



State of Oregon Department of Environmental Quality

# Notice of Proposed Rulemaking

May 24, 2024

Heavy-Duty Engine and Vehicle Omnibus Rule Update 2024

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules – Edits Highlighted
- Draft Rules – Edits Included (final clean version)

## Note for Readers:

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# Introduction

DEQ invites public input on proposed permanent rule amendments to chapter 340 Division 261 of the Oregon Administrative Rules.

## Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

## Overview

### Short summary of proposed rule changes

The proposed amendments to heavy-duty engine and vehicle exhaust emission standards are intended to ensure Oregon remains consistent with California rules for all new medium- and heavy-duty vehicles sold in Oregon. Also included with these proposed amendments are a permanent adoption of a one-year implementation delay for these new emission standards. The EQC adopted a temporary rule on Nov. 16, 2023, to delay implementation of the HD Omnibus rules such that they would go into effect with engine model year 2025 and/or vehicle model year 2026 depending on the specific rule section. Adoption of a permanent rule would replace a temporary rule adopted by the Environmental Quality Commission on Nov. 16, 2023, which is currently set to expire on June 28, 2024.

Additional proposed amendments include new definitions to provide manufacturers more guidance on locations of disadvantaged communities in Oregon and clarifying engine labelling requirements. This proposed action will provide manufacturers and new vehicle buyers more compliance certainty and add additional flexibilities for new conventionally fueled medium- and heavy-duty vehicle sales as Oregon transitions to a zero-tailpipe emission future.

### Background of reasons for doing this rulemaking

Under Section 177 of the federal Clean Air Act, states that choose to adopt vehicle standards that are more stringent than the federal standards for new vehicles may only adopt California's vehicle emission standards (if California has adopted more stringent standards). Oregon has previously opted-in to standards for medium- and heavy-duty trucks including the Heavy-Duty Engine and Vehicle Omnibus rules (HD

Omnibus)<sup>1</sup>. The HD Omnibus standards apply to new on-highway heavy-duty engines sold in Oregon beginning with engine model year 2024 and vehicle model year 2025 (temporarily delayed by one model year). Broadly, the HD Omnibus rules require lower NOx and PM2.5 emission standards for these new internal combustion engines, longer warranty periods and updated engine and vehicle testing procedures.

In 2023, the California Air Resources Board proposed and adopted significant and necessary amendments to the HD Omnibus rules. The delayed timing of the adoption of the CARB amendments put Oregon at risk of not having identical rules to California as required under section 177 of the Clean Air Act at the beginning of 2024. Also, uncertainty over when compliant engines would be available from manufacturers in 2024 would have created significant restrictions to the supply of new medium- and heavy-duty vehicles. Some manufacturers informed DEQ at that time that they were planning to place a temporary hold on the sale of new diesel engines into the state. Announcements of those temporary holds raised concern among fleet owners and managers that there would be a further tightening of the supply of new medium- and heavy-duty vehicles. Unrelated existing supply chain problems have led to significant backorders and long delays in projected vehicle delivery timelines. As a result, fleets were unable to get the vehicles that they needed in 2023. Any temporary hold on vehicle delivery into Oregon in 2024 would have exacerbated these already existing market conditions. For these reasons the Environmental Quality Commission adopted temporary rules on Nov. 16, 2023 to delay the implementation of the HD Omnibus rules for one year. Those temporary rules expire on June 28, 2024.

### **How this rulemaking addresses the reasons for doing the rulemaking**

The current proposed rule would update the existing HD Omnibus rules to match revisions adopted by California in 2023. The most significant changes are those related to the sale of legacy engines. Legacy engines are those that meet the less restrictive federal emission standards starting in 2024. These engines would emit up to 75% more NOx than a similar CARB-certified compliant engine. The existing rules allow for the sale of a certain percentage of manufacturers' total engine sales in the state to be legacy engines. The proposed rule changes include increased flexibilities under the legacy engine provisions to: 1) allow for the sale of a larger volume of legacy engines and 2) allow for legacy engine certification prior to an Omnibus compliant engine certification.

The proposed rule would also delay implementation of OAR Chapter 340, Division 261 (Emission Standards for New Heavy-Duty Trucks), by one year. This one-year delay would make the temporary rules previously adopted by the EQC permanent. The proposed rules also include new definitions that will provide more guidance for

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<sup>1</sup> 417<sup>th</sup> Meeting of the Oregon Environmental Quality Commission. Clean Truck Rules DEQ Staff Report, accessed on 5/1/2024. Available at: [https://www.oregon.gov/deq/EQCdocs/111721\\_C\\_CleanTrucks.pdf](https://www.oregon.gov/deq/EQCdocs/111721_C_CleanTrucks.pdf)

manufacturers that carry out emission offset projects associated with legacy engine sales. The 2023 CARB amendments included modification to engine labeling requirements under the diesel engine test procedures. Under those amendments, engines sold as new in California must now have “CA” included on the engine label. The proposed rule would clarify that “OR” should be substituted for “CA” on new engines sold in Oregon. Minor grammatical or spelling corrections are also included.

### **Affected parties**

The proposed rulemaking applies statewide. Affected parties include:

- Medium- and heavy-duty vehicle and engine manufacturers
- Medium- and heavy-duty vehicle dealerships
- Medium- and heavy-duty vehicle purchasers
- The public

These proposed rule updates eliminate the risk of any temporary manufacturer holds on the sale of vehicles powered by diesel engines in 2024 and reduces that risk for the 2025-2026 period. The proposed rules would also mean that more vehicles with higher emitting legacy engines would be available for sale in Oregon in the 2024-2026 compared with the status quo.

### **Outreach efforts and public and stakeholder involvement**

DEQ announced the rulemaking and advisory committee process via GovDelivery. Through that announcement DEQ invited the public to attend the virtual advisory committee meeting. DEQ added the advisory committee meeting announcement to DEQ’s public meetings calendar.

DEQ has continued to engage with a variety of stakeholders about these rule updates. Following the EQC’s decision to adopt the temporary rules to delay implementation for one year, DEQ held a public forum to provide updates in late November 2023 which was announced via GovDelivery. DEQ also held individual stakeholder meetings with:

- Fleet representatives from the school bus, solid waste collection and government sectors
- A variety of trade associations
- Vehicle sales, service, and repair representatives
- Vehicle and engine manufacturers

### **Brief summary of fiscal impact**

The proposed rule amendments delay implementation of the HD Omnibus rules for one year, adopt recent CARB amendments by reference, include new definitions

that ensure identical implementation for legacy engine offset projects in Oregon disadvantaged communities and clarify manufacturer engine labeling requirements.

Compared to the status quo the impact of the rules would be to avoid temporary holds and excessive restriction on medium- and heavy-duty vehicle sales in Oregon and increase the volume of legacy engines that can be sold. Expected fiscal impacts include impacts associated with increased sales volumes of medium- and heavy-duty conventionally fueled trucks and decreased demand for warranty repair services on vehicles with 2024 engines.

Emissions reductions may initially be less than expected along all routes where medium- and heavy-duty vehicles travel and will impact members of the public – especially those living, working, and recreating close to major traffic corridors. However, all excess emissions associated with legacy engine sales in 2025 and 2026 must be offset either by applying previously generated zero emission/NOx credits or through manufacturer-initiated emissions reduction offset projects that are required to be carried out in disadvantaged communities.

## Procedural Summary

### More information

Information about this rulemaking is on this rulemaking's web page: [Heavy-Duty Engine and Vehicle Omnibus Rule Update 2024](#)

### Public Hearings

DEQ plans to hold one public hearing. Anyone can attend by webinar or teleconference.

Date: Monday, June 17, 2024

Start time: 6 p.m.

