section 2706(i) (2020).

(5) Based on its review in subsection (4) of this rule, the Department shall either approve or deny the application. The Department's decision to deny the application shall include the reason(s) for the denial. A final decision issued under this subsection (5) shall be a final order in a contested case issued in accordance with ORS Chapter 183.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.



State of Oregon Department of Environmental Quality

Draft Rules – Edits Incorporated

HB 2007 Retrofit Compliance 2021 Rulemaking

Division 200

GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR 340 division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on July 23, 2021.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

Statutory/Other Authority: 468A & ORS 468.020

Statutes/Other Implemented: ORS 468A.035 & 468A.135

History:

[DEQ 1-2021, amend filed 01/21/2021, effective 01/21/2021](#)

[DEQ 21-2020, amend filed 11/19/2020, effective 11/19/2020](#)

[DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020](#)

[DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019](#)

[DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019](#)

[DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019](#)

[DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018](#)

[DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018](#)

[DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018](#)

[DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018](#)

DEQ 7-2017, f. & cert. ef. 7-13-17

DEQ 2-2017, f. & cert. ef. 1-19-17

DEQ 14-2015, f. & cert. ef. 12-10-15

DEQ 10-2015, f. & cert. ef. 10-16-15

DEQ 7-2015, f. & cert. ef. 4-16-15

DEQ 6-2015, f. & cert. ef. 4-16-15

DEQ 7-2014, f. & cert. ef. 6-26-14

DEQ 6-2014, f. & cert. ef. 3-31-14

DEQ 5-2014, f. & cert. ef. 3-31-14

DEQ 4-2014, f. & cert. ef. 3-31-14

DEQ 1-2014, f. & cert. ef. 1-6-14

DEQ 12-2013, f. & cert. ef. 12-19-13

DEQ 11-2013, f. & cert. ef. 11-7-13

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 10-2012, f. & cert. ef. 12-11-12

DEQ 7-2012, f. & cert. ef. 12-10-12

DEQ 1-2012, f. & cert. ef. 5-17-12

DEQ 18-2011, f. & cert. ef. 12-21-11

DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 14-2010, f. & cert. ef. 12-10-10

DEQ 5-2010, f. & cert. ef. 5-21-10

DEQ 2-2010, f. & cert. ef. 3-5-10

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 3-2009, f. & cert. ef. 6-30-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 14-2008, f. & cert. ef. 11-10-08

DEQ 12-2008, f. & cert. ef. 9-17-08

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DEQ 3-2007, f. & cert. ef. 4-12-07

DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 9-2005, f. & cert. ef. 9-9-05

DEQ 7-2005, f. & cert. ef. 7-12-05

DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 1-2005, f. & cert. ef. 1-4-05

DEQ 10-2004, f. & cert. ef. 12-15-04

DEQ 1-2004, f. & cert. ef. 4-14-04

DEQ 19-2003, f. & cert. ef. 12-12-03
DEQ 14-2003, f. & cert. ef. 10-24-03
DEQ 5-2003, f. & cert. ef. 2-6-03
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 5-2002, f. & cert. ef. 5-3-02
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 17-2001, f. & cert. ef. 12-28-01
DEQ 16-2001, f. & cert. ef. 12-26-01
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 4-2001, f. & cert. ef. 3-27-01
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 21-2000, f. & cert. ef. 12-15-00
DEQ 20-2000 f. & cert. ef. 12-15-00
DEQ 17-2000, f. & cert. ef. 10-25-00
DEQ 16-2000, f. & cert. ef. 10-25-00
DEQ 13-2000, f. & cert. ef. 7-28-00
DEQ 8-2000, f. & cert. ef. 6-6-00
DEQ 6-2000, f. & cert. ef. 5-22-00
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01
DEQ 15-1999, f. & cert. ef. 10-22-99
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047
DEQ 10-1999, f. & cert. ef. 7-1-99
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 5-1999, f. & cert. ef. 3-25-99
DEQ 1-1999, f. & cert. ef. 1-25-99
DEQ 21-1998, f. & cert. ef. 10-12-98
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 17-1998, f. & cert. ef. 9-23-98
DEQ 16-1998, f. & cert. ef. 9-23-98
DEQ 15-1998, f. & cert. ef. 9-23-98
DEQ 10-1998, f. & cert. ef. 6-22-98
DEQ 24-1996, f. & cert. ef. 11-26-96
DEQ 23-1996, f. & cert. ef. 11-4-96
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 15-1996, f. & cert. ef. 8-14-96
DEQ 8-1996(Temp), f. & cert. ef. 6-3-96
DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95
DEQ 19-1995, f. & cert. ef. 9-1-95
DEQ 17-1995, f. & cert. ef. 7-12-95
DEQ 14-1995, f. & cert. ef. 5-25-95
DEQ 10-1995, f. & cert. ef. 5-1-95
DEQ 9-1995, f. & cert. ef. 5-1-95
DEQ 25-1994, f. & cert. ef. 11-2-94
DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94

