



State of Oregon Department of Environmental Quality

HB 2007 Retrofit Compliance Rulemaking 2021- Draft Rules

Rulemaking Advisory Committee Meeting #2

Note: Only new rule language is presented below so no changes are highlighted.

340-256-0010

Definitions

- (1) “Approved Retrofit Technology” means on-road Diesel Particulate Matter filter technology that meets the criteria established in OAR 340-256-0510.
- (2) “CARB” means California Air Resources Board.
- (3) “CCD” means the Commerce and Compliance Division of the Oregon Department of Transportation
- (4) “Certificate of Approved Retrofit Compliance” means an electronic certification issued by the Department that the Diesel Motor Vehicle identified on the certificate is equipped with Approved Retrofit Technology pollution control systems and otherwise complies with the Commission's criteria, standards, and rules in OAR 340-256-0510 through 340-256-0650.
- (5) “Component Swapping” means components of a verified control strategy moved from the original installation and transferred to another vehicle or equipment, provided the provisions of California Code of Regulations, Section 2706(i) (10/2/2020) are met.
- (6) “Diesel Particulate Matter” means the particles found in the exhaust of diesel-fueled compression ignition engines.
- (7) “EPA” means the United States Environmental Protection Agency.
- (8) “Heavy-duty Truck” means any 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.
- (9) “Medium-duty Truck” means any 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.
- (10) “Periodic Verification Process” means the ongoing requirement to provide proof of Approved Retrofit Technology maintenance and operation to the Department.
- (11) “Person” means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political subdivision, the state and any agency of the state or any other entity, public or private, however organized.

(12) “Re-Designation” means the complete removal of an Approved Retrofit Technology from the original installation to another vehicle or equipment within the end user's commonly owned fleet, provided the provisions of California Code of Regulations, Section 2706(i) (10/2/2020) are met.

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

Statutes Implemented: ORS 468A.350 - 468A.400, & ORS 468A.810

340-256-0500

Background

The 2019 Oregon Legislature passed House Bill 2007, codified in 2019 Oregon Laws chapter 645. ORS 803.591 prohibits registering and titling older diesel engines in Clackamas, Multnomah and Washington counties after certain deadlines unless they are equipped with Approved Retrofit Technology established by the Commission. 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 certification that a diesel engine has been retrofitted with Approved Retrofit Technology. The rules are intended to accomplish those goals.

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

Statutes Implemented: ORS 468A.350 - 468A.400, & ORS 468A.810

340-256-0510

Requirements for Approved Retrofit Technology

To be an Approved Retrofit Technology, retrofit technology must:

- (1) Be newly installed by a licensed installer using new equipment;
- (2) Be manufactured for installation on an on-road diesel engine and be compatible with a Medium- or Heavy-duty Truck;
- (3) Have a valid manufacturer’s warranty; and
- (4) Be determined by the Department to provide a reduction of at least 85 percent of Diesel Particulate Matter.
- (5) Medium- and Heavy-duty Trucks may meet the requirements of retrofit compliance if fuel type or engine model year excludes the vehicle from the criteria found in ORS 803.591 and proof is submitted to the Department, using a Department approved application to include proof as required in section (2) subsections (a) through (h) of 340-256-0520. A Medium-and Heavy-duty truck would need to comply with ORS 468A.810 at any time that it meets the requirements for retrofit compliance.

Statutory Authority: ORS 468A.810, ORS 803.591 & ORS 468A.360.

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

340-256-0520

Certification of Approved Retrofit Technology

- (1) To obtain a Certificate of Approved Retrofit Compliance, using a Department approved application, a person must submit:
- (a) A statement signed by the installer of the Approved Retrofit Technology attesting that, at the time of installation, the installer was authorized to perform the installation work by the manufacturer of the Approved Retrofit Technology; and
 - (b) A Pre-Installation Compatibility Assessment as defined in 13 California Code of Regulations (13 CCR), section 2706(t)(10/2/2020) signed by the installer;
 - (c) Approved Retrofit Technology data log results for the specific installation;
 - (d) A warranty registration form for the Approved Retrofit Technology; and
 - (e) Information sufficient to allow the Department to determine that the retrofit technology meets the requirements in OAR 340-256-0510(2). This shall include:
 - (i) A Verification Letter issued by the EPA showing that the retrofit technology is listed on the Verified Technologies List for Clean Diesel of the EPA. The letter shall describe the engine families and operating criteria appropriate for the application of the retrofit technologies and stating that the retrofit technology will result in a reduction of Diesel Particulate Matter of at least 85 percent; or
 - (ii) An Executive Order issued by the California Air Resources Board showing that the retrofit technology listed on the Currently Verified Diesel Emission Control Strategy of the California Air Resources Board. The letter shall describe the engine families and operating criteria appropriate for the application of the retrofit technologies and stating that the technology results in a reduction of Diesel Particulate Matter of at least 85 percent; and
 - (iii) Other information that would allow the Department to determine that the retrofit technology meets the requirements in OAR 340-256-0510(2).
- (2) Each submission of information provided on (1)(a)(b) (c) and (d) above must include all of the following information about the Medium-duty Truck 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 Manufacture;

(g) Engine Model Year;

(h) Engine Displacement; and

(i) Approved Retrofit Technology labeling information required in OAR 340-256-0550.

(3) Approved Retrofit Technology shall remain operational and in functioning order and may not be modified or altered from the certification criteria in ORS 340-256-0520.