#### [Join via Zoom](#)

#### **Join by phone:**

Teleconference phone number: 833 928 4609 US Toll-free

Meeting ID: 813 9099 6311

Passcode: 721457

Instructions on how to join webinar or teleconference: [Instructions](#)

## How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, regular mail or at the public hearing.

- **Email:** Send comments by email to: [HDDiesel.2024@deq.oregon.gov](mailto:HDDiesel.2024@deq.oregon.gov)
- **Postal mail:**
  - Oregon DEQ  
Attn: Eric Feeley  
700 NE Multnomah St., Room 600  
Portland, OR 97232-4100
- **At public hearing:** 6 p.m., Monday, June 17, 2024

### Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by **4 p.m., on Monday June 24, 2024.**

### Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

### Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

- Signing up through this link: Diesel and Biodiesel [GovDelivery](#);
- Signing up on the rulemaking web site: [Heavy-Duty Engine and Vehicle Omnibus Rule Updates 2024 rulemaking web page](#).

### What will happen next?

Following the close of the public comment period, DEQ will include a written response to comments in a staff report DEQ will submit to the DEQ Director. DEQ may modify the rule proposal based on the comments.

These proposed rules only become effective if the DEQ Director adopts them pursuant the EQC delegation of rulemaking authority for this proposed action under

ORS 183.325 which was approved by the EQC on Jan. 24, 2024.<sup>2</sup> DEQ's intended action is to present the proposed rule changes to the Director as soon as possible after the earliest date on which the rule changes could take effect. DEQ intends to submit the proposed rule changes to the Director on or before June 28, 2024.

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<sup>2</sup> 430<sup>th</sup> Meeting of the Oregon Environmental Quality Commission. Director Delegation Package and Rulemaking Plan – Action item E Memorandum, accessed on 5/1/2024. Available at: <https://www.oregon.gov/deq/about-us/eqc/Pages/202401.aspx>



# Statement of need

Proposed Rule or Topic	Discussion
<b>Delay Implementation of HD Omnibus Rules for one year</b>	
<p>What need would the proposed rule address?</p>	<p>The proposed rule addresses the need to make permanent the previously adopted temporary rule for the remainder of 2024. In 2023 the EQC temporarily delayed implementation of the HD Omnibus rules due to CARB's delay in adopting critical California amendments, the need for more manufacturer flexibilities related to the sale of legacy engines and uncertainty over when Omnibus-certified compliant engines would be available in 2024. Each of these issues risked creating significant restrictions to the supply of new medium- and heavy-duty conventionally fueled vehicles.</p>
<p>How would the proposed rule address the need?</p>	<p>The proposed rule would delay the implementation of the HD Omnibus rules for one full year. It will provide manufacturers and buyers with compliance certainty for 2024 and allow the delivery and sale of legacy engines for the remainder of 2024 without any volume constraints. If the proposed rules are adopted, the HD Omnibus rules go into effect with engine model year 2025 and/or vehicle model year 2026 depending on the specific rule section and context. The proposed rules provide more time for manufacturers to produce and deliver California Omnibus-certified compliant engines to the market.</p>
<p>How will DEQ know the rule addressed the need?</p>	<p>DEQ will know the rule addressed the need by monitoring the number of new conventionally fueled vehicles that are sold and registered in Oregon.</p>
<b>Adopt recent CARB HD Omnibus amendments</b>	

Proposed Rule or Topic	Discussion
What need would the proposed rule address?	Oregon adopted the CARB HD Omnibus rules by reference in 2021. Under section 177 of the Clean Air Act, Oregon can only adopt California emission standards if those standards are adopted identically. Periodically Oregon must adopt California amendments to remain identical. The recent California amendments increase the transition flexibilities available to manufacturers for the sale of legacy engines. Manufacturers must continue to offset all associated excess emissions that result from legacy engine sales. The additional flexibilities included in these amendments are needed to ensure that the supply of medium- and heavy-duty conventionally fueled vehicles is not excessively restricted.
How would the proposed rule address the need?	The proposed rule would bring Oregon's rules into agreement with California's rules by adopting the California amendments by reference.
How will DEQ know the rule addressed the need?	DEQ will know the rule addressed the need by monitoring the number of new conventionally fueled vehicles that are sold and registered in Oregon.
<b>Adopt definition for disadvantaged community applicable in OR</b>	
What need would the proposed rule address?	The proposed rule would ensure that the implementation of any disadvantaged community legacy engine offset projects are effectively identical to California.
How would the proposed rule address the need?	The proposed rule would clarify where offset projects associated with excess legacy engine emissions must be carried out within the state of Oregon.
How will DEQ know the rule addressed the need?	DEQ will know that the rule addressed the need when offset projects proposed to DEQ and carried out by engine

Proposed Rule or Topic	Discussion
	manufacturers are located within the areas designated by the rule.
<b>Engine labeling requirement update</b>	
What need would the proposed rule address?	The recent CARB amendments included modifications to engine labeling requirements under the diesel engine test procedures. Engines sold as new in California must now have “CA” included on the engine label. The proposed rule would ensure that manufacturers are clear about what their engine labeling responsibilities are for engines sold in Oregon.
How would the proposed rule address the need?	The proposed rule would clarify that “OR” should be substituted for “CA”.
How will DEQ know the rule addressed the need?	DEQ will know that the rule addressed the need once the updated rules are published and manufacturers are notified about how to properly label engines sold in Oregon.

## Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so. Adopting these rules would harmonize the already existing Oregon rules with recent amendments made by California. Under section 177 of the Clean Air Act Oregon can adopt and enforce California’s more stringent new engine and vehicle emission standards if those standards are identical to the California standards.

The HD Omnibus rules that were adopted by the EQC in 2021 are more stringent than the current 2024-2026 federal standards for NOx and PM as well as several other provisions including a low load testing cycle and longer warranty requirements. The rules are designed to reduce the primary and secondary impacts of NOx emissions including ozone and secondary particulate formation, address the low speed and light load phases of the truck duty cycle and reduce the impact of engine deterioration. New federal medium- and heavy-duty engine and vehicle emission

standards were adopted in December 2022.<sup>3</sup> California has announced its intention to adopt future amendments that would mostly align with these new federal rules beginning with engine model year 2027.<sup>4</sup> DEQ plans to continue to recommend that the EQC adopt all future California Omnibus amendments to ensure that Oregon rules remains identical to the California rules and therefore expects to be mostly aligned with federal rules for medium- and heavy-duty engine and vehicle standards for engine model year 2027.

The current proposed rules will continue to impose requirements that will be different from or in addition to federal requirements. DEQ recommends that the director approve adoption of the proposed amendments which provide for increased manufacturer flexibilities by allowing the sale of a larger volume of legacy engines and delaying the implementation of the Omnibus rules in Oregon for one year. While these proposed amendments are more stringent than current 2024-2026 federal rules DEQ recommends that the director approve adopting these amendments. Doing so ensures that Oregon rules continue to be identical to California rules as is required under Section 177 of the Clean Air Act and in order to achieve the public health and environmental benefits of these rules as described and referenced in this notice, and based on the scientific, economic and technological analyses as described and referenced elsewhere in this notice.

## **What alternatives did DEQ consider and why are you not pursuing them?**

DEQ considered whether or not to pursue this rulemaking action. However, not taking action would be contrary to state policy to reduce emissions from all types of vehicles. The proposed rules delay implementation of the HD Omnibus rules for one year and increase manufacturer flexibilities for selling legacy engines in the near term. The one-year delay would mean that Oregon loses one model year of emissions reduction benefits, however, DEQ determined that the loss of one year of benefits was less harmful than losing benefits from the rule over the long term.

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<sup>3</sup> Final EPA Standards for Heavy-Duty Vehicles to Slash Dangerous Pollution and Take Key Step Toward Accelerating Zero-Emissions Future, December 2022, accessed on 5/1/2024. Available at: <https://www.epa.gov/newsreleases/final-epa-standards-heavy-duty-vehicles-slash-dangerous-pollution-and-take-key-step>. Also see: Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards – Final Rule, December 2022, accessed on 5/1/2024. Available at: <https://www.epa.gov/system/files/documents/2023-01/new-motor-veh-air-poll-control-hd-eng-veh-stnd-frm-2022-12-20.pdf> and U.S. heavy-duty vehicle NOx standards: Updates to emission limits, testing requirements, and compliance procedures, July 2023, accessed on 5/1/2024. Available at: <https://theicct.org/wp-content/uploads/2023/07/us-nox-standards-update-jul23.pdf>.