DEQ 14-1994, f. & cert. ef. 5-31-94
DEQ 5-1994, f. & cert. ef. 3-21-94
DEQ 1-1994, f. & cert. ef. 1-3-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 16-1993, f. & cert. ef. 11-4-93
DEQ 15-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93
DEQ 8-1993, f. & cert. ef. 5-11-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1992, f. & cert. ef. 11-12-92
DEQ 26-1992, f. & cert. ef. 11-2-92
DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92
DEQ 20-1992, f. & cert. ef. 8-11-92
DEQ 19-1992, f. & cert. ef. 8-11-92
DEQ 7-1992, f. & cert. ef. 3-30-92
DEQ 3-1992, f. & cert. ef. 2-4-92
DEQ 1-1992, f. & cert. ef. 2-4-92
DEQ 25-1991, f. & cert. ef. 11-13-91
DEQ 24-1991, f. & cert. ef. 11-13-91
DEQ 23-1991, f. & cert. ef. 11-13-91
DEQ 22-1991, f. & cert. ef. 11-13-91
DEQ 21-1991, f. & cert. ef. 11-13-91
DEQ 20-1991, f. & cert. ef. 11-13-91
DEQ 19-1991, f. & cert. ef. 11-13-91
DEQ 2-1991, f. & cert. ef. 2-14-91
DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88
DEQ 21-1987, f. & cert. ef. 12-16-87
DEQ 8-1987, f. & cert. ef. 4-23-87
DEQ 5-1987, f. & cert. ef. 3-2-87
DEQ 4-1987, f. & cert. ef. 3-2-87
DEQ 21-1986, f. & cert. ef. 11-7-86
DEQ 20-1986, f. & cert. ef. 11-7-86
DEQ 10-1986, f. & cert. ef. 5-9-86
DEQ 5-1986, f. & cert. ef. 2-21-86
DEQ 12-1985, f. & cert. ef. 9-30-85
DEQ 3-1985, f. & cert. ef. 2-1-85
DEQ 25-1984, f. & cert. ef. 11-27-84
DEQ 18-1984, f. & cert. ef. 10-16-84
DEQ 6-1983, f. & cert. ef. 4-18-83
DEQ 1-1983, f. & cert. ef. 1-21-83
DEQ 21-1982, f. & cert. ef. 10-27-82
DEQ 14-1982, f. & cert. ef. 7-21-82
DEQ 11-1981, f. & cert. ef. 3-26-81
DEQ 22-1980, f. & cert. ef. 9-26-80
DEQ 21-1979, f. & cert. ef. 7-2-79

DEQ 19-1979, f. & cert. ef. 6-25-79
DEQ 54, f. 6-21-73, cert. ef. 7-1-73
DEQ 35, f. 2-3-72, cert. ef. 2-15-72

Division 256
MOTOR VEHICLES

340-256-0010

Definitions

The definitions in OAR 340-200-0020, 340-204-0010, and this rule apply to this division. If this rule defines the same term as OAR 340-200-0020 or 340-204-0010, the definition in this rule applies in this division.

- (1) "Application Receipt Period" means the calendar days including and between September 1 and October 31 of every year that the Department will begin the process of receiving annual renewal and applications for Approved Retrofit Technology.
- (2) "Approved Retrofit Technology" means on-road Diesel Particulate Matter pollution control system that meets the criteria established in OAR 340-256-0510.
- (3) "Basic test" means an inspection and maintenance program designed to measure exhaust emission levels during an unloaded idle mode as described in OAR 340-256-0340.
- (4) "CARB" means California Air Resources Board.
- (5) "CCD" means the Commerce and Compliance Division of the Oregon Department of Transportation.
- (6) "Certificate of Approved Retrofit Compliance" means an electronic certification issued by the Department that attests that the Medium-or Heavy-duty Truck is equipped with Approved Retrofit Technology that complies with all applicable provisions in OAR 340-256-0510 through OAR 340-256-0560.
- (7) "CO₂" means a chemical formula representing the compound carbon dioxide.
- (8) "CO" means a chemical formula representing the compound carbon monoxide.
- (9) "Certificate of Compliance" means a hard copy or electronic document stating that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the Commission's emission control criteria, standards, and rules. A certificate of compliance is issued by a Private Business Fleet Vehicle Emission Inspector, a Public Agency Fleet Vehicle Emission Inspector, a Vehicle Emissions Inspector employed by DEQ, or an Independent Contractor.
- (10) "Clean-Screening" means a procedure by which DEQ determines that a vehicle has acceptable emissions and then allows the vehicle owner to bypass the traditional emissions

inspection station test. DEQ's decision may be the result of remotely sensing the emissions, the status of emissions equipment, or another means determined by DEQ.

(11) "Commission" means the Environmental Quality Commission.