Statutory/Other Authority: ORS 468A.810, ORS 803.591, ORS 468A.360, ORS 815.315

Statutes/Other Implemented: ORS 468A.810

340-256-0530

Approved Retrofit Compliance Process

(1) The Department will review all applications under OAR 340-256-0520 for completeness and to determine whether the technology meets the definition of Approved Retrofit Technology in OAR 340-256-0510.

(2) Based on its review in (1) of this rule, the Department will either issue a Certificate of Approved Retrofit Compliance as described in ORS 468A.810 or deny the request for a Certificate of Approved Retrofit Compliance. The Department's decision to deny the request will result in a certification denial and will include the reason(s) for the denial. The Department's decision under this subsection (2) shall be a contested case order.

(3) The Department will submit to the Department of Motor Vehicles an electronic certification of Approved Retrofit Technology for Medium-Duty Trucks and to CCD for Heavy-Duty Trucks under ORS 468.810 if the Department issues such a certificate under (2) of this rule.

(4) By submitting request for a Certificate of Approved Retrofit Technology, the person agrees participate in the Periodic Certification Process. Once approved, a Certification of Approved Retrofit Compliance will remain current unless the engine no longer conforms to the requirement of Approved Retrofit Technology or if the owner does not participate in the Periodic Review Process in OAR 340-256-540 within 60 days of the registration renewal date.

Statutory/Other Authority: ORS 468A.810, ORS 803.591, ORS 468A.360

Statutes/Other Implemented: ORS 468A.810

340-256-0540

Periodic Verification Process

(1) In order to maintain a Certificate of Approved Retrofit Technology, the person must participate in the Periodic Verification Process.

(2) As part of the Periodic Verification Process, the Department may require a vehicle owner to submit for Department review the following:

(a) Temperature and backpressure data logging records for the most recent 12 months of vehicle use;

(b) Filter cleaning and maintenance records matching the labeling requirements per OAR 340-256-550;

(c) Approved Retrofit Technology warranty repair for the most recent 12 months of use;

(d) Approved Retrofit Technology repair other than warranty repair for the most recent 12 months of use; or

(e) Upon review of (a) through (d) in section (2), the Department may request additional information including:

(i) Pictures of the retrofit installation;

(ii) A supplementary certification signature from an installer, authorized by the Approved Retrofit Technology manufacturer; or a designated representative attesting the periodic verification information, and a visual inspection of the Approved Retrofit Technology, verifying it conforms to the manufacture's specifications of function and operation; or

(iii) Other documents the Department determines necessary.

(3) The Periodic Verification Process will require the vehicle owner to sign a form attesting that the information provided is true and accurate using a Department approved application.

(4) As part of the Periodic Verification Process, the Department may accept (2) subsections (a) through (d) from the certified retrofit installer, a retrofit manufacturer representative or from the vehicle owner as long as it meets the criteria in (2) (a) (b) (c) and (d) of this rule.

(5) The Department may conduct its Periodic Verification Process as to a particular vehicle owner randomly or case-by-case.

(6) The Department's decision to deny the request will result in a certification denial and will include the reason(s) for the denial. The Department's decision under this subsection (2) shall be a contested case order.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, ORS 815.305

Statutes/Other Implemented: ORS 468A.810

340-256-0550

Approved Retrofit Technology Labeling Requirements

(1) Each piece of Approved Retrofit Technology installed pursuant to OAR 340-256-0510 must be labeled with a legible and durable label affixed to a conspicuous location on the engine or engine compartment and on the Approved Retrofit Technology so that it can be easily read and understood during daylight without the assistance of artificial lighting or reflective devices. The label must provide a unique identification number to that can be matched to the specific Approved Retrofit Technology family name.

(2) At a minimum, the Approved Retrofit Technology label shall include all of the following:

(a) The Approved Retrofit Technology's manufacturer 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;

- (g) Where:
- (h) CA designates a retrofit device verified solely by the California Air Resource Board or by both California Air Resource Board and the EPA, and US designates a retrofit device verified solely by EPA;
- (i) MMM designates and is to be replaced by the manufacturer code. For a retrofit device verified by the California Air Resource Board, MMM will be replaced by the manufacturer code assigned by the California Air Resource Board Executive Officer;
- (j) For a retrofit device verified by EPA, the MMM will be replaced by three zeroes (000);
- (k) YYYY designates and is to be replaced by the year of verification;

Statutory/Other Authority: ORS 468A.810, ORS 803.591, ORS 468A.360,
Statutes/Other Implemented: ORS 468A.810

340-256-0560

Swapping or Re-designating Approved Retrofit Technology

- (1) A person must follow the requirements in Title 13, California Code of Regulations, Section 2706(i) (10/2/2020) and notify the Department before any Component Swapping or Re-Designation is authorized.
- (2) The Department may request all documentation associated with the Component Swapping or Re-Designation per the requirements in Title 13, California Code of Regulations, Section 2706(i) (10/2/2020).
- (3) If the documentation does not provide the authority to perform Component Swapping or Re-Designation in (1) and (2) of this rule, the Department will not accept the action per ORS 340-256-0530.
- (4) The Department's decision to deny the request will result in a certification denial and will include the reason(s) for the denial. The Department's decision under this subsection (3) shall be a contested case order.

Statutory/Other Authority: ORS 468A.810, ORS 803.591, ORS 468A.360
Statutes/Other Implemented: ORS 468A.810;

End Draft Rule