<sup>4</sup> CARB and the Truck and Engine Manufacturers Association Agreement (Clean Truck Partnership), July 2023, accessed on 5/1/2024. Available at: [https://ww2.arb.ca.gov/sites/default/files/2023-07/Final%20Agreement%20between%20CARB%20and%20EMA%202023\\_06\\_27.pdf](https://ww2.arb.ca.gov/sites/default/files/2023-07/Final%20Agreement%20between%20CARB%20and%20EMA%202023_06_27.pdf)

# Rules affected, authorities, supporting documents

## Lead division

Air Quality

## Program or activity

Standards for medium- and heavy-duty engines and vehicles

## Chapter 340 action

Amend				
340-261-0020	340-261-0030	340-261-0040	340-261-0050	340-261-0060

Statutory Authority - ORS				
468.020	468A.025	468A.050	468A.279	468A.360

Statutes Implemented - ORS				
468A.010	468A.015	468A.025	468A.279	468A.360

## Documents relied on for rulemaking

Document title	Document location
Clean Truck Rules - Staff Report to Oregon's Environmental Quality Commission, Nov 2021	<a href="https://www.oregon.gov/deq/EQCdocs/111721_C_CleanTrucks.pdf">https://www.oregon.gov/deq/EQCdocs/111721_C_CleanTrucks.pdf</a>
CARB Initial Statement of Reasons (ISOR) for Proposed Amendments to the Heavy-Duty Engine and Vehicle Omnibus Regulation	<a href="https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2023/hdomnibus2023/isor.pdf">https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2023/hdomnibus2023/isor.pdf</a>
CARB Heavy-Duty Engine and Vehicle Omnibus Rule Staff Report: Initial Statement of Reasons (ISOR), Appendix C-3:	<a href="https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/appc3.pdf">https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/appc3.pdf</a>

Further Detail on Costs and Economic Analysis	
CARB Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments: Final Statement of Reasons (FSOR)	<a href="https://ww2.arb.ca.gov/sites/default/files/barcu/board/rulemaking/hdomnibuslownox/fsor.pdf">https://ww2.arb.ca.gov/sites/default/files/barcu/board/rulemaking/hdomnibuslownox/fsor.pdf</a>
Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards – Final Rule, December, 2022	<a href="https://www.epa.gov/system/files/documents/2023-01/new-motor-veh-air-poll-control-hd-eng-veh-stnd frm-2022-12-20.pdf">https://www.epa.gov/system/files/documents/2023-01/new-motor-veh-air-poll-control-hd-eng-veh-stnd frm-2022-12-20.pdf</a>
U.S. heavy-duty vehicle NOx standards: Updates to emission limits, testing requirements, and compliance procedures, ICCT, July 2023	<a href="https://theicct.org/wp-content/uploads/2023/07/us-nox-standards-update-jul23.pdf">https://theicct.org/wp-content/uploads/2023/07/us-nox-standards-update-jul23.pdf</a>
CARB and the Truck and Engine Manufacturers Association Agreement (Clean Truck Partnership), July 2023	<a href="https://ww2.arb.ca.gov/sites/default/files/2023-07/Final%20Agreement%20between%20CARB%20and%20EMA%202023_06_27.pdf">https://ww2.arb.ca.gov/sites/default/files/2023-07/Final%20Agreement%20between%20CARB%20and%20EMA%202023_06_27.pdf</a>
Clean Truck Partnership Commitments – Status and Outcome	<a href="https://ww2.arb.ca.gov/clean-truck-partnership">https://ww2.arb.ca.gov/clean-truck-partnership</a>
In-use NOx and black carbon emissions from heavy-duty freight diesel vehicles and near-zero emissions natural gas vehicles in California’s San Joaquin Air Basin	<a href="https://doi.org/10.1016/j.scitotenv.2023.168188">https://doi.org/10.1016/j.scitotenv.2023.168188</a>
Ecommerce and environmental justice in metro Seattle	<a href="https://www.sciencedirect.com/science/article/pii/S0739885923001221">https://www.sciencedirect.com/science/article/pii/S0739885923001221</a>
The Concerns about Diesel Engine Exhaust, Oregon DEQ, 2015	<a href="#">Report Template - from HQ (oregon.gov)</a>
Portland Air Toxics Solutions Committee Report and Recommendations, Oregon DEQ, 2012	<a href="https://www.oregon.gov/deq/FilterDocs/PAT_S2012.pdf">https://www.oregon.gov/deq/FilterDocs/PAT_S2012.pdf</a>

# Rules Summary

## OAR chapter 340, division 261

Rule Number	Rule Title	Explanation
340-261-0020	Applicability	Permanently delays rule implementation by 1 year
340-261-0030	Definitions and Abbreviations	Adds definitions to provide more guidance to engine manufacturers
340-261-0040	Requirement to Meet California Vehicle Emission Standards	Permanently delays rule implementation by 1 year
340-261-0050	Incorporation by Reference	Clarifies engine labelling requirements and permanently delays rule implementation by 1 year
340-261-0060	Exemptions	Grammatical corrections only

# Fee Analysis

This rulemaking does not involve fees.



# Statement of fiscal and economic impact

## Fiscal and Economic Impact Overview

DEQ anticipates that the proposed rulemaking will have a fiscal and economic impact. Medium- and heavy-duty vehicle and engine manufacturers, dealers and purchasers would continue to supply and be able to sell and purchase federally certified 2024 engines if the proposal to start implementation with engine model year 2025 and vehicle model year 2026 is permanently adopted. The effect is likely to be experienced as lower costs for new vehicles or engine purchasers and/or increased vehicle and engine manufacturer and dealer revenue when compared to the status quo. The fiscal and economic impacts of all other elements of these proposed rules, including the proposed adoption of the recent CARB amendments and the proposed labeling and definition updates, are expected to be cost neutral to both manufacturers and purchasers.

## General Assumptions

**Proposed adoption of delayed implementation by one engine and vehicle model year:** The EQC adopted a temporary rule on Nov. 16, 2023, to delay implementation of the HD Omnibus rules such that they would go into effect with engine model year 2025 and/or vehicle model year 2026 depending on the specific rule section. This temporary action provided more time to consider and permanently adopt the CARB amendments which were adopted on Dec. 28, 2023. The temporary rule adoption avoided potentially severe supply constraints to the new medium- and heavy-duty vehicle market. Adoption of the proposed permanent rule would permanently avoid those same supply constraints while providing manufacturer certainty for 2024.

The fiscal and economic impact of the permanent adoption of this proposed rule will likely mean continued widespread availability of vehicles with 2024 engine model year or 2025 vehicle model year due to reduced risk of temporary sales stoppages. Permanently delaying implementation through 2024 will also provide compliance certainty for all manufacturers for the 2024 engine model year. The delay also ensures that CARB amendments to increase legacy engine sales flexibilities are in place in advance of Oregon's adoption of those amendments. The adoption of this proposed delay also means that new, conventionally fueled medium- and heavy-duty vehicles sold in Oregon in 2024 will not be 75% lower NOx emitting as originally intended in the rules. DEQ acknowledges that some communities are disproportionately impacted by that outcome. However, failing to adopt this proposed delay may put the rules at risk of not meeting the identity requirements described in Section 177 of the Federal Clean Air Act. The risk of losing one year of implementation (2024) was determined to be preferable to putting the entire rule at risk to being challenged (2025 and beyond).

Quantifying the specific fiscal impacts of delayed implementation on the affected parties was not possible given that DEQ is uncertain about the extent of medium-

and heavy-duty vehicle supply constraints. Those supply constraints are dependent on many different factors which are outside the scope of this rulemaking including the price and supply of fuel, vehicle parts and labor.