(12) "Component Swapping" means moving components of an Approved Retrofit Technology from the Medium- or Heavy-duty Truck on which it was originally installed to another Medium- or Heavy-duty Truck in compliance with OAR 340-256-0560.

(13) "Dealer" means any person who is engaged wholly or in part in the business of buying, selling, or exchanging, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, motor vehicles.

(14) "Dealership" means a business involved in the sale of vehicles that is franchised with an automobile manufacturer as defined in ORS 650.120(9).

(15) "DEQ" means the Department of Environmental Quality.

(16) "Diesel Engine" means a compression ignition engine.

(17) "Diesel motor vehicle" means a motor vehicle powered by a stratified charge compression-ignition internal combustion engine.

(18) "Diesel Particulate Matter" means the particles found in the exhaust of a Diesel Engine.

(19) "Director" means the director of DEQ.

(20) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(21) "Emissions" means gas or vapor released to the atmosphere from a motor vehicle component or resulting from fuel combustion within a motor vehicle engine.

(22) "Emissions Inspection Station" means a facility, operated by DEQ or an Independent Contractor, for the purpose of conducting emissions inspections of vehicles required to be inspected under this Division.

(23) "EPA" means the United States Environmental Protection Agency.

(24) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream of the exhaust ports of a motor vehicle engine.

(25) "Factory-installed motor vehicle pollution control system" means a motor vehicle pollution control system installed by the vehicle or engine manufacturer to comply with United States motor vehicle emission control laws and regulations published in the Code of Federal Regulations, 40 C.F.R. Parts 85 and 86.

(26) "Franchised" means a sale entity licensed by the DMV and under an agreement as defined in ORS 650.120(5) to sell motor vehicles.

(27) "Gas analytical system" means a device that measures the amount of contaminants in the exhaust emissions of a motor vehicle and that has been issued a license by DEQ under OAR 340-256-0450 and ORS 468A.380.

(28) "Gaseous fuel" includes, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms.

(29) "Gasoline motor vehicle" means a motor vehicle powered by a spark-ignition internal combustion engine.

(30) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum design loaded weight of a vehicle.

(31) "Heavy duty motor vehicle" means any motor vehicle with a GVWR greater than 8,500 pounds.

(32) "Heavy-duty Truck" means a Diesel Motor Vehicle, or combination of Diesel Motor Vehicles operated as a unit, that has or have a gross vehicle weight rating that is greater than 26,000 pounds.

(33) "HC" is an abbreviation that means hydrocarbon.

(34) "Hydrocarbon" means a class of chemical compounds consisting of hydrogen and carbon.

(35) "Idle speed" means the engine speed when accelerator pedal is fully released.

(36) "Imported vehicle" means a vehicle legally imported from another country through channels other than the maker's official distribution system.

(37) "Independent Contractor" means any person with whom DEQ enters into an agreement providing for the construction, equipment, maintenance, personnel, management or operation of emissions inspection stations or activities under ORS 468A.370 and these rules.

(38) "Inspection and Maintenance Program or I/M Program" means a program of conducting regular inspections of motor vehicles, including measurement of air contaminants in the motor vehicle exhaust and an inspection of the motor vehicle pollution control system, to identify vehicles that do not meet the standards of this Division or that have malfunctioning, maladjusted or missing motor vehicle pollution control systems, and, when necessary, of requiring the repair or adjustment of vehicles to make the motor vehicle pollution control systems function as intended and to reduce tailpipe emissions of air contaminants.

(39) "In-use motor vehicle" means any motor vehicle that is not a new motor vehicle.

(40) "Light-duty motor vehicle" means any motor vehicle with a GVWR of 8,500 pounds or less.

(41) "Medium-duty Truck" means a Diesel Motor Vehicle, or combination of Diesel Motor Vehicles operated as a unit, that has or have a gross vehicle weight rating that is greater than 14,000 pounds but less than or equal to 26,000 pounds.

(42) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends. If the manufacturer does not designate a production period, the model year with respect to such vehicles or engines means the 12-month period beginning January of the year in which production of the vehicle or engine begins.

(43) "Motor vehicle" or "vehicle" means any self-propelled vehicle used for transporting persons or commodities on public roads.

(44) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification that causes a reduction of pollutants emitted from the vehicle, or a system or device that inhibits the introduction of fuels that can adversely affect the overall motor vehicle pollution control system.

(45) "Motor Vehicle Fleet Operation" means ownership, control, management or any combination thereof, by any person, of five or more motor vehicles.

(46) "New motor vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who, in good faith, purchases the motor vehicle for purposes other than resale.

(47) "OBD" and "OBD-II" means the On Board Diagnostic system in a vehicle that tracks the effectiveness of the motor vehicle's pollution control system.

(48) "OBD Test" means an emissions test that downloads diagnostic information from the vehicle's OBD computer to evaluate the effectiveness of the motor vehicle pollution control system.