**Proposed adoption of recent CARB amendments:** The fiscal and economic impacts of the California amendments were developed by CARB as part of its routine rulemaking analysis<sup>5</sup>. DEQ closely reviewed CARB’s analysis and DEQ agrees with that analysis. Since DEQ is proposing to adopt the California amendments identically, DEQ concludes that the fiscal and economic impacts described by CARB for California also describe the relative effect of the likely fiscal and economic impacts that will occur in Oregon if identical regulations are adopted. More specifically, DEQ is relying on the analysis done by CARB that indicates that the rule amendments are emissions-neutral in California and DEQ has concluded that the amendments will also be emissions-neutral in Oregon.

As part of its analysis, CARB anticipated that expected cost savings gained from manufacturer sale of legacy engines “will be offset by the cost for the credits or projects needed to offset the legacy engine excess emissions deficits.”<sup>6</sup> CARB also determined that vehicle and fleet owners and operators would realize cost savings due to reduced consumption of diesel exhaust fluid (DEF) associated with legacy engines compared with CARB Omnibus compliant engines. CARB looked at lifecycle cost savings associated with reduced DEF consumption and determined that the price premium that purchasers of vehicles with legacy engines would likely pay would be offset by that DEF cost savings during the period from 2024 through 2035.

**Additional proposed changes to labeling requirements and definitions:** The fiscal and economic impacts of the proposed labeling amendments are predicted to be minimal. The responsibility of label compliance lies exclusively with engine manufacturers. The proposal requires that certain diesel engine labels be Oregon specific in a similar way that California requires. DEQ agrees with CARB’s analysis that engine labels are already an existing requirement and therefore, there is no likely increase in manufacturer costs for materials, staff time, or workload.

DEQ determined that there was no direct fiscal and economic impact of adopting a definition of “disadvantaged community” applicable in Oregon, to ensure that Oregon’s implementation is effectively identical to California’s. Indirect impacts could include increased investment in emission reduction projects within the areas identified under the new definition. This investment would be made by

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<sup>5</sup> Proposed Amendments to the Heavy-Duty Engine and Vehicle Omnibus Regulation, Initial Statement of Reasons, CARB 2023, accessed on 5/1/2024. Available at: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2023/hdomnibus2023/isor.pdf>

<sup>6</sup> Ibid.

manufacturers who need to offset excess legacy engine emissions. However, it is not possible to know in advance the number of projects, the amount of investment per project and what type of offset projects will be carried out. That uncertainty is because emission offset projects are only one way that manufacturers can choose to reduce deficits accrued from the sale of legacy engines.

## **Statement of Cost of Compliance**

### **State agencies**

DEQ anticipates that the impact to state agencies that purchase new medium- and heavy-duty vehicles will be similar to other local governments and businesses that purchase new medium- and heavy-duty vehicles. The proposed rules will result in a higher number of legacy engines available over the 2025-2026 period. They also will result in the elimination of any concerns over new vehicle supply through the remainder of 2024. These are all indirect impacts and will likely be realized as 1) cost savings on the purchase of each new medium- and heavy-duty vehicle in 2024 due to lower lifecycle DEF usage and 2) cost savings related to avoided 2024 market disruptions such as temporary sales stoppages of medium- and heavy-duty vehicles.

DEQ anticipates that it may experience an increase in the amount of staff time needed to carry out project oversight activities. This is more likely if engine manufacturers end up relying more heavily on excess legacy engine emission offset projects rather than relying exclusively on credit acquisition to offset their deficits. The projects would involve DEQ staff approval of offset projects and ensuring that manufacturers are fulfilling their obligations under those provisions over the life of the projects. Due to the uncertainty of the increase in volume of offset projects DEQ is unable to provide an accurate estimate of the amount of staff time needed.

### **Local governments**

There are no direct costs of compliance for local governments, however, local governments who purchase new medium- and heavy-duty vehicles, may experience indirect impacts similar to those described for non-DEQ state agencies on a per-vehicle basis.

### **Public**

#### **Benefits of the regulations**

The proposed amendments will ensure that additional manufacturer flexibilities for the sale of legacy engines are made available during the 2025-2026 transition period as we move toward diesel engines that emit 90% lower NOx with model year 2027. These flexibilities reduce the risk of temporary sales stoppages and market disruptions that may have had broader impacts. The proposed amendments also ensure that any emission offset projects that are carried out in Oregon will happen in areas that have historically been exposed to larger concentrations of diesel pollution and in areas with high densities of vulnerable populations. The proposed

rules also ensure the stability of the new medium- and heavy-duty vehicle market in 2024 by permanently adopting a one-year delayed implementation of the HD Omnibus rule.

### **Anticipated costs of the regulation**

There are no direct costs to the public under this regulation. The proposed rules are focused on new medium- and heavy-duty engine and vehicle manufacturers. However, there may be indirect costs associated with the one-year delayed implementation. Increased emissions would be expected to occur along all travel routes where vehicles affected by the one-year delay are generally driven.

Indirect impacts associated with the adoption of the CARB amendments are expected to be both cost neutral and emissions neutral based on the CARB analysis cited above. All excess emissions associated with legacy engine sales must be offset either by applying previously generated zero emission/NOx credits or through manufacturer-initiated emissions reduction offset projects that are required to be carried out in disadvantaged communities.

DEQ determined that there was no direct fiscal and economic impact on the public with adopting a definition for “disadvantaged community” applicable in Oregon, to ensure that Oregon’s implementation is effectively identical to California’s. Indirect impacts, as described earlier, could include increased community investment in emission reduction projects within the areas identified under the new definition. There are uncertainties associated with the extent of this investment since these are individual engine manufacturer business decisions.

### **Large businesses - businesses with more than 50 employees**

Under the proposed rules, large businesses that manufacture medium- and heavy-duty engines are expected to experience 1) increased sales related to avoided 2024-2026 market disruptions such as potential temporary sales stoppages of medium- and heavy-duty engines and 2) increased sales due to larger volumes of legacy engines available to be sold in 2025 and 2026.

There are no direct costs of compliance for large businesses who are exclusively purchasers and/or sellers of new medium- and heavy-duty vehicles. However, large businesses that are exclusively purchasers of these vehicles may experience indirect costs identical to costs described for non-DEQ state agencies on a per-vehicle basis.

For large businesses that sell new medium- and heavy-duty vehicles, indirect benefits are primarily associated with 1) increased sales related to avoided 2024-2026 market disruptions such as potential temporary manufacturer sales stoppages of medium- and heavy-duty vehicles and 2) an increase in sales compared with the status quo due to an increased number of legacy engines available to be sold in 2025 and 2026.

There are no direct costs of compliance for large businesses who are involved in carrying out warranty repairs on medium- and heavy-duty vehicles. However, there could be indirect costs associated with the increased proportion of legacy engine sales that manufacturers are allowed to make. The increase in legacy engine sales would likely decrease the demand for warranty repairs.

## **Small businesses – businesses with 50 or fewer employees**

### **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.**

Under the proposed HD Omnibus rule amendments, there are no small businesses directly affected, therefore no estimated number is provided. All the vehicle manufacturers subject to the requirements have more than 50 employees. However, small businesses that purchase new medium- and heavy-duty vehicles and vehicle dealers who sell these new vehicles may experience indirect cost savings because of the proposed rule.

For small businesses who purchase new medium- and heavy-duty vehicles, indirect costs and benefits are identical to the costs and benefits described above for non-DEQ state agencies on a per-vehicle basis.

For small businesses that sell new medium- and heavy-duty vehicles, indirect costs are primarily associated with 1) cost savings related to avoided 2024-2026 market disruptions such as potential temporary manufacturer sales stoppages of medium- and heavy-duty vehicles and 2) an increase in sales compared with the status quo due to an increased number of legacy engines available to be sold in 2025 and 2026.

For small businesses that are involved in warranty repairs for new medium- and heavy-duty vehicles the indirect costs would be similar to those described for large businesses engaged in similar warranty repair work.

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

Under the proposed rules there are no anticipated direct increased costs to small businesses associated with reporting, recordkeeping and other administrative activities.

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

Under the proposed rules there are no anticipated direct increased costs to small businesses associated with equipment, supplies, labor and increased administration.