(49) "On-Site Vehicle Test" means an emissions test conducted at the vehicle owner's location.

(50) "Owner" means the person having all the incidents of ownership in a vehicle. Where the incidents of ownership are in different persons, it means the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement or a lease for a term of 10 or more successive days.

(51) "Opacity" means the degree to which transmitted light is obscured, expressed in percent.

(52) "Periodic Verification Process" means the ongoing requirement to provide proof of Approved Retrofit Technology maintenance and operation to the Department to maintain the validity of a Certificate of Approved Retrofit Compliance.

(53) "Permanent Fleet Vehicle" means a motor vehicle that the Oregon Department of Transportation identifies with permanent fleet tags, stickers, plates or other identification ODOT determines appropriate.

(54) "Person" means an individual, public or private corporation, political subdivision, agency, board, department, or bureau of the state, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever that is recognized by law as the subject of rights and duties.

(55) "PPM" means parts per million by volume.

(56) "Private Business Fleet" means a group of 100 or more Oregon-registered, in-use, motor vehicles that are owned by any person, excluding those vehicles held primarily for the purpose of resale.

(57) "Private Business Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Private Business Fleet who possesses a current and valid license issued by DEQ under OAR 340-256-0440 and ORS 468A.380.

(58) "Public Agency Fleet" means a group of 50 or more government-owned vehicles registered under ORS 805.040.

(59) "Public Agency Fleet Vehicle Emissions Inspector" means any person employed on a full-time basis by a Public Agency Fleet that possesses a current and valid license issued by DEQ under OAR 340-256-0440 and ORS 468A.380.

(60) "Public roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof used by the public, or dedicated or appropriated to public use.

(61) "Re-Designation" means the complete removal of an Approved Retrofit Technology from the Medium- or Heavy-duty Truck on which it was original installed and the subsequent transfer of the Approved Retrofit Technology to another Medium- or Heavy-duty Truck within the person's commonly owned fleet in compliance with OAR 340-256-0560.

(62) "Regional Authority" means a regional air quality control authority established under the provisions of ORS 468A.005 to 468A.035, 468A.075, 468A.100 to 468A.130, and 468A.140 to 468A.175.

(63) "Remote Sensing" means a technique for determining the level of a vehicle's emissions without connecting equipment directly to the vehicle, done either by optically measuring the pollutants in the vehicle's exhaust plume, by remotely receiving a vehicle's emissions diagnostic information, or by other means determined by DEQ.

(64) "Ringlemann Smoke Chart" means the Ringlemann Smoke Chart with instructions for use as published in May 1967, by the U.S. Department of Interior, Bureau of Mines, Information circular 8333.

(65) "RPM" means engine crankshaft revolutions per minute.

(66) "Self-Service Test" means a procedure for vehicle testing offered by DEQ where the vehicle owner or driver can perform an emissions test on the vehicle at a facility provided by DEQ using remote sensing, plug-in OBD emissions testing, or other means designated by DEQ.

(67) "Vehicle Emission Inspector" means any person employed by the Department or an Independent Contractor who possesses a current and valid license issued by the Department under OAR 340-256-0440 and ORS 468A.380.

(68) "VIN" or "Vehicle Identification Number" means a unique code including a serial number that identifies a specific vehicle.

(69) "Visible emissions" means those gases or particulates, excluding uncombined water, that separately or in combination are visible upon release to the outdoor atmosphere.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

Statutory/Other Authority: ORS 468A.360, ORS 468A.810, & ORS 468.020

Statutes/Other Implemented: ORS 468A.350 - 468A.400, & [ORS 468A.810](#)

History:

[DEQ 21-2020, amend filed 11/19/2020, effective 11/19/2020](#)

DEQ 7-2005, f. & cert. ef. 7-12-05

DEQ 14-2003, f. & cert. ef. 10-24-03

DEQ 11-2001, f. & cert. ef. 10-4-01

DEQ 17-2000, f. & cert. ef. 10-25-00

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-024-0005 & 340-024-0305

DEQ 25-1996, f. & cert. ef. 11-26-96

DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94

DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 23-1984, f. 11-19-84, ef. 4-1-85

DEQ 12-1982, f. & ef. 7-21-82

DEQ 18-1980, f. & ef. 6-25-80

DEQ 22-1979, f. & ef. 7-5-79

DEQ 9-1978, f. & ef. 7-7-78

DEQ 139, f. 6-30-77, ef. 7-1-77

DEQ 89, f. 4-22-75, ef. 5-25-75

DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 8, f. 4-7-70, ef. 5-11-70

340-256-0500

Background

The 2019 Oregon Legislature passed House Bill 2007, the relevant portions of which are codified in 2019 Oregon Laws Chapter 468A and in ORS Chapter 803. ORS 803.591 prohibits registering and titling older Medium- and Heavy-duty Trucks in Clackamas,

Multnomah, and Washington counties after certain deadlines unless they are equipped with Approved Retrofit Technology.