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

DEQ included organizations that represented small businesses on the Heavy-Duty Engine and Vehicle Omnibus Rule Update 2024 Advisory Committee that advised DEQ on the cost of compliance for small businesses.

**Documents relied on for fiscal and economic impact**

Document title	Document location
CARB Initial Statement of Reasons (ISOR) for Proposed Amendments to the Heavy-Duty Engine and Vehicle Omnibus Regulation	<a href="https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2023/hdomnibus2023/isor.pdf">https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2023/hdomnibus2023/isor.pdf</a>
California’s Heavy-duty omnibus regulation: Updates to emission standards, testing requirements, and compliance procedures, International Council on Clean Transportation (ICCT), 2022	<a href="https://theicct.org/wp-content/uploads/2022/01/california-us-hdv-omnibus-reg-jan22.pdf">https://theicct.org/wp-content/uploads/2022/01/california-us-hdv-omnibus-reg-jan22.pdf</a>
CARB Heavy-Duty Engine and Vehicle Omnibus Rule Staff Report: Initial Statement of Reasons (ISOR), Appendix C-3: Further Detail on Costs and Economic Analysis	<a href="https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/appc3.pdf">https://ww3.arb.ca.gov/regact/2020/hdomnibuslownox/appc3.pdf</a>
CARB Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments: Final Statement of Reasons (FSOR)	<a href="https://ww2.arb.ca.gov/sites/default/files/barcu/board/rulemaking/hdomnibuslownox/fsor.pdf">https://ww2.arb.ca.gov/sites/default/files/barcu/board/rulemaking/hdomnibuslownox/fsor.pdf</a>
CARB and the Truck and Engine Manufacturers Association Agreement (Clean Truck Partnership), July 2023	<a href="https://ww2.arb.ca.gov/sites/default/files/2023-07/Final%20Agreement%20between%20CARB%20and%20EMA%202023_06_27.pdf">https://ww2.arb.ca.gov/sites/default/files/2023-07/Final%20Agreement%20between%20CARB%20and%20EMA%202023_06_27.pdf</a>

Clean Truck Partnership Commitments – Status and Outcome	<a href="https://ww2.arb.ca.gov/clean-truck-partnership">https://ww2.arb.ca.gov/clean-truck-partnership</a>
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## Advisory committee fiscal review

DEQ appointed an advisory committee.

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 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and provided feedback on the overall analysis provided by DEQ. Some committee members either disagreed that these amendments would result in increased engine availability or thought DEQ was overestimating the extent to which there would be an increase in the number of engines available with these proposed amendments. Other committee members thought that the uncertainty in product delivery timelines meant that purchasers are not guaranteed they will get what they order. One committee member claimed that sales are dropping off for school buses. Another said that the uncertainty for purchasers currently isn’t yielding the indirect product availability benefits described in the DEQ draft fiscal impact statement for their sector.

One committee member said that legacy engines will cost more and have a mitigation fee associated with them which would impact sales. Another committee member said that it is hard to figure out how many trucks they will be able to sell next year and that has made it difficult to provide certainty to dealerships about what products will be available for delivery.

The committee determined that the initial proposed amendments would be an improvement for small businesses over the current situation under the existing rules. However, a few committee members felt that the indirect benefits related to increased supply of legacy engines described by DEQ in the fiscal impact statement were not currently observed and were not likely to be realized due to the very long lead times that are now normal for truck and bus procurements. These extended timelines mean that most orders that are made today will have delivery dates well into 2025 or 2026.

# Housing cost

The proposed rule amendments would:

- 1) Update the existing HD Omnibus rules to match revisions adopted by California in 2023. Those changes include increased flexibilities under the legacy engine provisions to allow for the sale of a larger volume of legacy engines and allow for legacy engine certification prior to an Omnibus compliant engine certification.
- 2) Delay implementation of the Emission Standards for New Heavy-Duty Trucks (HD Omnibus) in OAR Chapter 340, Division 261 by one year. The temporary proposed rule would delay the start of these new regulations from engine model year 2024 to engine model year 2025.
- 3) Clarify definitions related to manufacturers that carry out emission offset projects associated with legacy engine sales.

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-square-foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules would have no direct effect on development costs because they only affect manufacturers of new medium- and heavy-duty vehicles and engines. While indirect impacts to transportation costs that are related to the supply of new medium- and heavy-duty vehicles are possible, DEQ is unable to estimate the extent of such an impact. However, that impact would likely be to avoid an increase in the price of new vehicles associated with supply restrictions and lack of market availability of HD Omnibus compliant engines for model year 2024.

Adoption of the proposed rules would likely also avoid larger price increases that would have been associated with engine model year 2025 and 2026 due to increased legacy engine volumes available for sale on the market. These indirect impacts to transportation costs could lead to an indirect effect on housing development costs because the rules could influence the price of materials and/or services used in housing construction. For example, manufacturers subject to the proposed amendments may not increase new medium- and heavy-duty truck prices as much. Smaller price increases for new medium- and heavy-duty vehicles could lead to housing related businesses that purchase these vehicles limiting price increases for their own products and services which may in turn moderate any associated housing development cost increases. Because these impacts are indirect and depend on the individual decisions of multiple businesses before resulting in housing cost fluctuations, DEQ is unable to estimate the amount of these indirect costs.



## **Racial Equity**

ORS 183.335(2)(a)(F) requires agencies to provide a statement identifying how adoption of the rule will affect racial equity in this state.

Medium- and heavy-duty engine and vehicle emissions disproportionately impact some communities more than others. Increased exposures to these sources of pollution can be due to working and living in close proximity to major transportation corridors, distribution centers and/or industrial facilities that typically concentrate medium- and heavy-duty truck traffic. Those communities are typically lower income and have more people that identify as black, indigenous and people of color. DEQ determined that failure to act to delay the HD Omnibus rules and adopt the CARB amendments put these rules at risk of not meeting the requirements to be identical with California as described in section 177 of the federal Clean Air Act. The risk of losing a year of implementation (2024) was preferable to putting the entire rule at risk to being challenged. DEQ also determined that the pollution reduction benefits to be gained from the full implementation of the rules over the coming years outweighs the loss of the 2024 engine model year alone.

The proposed rules limit the legal challenge risk, preserve the overall rule and most of the long-term emission reductions in exchange for delaying implementation by one year. The proposed rules ensure that any emission offset projects will be focused on Oregon-specific disadvantaged communities. The proposed rules represent the option that posed the least harm to communities suffering from disproportionate impacts associated with engine exhaust pollution from the medium- and heavy-duty vehicle sector.

## **Environmental Justice Considerations**

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections.

DEQ recognizes that emissions from medium- and heavy-duty vehicles disproportionately impact some communities more than others. Those communities are typically lower income and have more people that identify as black, indigenous

and people of color.<sup>7</sup> If adopted, the proposal to delay implementation of the HD Omnibus rules mean that new, conventionally fueled trucks sold in Oregon in 2024, will not be 75% lower NOx emitting as originally intended. Instead, the requirements for lower emitting medium- and heavy-duty vehicles would be delayed until engine model year 2025.

Also, increased flexibilities for manufacturers under the CARB amendments to the legacy engine sales volume caps, while emissions neutral overall, could mean fewer emission reductions than expected in the original rule along any given traffic corridor. However, the proposed amendments also ensure that any legacy engine excess emission offset projects that are carried out in Oregon will happen in areas that have historically been exposed to larger concentrations of diesel pollution and in areas with high densities of vulnerable populations. DEQ sought input from specific environmental justice communities and clean air advocacy organizations as it developed this rule proposal as part of its advisory committee process.

DEQ determined that:

- 1) Failure to adopt a one-year delay to the HD Omnibus rule implementation put the original rule at risk of not meeting the identicality requirements described in Section 177 of the Federal Clean Air Act.
- 2) The risk of losing a year of implementation is preferable to putting the entire rule at risk to being challenged.
- 3) The pollution reduction benefits to be gained from the implementation of the rules starting with model year 2025 and beyond outweighs the loss of the 2024 engine model year alone.
- 4) The risk of losing the emissions benefit to environmental justice communities beginning in 2025 and beyond is not a preferred outcome.
- 5) The proposed rules related to delayed implementation pose the least harm to communities suffering from disproportionate impacts associated with medium- and heavy-duty vehicle pollution.