ORS 468A.810 requires the Commission to adopt rules for certification of Approved Retrofit Technologies for Diesel Engines that power certain Medium- and Heavy-duty Trucks and to prescribe the manner for issuing a certification that such Diesel Engines have been equipped with Approved Retrofit Technology.

The rules are intended to accomplish those goals.

Statutory Authority: ORS 468A.810 & ORS 468A.360.

Statutes Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0510

Requirements for Approved Retrofit Technology

To be an Approved Retrofit Technology, the retrofit technology must be:

(1) New or used equipment that:

(a) Was installed by an installer authorized by the Approved Retrofit Technology manufacturer;

(b) Was manufactured for installation on an on-road Diesel Engine and compatible with the Medium- or Heavy-duty Truck;

(c) Has a valid manufacturer's warranty;

(d) DEQ determines will provide a reduction of at least 85 percent of Diesel Particulate Matter; and

(e) Complies with the labeling requirements in OAR 340-256-0550.

(2) If the Approved Retrofit Technology is used, in addition to meeting all the requirements in subsection (1) of this rule, the equipment must be installed in compliance with the requirements in OAR 340-256-0560.

Statutory Authority: ORS 468A.810 & ORS 468A.360.

Statutes Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0520

Certificate of Approved Retrofit Compliance

(1) To obtain a Certificate of an Approved Retrofit Compliance, using a Department-approved application, a Person who owns or to whom the Medium- or Heavy-duty Truck shall be registered must submit information sufficient to allow the Department to determine that the retrofit technology meets the requirements of OAR 340-256-0510 and that the retrofit technology is in good working order, including:

(a) A statement signed by the installer of the Approved Retrofit Technology declaring that, at the time of installation, the installer was authorized to perform the installation work by the manufacturer of the Approved Retrofit Technology;

(b) A statement signed by the Person who owns or to whom the Medium- or Heavy-duty Truck shall be registered committing to and declaring the following:

(A) That, after the issuance of a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will either ensure that the Approved Retrofit Technology remains operational and functioning efficiently or notify the Department immediately in writing that the Approved Retrofit Technology is functioning with decreased efficiency or effectiveness or is no longer operational and functioning;

(B) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will notify the Department immediately in writing if, after the issuance of a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered becomes aware that changes occur such that the equipment no longer would constitute Approved Retrofit Technology;

(C) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will engage in the annual renewal and the Periodic Verification Process if and as required under OAR 340-256-0540;

(D) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will keep the records that will be required to be submitted under OAR 340-256-0540 if the Department engages that Person in the Periodic Verification Process; and

(E) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will not personally, or allow anyone else to, remove, modify, alter, or tamper with the Approved Retrofit Technology or any labels after the Department issues a Certificate of Approved Retrofit Compliance;

(c) A pre-installation compatibility assessment as prescribed by the Approved Retrofit Technology manufacturer, signed by the installer;

(d) A completed warranty registration form for the Approved Retrofit Technology;

(e) Information that demonstrates that the retrofit technology meets the requirement in OAR 340-256-0510(d). This may be:

(A) A Verification Letter issued by EPA showing that the retrofit technology was listed on the Verified Technologies List for Clean Diesel of EPA as of the effective date of this rule. The letter shall describe the engine families and operating criteria appropriate for the application of the retrofit technology and shall state that the retrofit technology will result in a reduction of Diesel Particulate Matter of at least 85 percent;

(B) An Executive Order issued by the CARB showing that the retrofit technology was listed on the Currently Verified Diesel Emission Control Strategy of the CARB as of the effective

date of this rule. The Executive Order shall describe the engine families and operating criteria appropriate for the installation and use of the retrofit technology and shall state that the retrofit technology results in a reduction of Diesel Particulate Matter of at least 85 percent; or

(C) Substantially equivalent information to that required under paragraphs (A) or (B) based on retrofit technology listed on either the Currently Verified Diesel Emission Control Strategy of CARB or the Verified Technologies List for Clean Diesel of EPA after the effective date of this rule that would allow the Department to determine that the retrofit technology meets the requirements in OAR 340-256-0510(d);

(f) Information sufficient to allow the Department to determine that the Approved Retrofit Technology complies with labeling requirements in OAR 340-256-0550, including, but not necessarily limited to, a copy of the label; and

(g) Any additional information requested by the Department.

(2) If the Approved Retrofit Technology is used equipment, in addition to the information in subsection (1) of this rule, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered must submit:

(a) A copy of the Department's prior approval for the used equipment installation issued under OAR 340-256-0560; and

(b) Information sufficient to allow the Department to determine that the used equipment was installed in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020).