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<sup>7</sup> Portland Air Toxics Solutions Committee Report and Recommendations, Oregon DEQ, April 2012, accessed on 5/1/2024, available at: <https://www.oregon.gov/deq/FilterDocs/PATS2012.pdf>. See also “Inequity in consumption of goods and services adds to racial-ethnic disparities in air pollution exposure”, Tessum et al., March 2019, accessed on 5/1/2024, available at: <https://www.pnas.org/content/pnas/116/13/6001.full.pdf>; “Space-Based Observational Constraints on NO<sub>2</sub> Air Pollution Inequality From Diesel Traffic in Major US Cities”, Demetillo et al., Aug 2021, accessed on 5/1/2024, available at: <https://agupubs.onlinelibrary.wiley.com/doi/10.1029/2021GL094333>; “In-use NO<sub>x</sub> and black carbon emissions from heavy-duty freight diesel vehicles and near-zero emissions natural gas vehicles in California’s San Joaquin Air Basin”, Ma et al., Jan 2024, accessed on 5/1/2024, available at: <https://www.sciencedirect.com/science/article/abs/pii/S0048969723068158>; “Ecommerce and environmental justice in metro Seattle”, Fried et al., Mar 2024, accessed on 5/1/2024, available at: <https://www.sciencedirect.com/science/article/pii/S0739885923001221>

# Land use

## Land-use considerations

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:

<b>Goal</b>	<b>Title</b>
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 and Delegation of Rulemaking Authority to the DEQ Director**

DEQ did not share additional information specific to this proposed rule revision with the EQC. However, DEQ did share similar information regarding a one-year implementation delay in the temporary rule staff report and presentation as part of Action Item C on the Nov. 16, 2023, EQC agenda. At that time, DEQ also described that it planned to bring a proposed rule to adopt planned future CARB amendments to the legacy engine provisions of the HD Omnibus rule. The EQC approved a delegation of rulemaking authority to the DEQ director to adopt these permanent rules as part of Action Item E on the Jan. 10, 2024, EQC agenda.

# Advisory Committee

## Background

DEQ convened the Heavy-Duty Engine and Vehicle Omnibus Rule Update 2024 advisory committee. The committee included representatives from truck and engine manufacturers, environmental organizations, vehicle dealers, vehicle service providers, trade associations, and public fleets and met one time. The committee's web page is located at:

<https://www.oregon.gov/deq/rulemaking/Pages/hddiesel2024.aspx>

The committee members were:

<b>Heavy-Duty Engine and Vehicle Omnibus Rule Update 2024 Advisory Committee</b>		
<b>Name</b>	<b>Representing</b>	<b>Sector</b>
Carrie Nyssen	American Lung Association - NW	Health Promotion Organization
Ana Colwell	Beyond Toxics	Environmental Justice Organization
David Van't Hof	Climate Solutions	Environmental Organization
Matthew Spears	Cummins	Engine Manufacturer
Sean Waters	Daimler	Truck and Engine Manufacturer
Don Emerson	FMI Trucks	Truck Dealer and Service Provider
Mary Peveto	Neighbors for Clean Air	Environmental Organization
Darin Weaver	ODOT/Fleet Managers Advisory Council	State Agency Ex Officio
Jacqui Treiger	Oregon Environmental Council	Environmental Organization
Greg Remensperger	Oregon Auto Dealers Association	Vehicle Dealer Association
Rich Angstrom	Oregon Concrete & Aggregate Producers Association	Trade Association
Chris Ellison	Oregon Pupil Transportation Association	School Bus Fleet Association

Jana Jarvis	Oregon Trucking Association	Trade Association
Scott Meyer	Schetky Bus and Van Sales	School Bus Dealer
Timothy French	Truck & Engine Manufacturers Association	Trade Association

## 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:
  - Rulemaking
  - DEQ Public Notices
  - Diesel and Biodiesel
  - Low Emission/Zero Emission Vehicle Program
  - Truck Efficiency/Reduced Idling
- Posted meeting information and materials on the rulemaking web page.
- 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 was informed about the impacts of diesel pollution in Oregon<sup>8</sup>, background and context for the initial adoption of the rule in 2021 and the subsequent temporary rule adopted in 2023. The committee then discussed the proposed draft rules to permanently delay rule implementation by one year (codifying the previously adopted temporary rule), adopt recent CARB amendments by reference, and clarify definitions and engine labeling requirements.

The committee also discussed exemptions. Some members of the committee requested exemptions for certain vehicle sectors including school buses and vocational vehicles. They expressed concern about a lack of available HD Omnibus compliant engines and vehicles from engine and vehicle manufacturers especially in these specific sectors. DEQ requested detailed information from vehicle purchasers and dealers to indicate that the HD Omnibus rules (including the proposed rule amendments) are causing or would result in delivery delays above and beyond the current normal market conditions. DEQ considered this feedback but decided not to include any new exemptions in the proposed rule updates.

Committee members also shared a variety of comments on the rules requiring a two-year lead time, lack of a current EPA-issued waiver, product availability and engine sales volumes, availability of offset credits, exemption of additional specific

<sup>8</sup> The Concerns about Diesel Engine Exhaust, Oregon DEQ, 2015, accessed on 5/1/2024. Available at: <https://www.oregon.gov/deq/FilterDocs/DieselEffectsReport.pdf>.

vehicle sectors, legacy engine costs and zero emission vehicle sales. DEQ requested any additional committee comments or feedback be submitted in writing by April 19, 2024. DEQ received additional written comments from the Truck & Engine Manufacturers Association which encouraged DEQ to take no further action on the current proposal, let the current HD Omnibus rules that are in place in Oregon lapse due to not being identical with California, and consider whether to align with CARB 2027 standards at a later date.

# Public Engagement

## Public notice

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

- On May 24, 2024 Filing notice with the Oregon Secretary of State for publication in the June 2024 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Heavy-Duty Engine and Vehicle Omnibus Rule Update 2024](#);
- Emailing approximately 25,706 interested parties on the following DEQ lists through GovDelivery:
  - Rulemaking
  - DEQ Public Notices
  - Diesel and Biodiesel
  - Low Emission/Zero Emission Vehicle Program
  - Truck Efficiency/Reduced Idling
- Emailing the following key legislators required under [ORS 183.335](#):
  - Representative John Lively, Chair, House Interim Committee on Climate, Energy, and Environment
  - Senator Janeen Sollman, Chair, Senate Interim Committee on Energy and Environment
  - House Speaker Julie Fahey
  - Senate President Rob Wagner
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)



# Accessibility Information

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# Draft Rules – Edits Highlighted

## Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

## Division 261 EMISSION STANDARDS FOR NEW HEAVY-DUTY TRUCKS

### 340-261-0020

#### Applicability

This division is in effect as of January 1, 2022 and applies to and establishes requirements for medium- and heavy-duty truck, engine and trailer manufacturers, Oregon truck dealers, all ~~2024~~2025 and subsequent model year on-highway heavy-duty engines, and all ~~2025~~2026 and subsequent model year trucks and trailers delivered for sale or sold in the State of Oregon, except as provided in OAR 340-261-0060 Exemptions.

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025 & 468A.360

**Statutes/Other Implemented:** ORS 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

#### History:

DEQ 16-2023, temporary amend filed 11/16/2023, effective 01/01/2024 through 06/28/2024

DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021

### 340-261-0030

#### Definitions and Abbreviations

The definitions in OAR 340-200-0020, the definitions in the sections of CCR, Titles 13 and 17, incorporated by reference in OAR 340-261-0050, and the definitions in this rule apply to this division. If the same term is defined in different passages, the definitions in this rule apply first, followed by definitions in the CCR Title 13 sections incorporated by reference, followed by the definitions in the CCR Title 17 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

(1) “CARB” means California Air Resources Board.