(3) Each submission of information provided on (1)(a)(b) and (c) above must include all of the following information about the Medium- or Heavy-duty Truck upon which the Approved Retrofit Technology was installed:

(a) Model Year;

(b) Vehicle Identification Number;

(c) Vehicle Make;

(d) License Plate Number;

(e) Gross Vehicle Weight Rating;

(f) Engine Manufacturer;

(g) Engine Model Year;

(h) Engine Family Number; and

(i) Engine Displacement.

(4) All application documentation, reports, statements, declarations, and any other documents submitted to DEQ by the Person who owns or to whom the Medium- or Heavy-duty Truck is registered or Approved Retrofit Technology installer in accordance with OAR 340-256-0520(1) (2) and (3), OAR 340-256-0540(2) and (3) and OAR 340-256-0560(3) must contain true, accurate, and complete information.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0530

Issuance of a Certificate of Approved Retrofit Compliance

(1) The Department shall review all applications received, including those submitted under OAR 340-256-0520, for completeness, to determine whether the retrofit technology constitutes Approved Retrofit Technology, and to determine if a Certificate of Retrofit Compliance should be issued. The Department will review applications based on the schedule shown on its website and in the order in which they are received.

(2) Based on its review in subsection (1) of this rule, the Department shall either issue a Certificate of Approved Retrofit Compliance or deny the request for a Certificate of Approved Retrofit Compliance. The Department's decision to deny the request shall state the reason(s) for the denial. A final decision issued under this subsection (2) shall be a contested case order issued in accordance with ORS Chapter 183.

(3) The Department shall submit to the Department of Motor Vehicles a Certificate of Approved Retrofit Compliance for Medium-duty Trucks and to CCD for Heavy-duty Trucks, if the Department issues such a certificate under subsection (2) of this rule.

(4) Once issued, a Certificate of Approved Retrofit Compliance shall remain valid for the Medium- or Heavy-duty Truck to which it was issued until any of the following occur:

(a) The retrofit technology no longer constitutes Approved Retrofit Technology;

(b) The Department issues a final order revoking the Certificate of Approved Retrofit Compliance; or

(c) The Person who owns or to whom the Medium- or Heavy-duty Truck is registered fails to obtain an annual renewal under OAR 340-240-0540.

(5) Once issued a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered must comply with all of the commitments and declarations in OAR 345-256-0520(b)(A–E).

(6) Once issued a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered must keep and maintain all records of Approved Retrofit Technology filter cleaning, exhaust temperature and engine backpressure, and maintenance (warranty and other than warranty repairs) for a minimum period of 24 months.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360 & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0540

Annual Renewal and Periodic Verification Process

(1) The Department shall begin the process of receiving the annual renewal applications required by subsection (2), paragraph (a) of this rule during the Application Receipt Period.

(2) In order to maintain a Certificate of Approved Retrofit Compliance, the Person who owns or to whom the Medium- or Heavy-duty Truck is registered must:

(a) Annually and within the Application Receipt Period submit, using a Department-approved application, the following information, which shall all be obtained as recently as is feasible:

(A) A supplementary certification signature from an installer, authorized by the Approved Retrofit Technology manufacturer, or an Approved Retrofit Technology manufacturer designated representative, stating that the installer or manufacturer conducted a visual, exhaust temperature and engine backpressure report and other inspection of the Approved Retrofit Technology and that it conforms to the manufacturer's specifications of function and is not operating with decreased efficiency or effectiveness at the time of inspection; and

(B) The results of an opacity test in accordance with the test procedures in Title 13, California Code of Regulations, Section 2193(d) (2020) showing a maximum smoke opacity standard not to exceed five percent for any Medium- or Heavy-duty Truck equipped Approved Retrofit Technology, regardless of its Diesel Engine model year; and

(b) Participate in the Periodic Verification Process upon a request from the Department. The Department may conduct its Periodic Verification Process as a result of a random audit of a Certificate of Approved Retrofit Compliance or as a result of individualized suspicion regarding whether the Certificate of Approved Retrofit Compliance remains valid or should not have initially been issued.

(3) Upon a request to engage in the Periodic Verification Process, the Person who owns or to whom a Medium-or Heavy-duty Truck is registered must submit the following within 60 calendar days:

(a) A completed, Department approved periodic verification application form declaring to the truth and accuracy of information provided as part of the Periodic Verification Process;

(b) Approved Retrofit Technology exhaust temperature and engine backpressure records for the past 24 months. The data must include an accurate date and time stamp that corresponds with periods of actual engine operation;

(c) Approved Retrofit Technology filter cleaning and maintenance records matching the labeling requirements contained in OAR 340-256-0550 for the past 24 months, if any such cleaning or maintenance was done during that period;

(d) Approved Retrofit Technology warranty repair for the past 24 months, if any such repair was done during that period;

(e) Approved Retrofit Technology repair other than warranty repair for the past 24 months, if any such repair was done during that period;

(f) The business address of and a signature from an installer, authorized by the Approved Retrofit Technology manufacturer, or an Approved Retrofit Technology manufacturer designated representative, attesting to the truth of the periodic verification information provided in paragraphs (b) through (e), as applicable;

(g) Any additional information and access to the Medium-or Heavy-duty Truck for inspection, if requested by the Department. Access may be required at the Person who owns or to whom the Medium- or Heavy-duty Truck is registered or installer's place of business, or other mutually agreed location and would be for the purpose of visually verifying the installation and required ongoing operation of the Approved Retrofit Technology.

(4) As part of the Periodic Verification Process, the Department may accept information required by subsection (3) paragraphs (a) through (f) of this rule from the certified retrofit installer, a retrofit manufacture representative, or from the Person who owns or to whom the Medium- or Heavy-duty Truck is registered as long as it meets the requirements of in subsection (3) paragraphs (a) through (f) of this rule.

(5) The Department shall review information submitted under subsection (3) for completeness and to determine whether the Approved Retrofit Technology has maintained the characteristics that made it eligible for a Certificate of Approved Retrofit Compliance under OAR 340-256-0530 at the time the Certificate of Approved Retrofit Compliance was issued. At the conclusion of its review, the Department shall issue a final order concluding either that the Certificate of Approved Retrofit Compliance remains valid or that the Certificate of Approved Retrofit Compliance shall be revoked. An order determining that the Certificate of Approved Retrofit Compliance shall be revoked shall include the reason(s) for the decision, and the revocation shall go into effect either after the order becomes final by default or final contested case order issued in accordance with ORS Chapter 183.

(6) The Department may issue an order determining that the Certificate of Approved Retrofit Compliance shall be revoked if a Person who owns or to whom the Medium-or Heavy-duty Truck is registered to fails to comply with the requirements of this rule. An order determining that a Certificate of Approved Retrofit Compliance shall be revoked shall include the reason(s) for the decision, and the revocation shall go into effect either after the order becomes final by default or by final contested case order issued in accordance with ORS Chapter 183.

(7) If the Department revokes the Certificate of Approved Retrofit Compliance for a Medium- or Heavy-duty Truck under subsections (5) or (6) and a Person wishes to obtain a new Certificate of Retrofit Compliance, the Person who owns or to whom the Medium-or Heavy-duty Truck shall be registered to may:

(a) Install new or used retrofit technology that meets the requirements of OAR 340-256-0510 and apply for a Certificate of Approved Retrofit Compliance under OAR 340-256-0530; or

(b) Correct the problems that led the Department to revoke the Certificate of Approved Retrofit Compliance and reapply for a Certificate of Approved Retrofit Compliance using the process outlined in subsection (8), if this is the first time that the Person who owns or to whom the Medium-or Heavy-duty Truck shall be registered has had their Certificate of Approved Retrofit Compliance revoked.

(8) To reapply for a Certificate of Approved Retrofit Compliance, a Person who owns or to whom the Medium-or Heavy-duty Truck shall be registered shall submit to the Department:

(a) An explanation of why the Certificate of Approved Retrofit Compliance was revoked, and what the Person who owns or to whom the vehicle shall be registered will do to prevent the same problem from reoccurring;

(b) Documentation sufficient to allow the Department to conclude that the problems that led the Department to revoke the Certificate of Retrofit Compliance have been corrected;

(c) Documentation sufficient to allow the Department to conclude that the retrofit technology has the characteristics that made it eligible for a Certificate of Approved Retrofit Compliance under OAR 340-256-0530 at the time the Certificate of Approved Retrofit Compliance was issued. This must include, but is not limited to, documentation sufficient to show that the retrofit technology met the requirement in OAR 340-256-0510(d). If the Approved Retrofit Technology was used at the time of installation, this must include, but is not limited to, a copy of the Department's prior approval for the installation issued under OAR 340-256-0560 and information sufficient to allow the Department to determine that the installation was accomplished in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020); and

(d) A statement signed by the Person who owns or to whom the Medium- or Heavy-duty Truck shall be registered committing to and declaring the following:

(A) That the Person who owns or to whom the Medium- or Heavy-duty Truck shall be registered notify the Department in writing if, after the issuance of a Certificate of Approved Retrofit Compliance, they become aware that changes occur such that the equipment no longer constitutes Approved Retrofit Technology;

(B) That the Person who owns or to whom the Medium-or Heavy-duty Truck is registered must engage in the annual renewal and the Periodic Verification Process, if required under OAR340-256-0540;

(C) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will keep the records that will be required to be submitted under OAR 340-256-0540 if the Department engages that Person in the Periodic Verification Process; and

(D) That the Person who owns or to whom the Medium- or Heavy-duty Truck is registered will not personally or allow anyone else to remove, modify, alter, or tamper with the Approved Retrofit Technology or any labels after the Department issues a Certificate of Approved Retrofit Compliance.