(2) “CCR” means California Code of Regulations.

(3) “Disadvantaged community” means an area with the highest diesel emission concentrations, vulnerable populations, and population densities as shown in Figure 1.

~~(3)~~(4) “Transit agency” means a public entity responsible for administering and managing transit services. Public transit agencies can directly operate transit service or contract out for all or part of the total transit service provided.

[\(5\) “Vulnerable populations” has the meaning given that term in OAR 340-255-0020.](#)

[\[NOTE: View a PDF of Figures by clicking on “Figures” link below.\]](#)

[\[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.\]](#)

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025 & 468A.360

**Statutes/Other Implemented:** ORS 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021

### **340-261-0040**

#### **Requirement to Meet California Vehicle Emission Standards**

(1) Starting with the ~~2024~~[2025](#) engine model year and for each engine model year thereafter no person may deliver for sale, or sell, in Oregon any new on-highway heavy-duty engine unless such engine is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(2) Starting with the ~~2025~~[2026](#) model year and for each model year thereafter no person may deliver for sale, or sell, in Oregon any new medium- or heavy-duty truck or trailer unless such vehicle is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(3) All motor medium- and heavy-duty truck and trailer manufacturers and dealers must comply with the sales and reporting requirements contained in this division.

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025 & 468A.360

**Statutes/Other Implemented:** ORS 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

DEQ 16-2023, temporary amend filed 11/16/2023, effective 01/01/2024 through 06/28/2024

DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021

### **340-261-0050**

#### **Incorporation by Reference**

(1) For purposes of applying the incorporated sections of the California Code of Regulations described in this rule, “California” or “CA” means “Oregon” or “OR,” respectively, and “Air Resources Board (ARB)” or “California Air Resources Board (CARB)” means Department of Environmental Quality (DEQ) or Environmental Quality Commission (EQC) depending on context, unless otherwise specified in this division or the application is clearly inappropriate.

(2) The sections of the California Code of Regulations (CCR), Title 13 and Title 17, adopted by reference in sections (3) and (4) are in addition to, and compatible with, the CCR, Title 13, standards and requirements adopted by reference under OAR 340-257-0050. It is the intent of this rule that the standards and requirements adopted by reference under OAR 340-257-0050 also apply in Oregon to the on-highway medium- and heavy-duty engines, vehicles and trailers regulated by the CCR, Title 13 and Title 17, standards and requirements adopted by reference in this rule, to the same extent and identical to how they would apply in California.

(3) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new 20242025 and subsequent model year on-highway medium- and heavy-duty engines and 20252026 and subsequent model year trucks and trailers must comply with each of the following applicable standards specified in CCR, Title 13 as incorporated by reference herein:

(a) Section 1956.8(a) – (f) and (i): Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California adopted date 9/9/2112/28/2023. Except that CCR Title 13, Section 1956.8(a)(2)(F) “Transit Agency Diesel-Fueled Bus Engine Exemption Request” shall be disregarded and is not incorporated by reference.

(b) Section 1971.1: On-Board Diagnostic System Requirements – 2010 and Subsequent Model-Year Heavy-Duty Engines. California adopted date 9/9/2112/28/2023.

(c) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California adopted date 9/9/21.

(d) Section 2121: Penalties. California adopted date 9/9/21. Except that the reference in this regulation to “a violation of Health and Safety Code Section 43105” shall be disregarded and is not incorporated by reference.

(e) Section 2137: Vehicle, Engine, and Trailer Selection. California adopted date 9/9/21.

- (f) Section 2139: Testing. California adopted date 9/9/21.
- (g) Section 2139.5: CARB Authority to Test for Heavy-Duty In-Use Compliance. California effective date 04/21/03.
- (h) Section 2140: Notification and Use of Test Results. California adopted date 9/9/21.
- (i) Section 2166: General Provisions. California adopted date 9/9/21.
- (j) Section 2166.1: Definitions. California adopted date 9/9/21.
- (k) Section 2167: Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors. California adopted date 9/9/21.
- (l) Section 2168: Required Corrective Action and Recall for Emission-Related Component Failures. California adopted date 9/9/21.
- (m) Section 2169: Required Recall or Corrective Action Plan. California adopted date 9/9/21.
- (n) Section 2169.1: Approval and Implementation of Corrective Action Plan. California adopted date 9/9/21.
- (o) Section 2169.2: Notification of Owners. California adopted date 9/9/21.
- (p) Section 2169.3: Repair Label. California adopted date 9/9/21.
- (q) Section 2169.4: Proof of Correction Certificate. California adopted date 9/9/21.
- (r) Section 2169.5: Preliminary Tests. California 9/9/21 date 9/9/21.
- (s) Section 2169.6: Communication with Repair Personnel. California adopted date 9/9/21.
- (t) Section 2169.7: Recordkeeping and Reporting Requirements. California adopted date 9/9/21.
- (u) Section 2169.8: Extension of Time. California adopted date 9/9/21.
- (v) Section 2423(n): Exhaust Emission Standards and Test Procedures – Off-Road Compression-Ignition Engines. California adopted date 9/9/21.

(w) Section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. California adopted date 9/9/21.

(4) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new ~~2025~~2026 and subsequent model year on-highway medium- and heavy-duty vehicles and trailers must comply with each of the following applicable standards specified in CCR, Title 17 as incorporated by reference herein:

(a) Section 95660: Purpose. California effective date 1/1/2015.

(b) Section 95661: Applicability. California effective date 1/1/2015.

(c) Section 95662: Definitions. California ~~9/9/21~~ effective date ~~9/9~~12/22/21.

(d) Section 95663: Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles. California ~~adopted~~ effective date ~~9/9~~12/22/21.

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025 & 468A.360

**Statutes/Other Implemented:** ORS 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

DEQ 16-2023, temporary amend filed 11/16/2023, effective 01/01/2024 through 06/28/2024

DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021

**340-261-0060**

**Exemptions**

(1) All exemptions in the California rules adopted ~~under~~ by reference apply with the exception of the transit agency diesel-fueled bus and engine exemption described in CCR, Title 13, section 1956.8(a)(2)(F).

(2) New diesel-fueled buses sold to any transit agency are exempt from OAR 340-261-0050.

(3) Emergency vehicles, as defined in ORS 801.260, and ambulances, as defined in ORS 801.115, are exempt from OAR 340-261-0050.