(9) Upon receipt and review of the documentation in subsection (8), the Department may, but is not required to, reissue the Certificate of Retrofit Compliance if it determines that the reapplication was complete and the problems that led it to revoke the Certificate of Retrofit Compliance have been corrected. A final decision issued under this subsection (9) shall be a final order in a contested case issued in accordance with ORS Chapter 183.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0550

Approved Retrofit Technology Labeling Requirements

(1) The Person who owns or to whom the Medium- or Heavy-duty Truck is registered must ensure each Medium- or Heavy-duty Truck containing Approved Retrofit Technology has a legible and durable label that complies with subsection (3) of this rule affixed to a conspicuous location on the engine or engine compartment and affixed to the Approved Retrofit Technology so that it can be easily read with the naked eye during daylight with or without the assistance of artificial lighting or reflective devices.

(2) No Person may remove, modify, alter, or tamper with a label in any way after it is installed.

(3) At a minimum, the label shall include the following:

(a) A unique identification number to be matched to the specific Approved Retrofit Technology family name;

(b) The Approved Retrofit Technology's manufacture name, address, and phone number;

(c) The Approved Retrofit Technology's serial number;

(d) The month and year the Approved Retrofit Technology was manufactured;

(e) The direction of the exhaust flow in the Approved Retrofit Technology; and

(f) The Approved Retrofit Technology's family name assigned by the installer of Approved Retrofit Technology in the following format: CA or US/MMM/YYYY/BART#/APP/XXXXX, where:

(A) CA designates a retrofit device that appears or previously appeared on the Currently Verified Diesel Emission Control Strategy of CARB or that appears or previously appeared

on the Currently Verified Diesel Emission Control Strategy of CARB and that appears or previously appeared Verified Technologies List for Clean Diesel of EPA;

(B) US designates a retrofit device that appears or previously appeared Verified Technologies List for Clean Diesel of EPA and that does not appear or has not previously appeared the Currently Verified Diesel Emission Control Strategy of CARB;

(C) MMM designates and is to be replaced by the manufacturer code. For a retrofit device that appears or previously appeared on the Currently Verified Diesel Emission Control Strategy of CARB, MMM shall be replaced by the manufacturer code assigned by CARB's Executive Officer;

(D) MMM shall be replaced by three zeroes (000) for a retrofit device that appears or previously appeared Verified Technologies List for Clean Diesel of EPA; and

(E) YYYY designates and is to be replaced by the year of verification.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360 & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0560

Component Swapping or Re-Designation of Approved Retrofit Technology

(1) Any Person conducting Component Swapping or Re-Designation must do so in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020).

(2) A Person who owns or to whom the Medium-or Heavy-duty Truck is registered may complete Component Swapping or Re-Designation only with prior Department approval.

(3) To seek prior Department approval for Component Swapping or Re-Designation, the Person who owns or to whom the Medium-or Heavy-duty Truck is registered shall submit:

(a) A Department approved application for approval of Component Swapping or Re-Designation; and

(b) All documentation associated with the Component Swapping or Re-Designation under Title 13, California Code of Regulations, Section 2706(i) (2020) sufficient to allow the Department to determine that the Component Swapping or Re-Designation would comply with those provisions.

(4) The Department shall review all applications under subsection (3) for completeness and to determine whether the Component Swapping or Re-Designation would comply with Title 13, California Code of Regulations, Section 2706(i) (2020).

(5) Based on its review in subsection (4) of this rule, the Department shall either approve or deny the application. The Department's decision to deny the application shall include the reason(s) for the denial. A final decision issued under this subsection (5) shall be a final order in a contested case issued in accordance with ORS Chapter 183.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.



State of Oregon Department of Environmental Quality

Full Text of Public Comments

HB 2007 Retrofit Compliance 2021 Rulemaking

Below is the full text of the comment received prior to 4 p.m. on May 18, 2021, the close of the public comment period. DEQ's comment response is included in the EQC Staff Report.

To Whom it may concern,

This attempt to remove the diesel engine as a method of transportation is not necessary nor economical. Diesel engines are used in every form of transportation and agriculture. The diesel engine creates more power on less fuel and is more economical for the user. The radical agenda to clean the environment must also take into consideration the economic loss the individual and communities will face with these rules to ban or alter the diesel engine. The transportation industry is mobile and will leave the State to avoid these rules. As California has found that many transportation companies just won't operate or purchase fuel in that State. The large operations that can afford a transition will dominate the market and prices will be increased for all levels of goods that are transported by truck or rail. It is evident that you are intent on banning the use of diesel fuel all together in Oregon. This is going to greatly affect agriculture and the transportation of agricultural goods as well as all other goods transported in or out of this State. I would encourage anyone on this committee who is not married to the radical left agenda to vote against any mandatory alterations of the diesel engines or fuel. You should, and must consider in these difficult times the economic havoc that such rules will cause in Industry and Agriculture.

Sincerely

Marvin Parker