**Statutory/Other Authority:** ORS 468.020, 468A.025 & 468A.360

**Statutes/Other Implemented:** 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

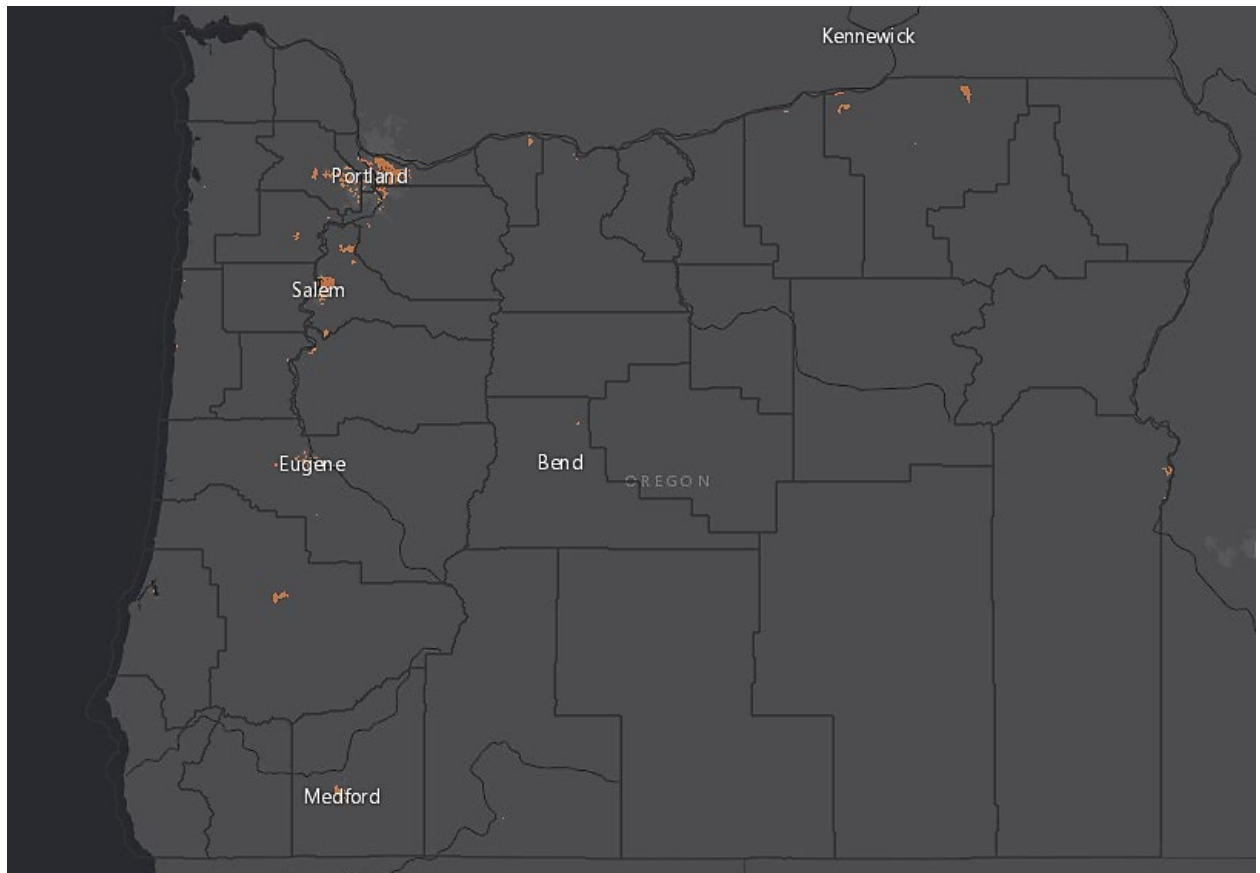
DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021



State of Oregon Department of Environmental Quality

# OAR 340-261-0030 – Figure 1

Statewide Disadvantaged Community Map



**Figure 1: Statewide Disadvantaged Community Map; NOTE: See <https://geo.maps.arcgis.com/apps/instant/interactivelegend/index.html?appid=ba8d77b62d6a45b2a38b6d8d7d614f5c> for most current interactive version of this map. All areas highlighted in orange or red on this static map or the interactive map link above reflect a composite vulnerable population rank, diesel particulate matter concentration rank and population density rank score greater than 3.5 and are considered disadvantaged communities under this rule.**

# Draft Rules – Edits Included

## Division 261 EMISSION STANDARDS FOR NEW HEAVY-DUTY TRUCKS

### **340-261-0020** **Applicability**

This division is in effect as of January 1, 2022 and applies to and establishes requirements for medium- and heavy-duty truck, engine and trailer manufacturers, Oregon truck dealers, all 2025 and subsequent model year on-highway heavy-duty engines, and all 2026 and subsequent model year trucks and trailers delivered for sale or sold in the State of Oregon, except as provided in OAR 340-261-0060 Exemptions.

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025 & 468A.360  
**Statutes/Other Implemented:** ORS 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

DEQ 16-2023, temporary amend filed 11/16/2023, effective 01/01/2024 through 06/28/2024

DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021

### **340-261-0030** **Definitions and Abbreviations**

The definitions in OAR 340-200-0020, the definitions in the sections of CCR, Titles 13 and 17, incorporated by reference in OAR 340-261-0050, and the definitions in this rule apply to this division. If the same term is defined in different passages, the definitions in this rule apply first, followed by definitions in the CCR Title 13 sections incorporated by reference, followed by the definitions in the CCR Title 17 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

- (1) “CARB” means California Air Resources Board.
- (2) “CCR” means California Code of Regulations.
- (3) “Disadvantaged community” means an area with the highest diesel emission concentrations, vulnerable populations, and population densities as shown in Figure 1.
- (4) “Transit agency” means a public entity responsible for administering and managing transit services. Public transit agencies can directly operate transit service or contract out for all or part of the total transit service provided.



(5) “Vulnerable populations” has the meaning given that term in OAR 340-255-0020.

[NOTE: View a PDF of Figures by clicking on “Figures” link below.]

[\[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.\]](#)

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025 & 468A.360

**Statutes/Other Implemented:** ORS 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021

### **340-261-0040**

#### **Requirement to Meet California Vehicle Emission Standards**

(1) Starting with the 2025 engine model year and for each engine model year thereafter no person may deliver for sale, or sell, in Oregon any new on-highway heavy-duty engine unless such engine is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(2) Starting with the 2026 model year and for each model year thereafter no person may deliver for sale, or sell, in Oregon any new medium- or heavy-duty truck or trailer unless such vehicle is certified to the California emission standards as required under OAR 340-261-0050, except as provided in OAR 340-261-0060, Exemptions.

(3) All motor medium- and heavy-duty truck and trailer manufacturers and dealers must comply with the sales and reporting requirements contained in this division.

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025 & 468A.360

**Statutes/Other Implemented:** ORS 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

DEQ 16-2023, temporary amend filed 11/16/2023, effective 01/01/2024 through 06/28/2024

DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021

### **340-261-0050**

#### **Incorporation by Reference**

(1) For purposes of applying the incorporated sections of the California Code of Regulations described in this rule, “California” or “CA” means “Oregon” or “OR,” respectively, and “Air Resources Board (ARB)” or “California Air Resources Board (CARB)” means Department of Environmental Quality (DEQ) or Environmental

Quality Commission (EQC) depending on context, unless otherwise specified in this division or the application is clearly inappropriate.

(2) The sections of the California Code of Regulations (CCR), Title 13 and Title 17, adopted by reference in sections (3) and (4) are in addition to, and compatible with, the CCR, Title 13, standards and requirements adopted by reference under OAR 340-257-0050. It is the intent of this rule that the standards and requirements adopted by reference under OAR 340-257-0050 also apply in Oregon to the on-highway medium- and heavy-duty engines, vehicles and trailers regulated by the CCR, Title 13 and Title 17, standards and requirements adopted by reference in this rule, to the same extent and identical to how they would apply in California.

(3) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new 2025 and subsequent model year on-highway medium- and heavy-duty engines and 2026 and subsequent model year trucks and trailers must comply with each of the following applicable standards specified in CCR, Title 13 as incorporated by reference herein:

(a) Section 1956.8(a) – (f) and (i): Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California adopted date 12/28/2023. Except that CCR Title 13, Section 1956.8(a)(2)(F) “Transit Agency Diesel-Fueled Bus Engine Exemption Request” shall be disregarded and is not incorporated by reference.

(b) Section 1971.1: On-Board Diagnostic System Requirements – 2010 and Subsequent Model-Year Heavy-Duty Engines. California adopted date 12/28/2023.

(c) Section 2036: Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles; and 2020 and Subsequent Model Year Trailers. California adopted date 9/9/21.

(d) Section 2121: Penalties. California adopted date 9/9/21. Except that the reference in this regulation to “a violation of Health and Safety Code Section 43105” shall be disregarded and is not incorporated by reference.

(e) Section 2137: Vehicle, Engine, and Trailer Selection. California adopted date 9/9/21.

(f) Section 2139: Testing. California adopted date 9/9/21.

(g) Section 2139.5: CARB Authority to Test for Heavy-Duty In-Use Compliance. California effective date 04/21/03.

- (h) Section 2140: Notification and Use of Test Results. California adopted date 9/9/21.
- (i) Section 2166: General Provisions. California adopted date 9/9/21.
- (j) Section 2166.1: Definitions. California adopted date 9/9/21.
- (k) Section 2167: Required Recall and Corrective Action for Failures of Exhaust After-Treatment Devices, On-Board Computers or Systems, Urea Dosers, Hydrocarbon Injectors, Exhaust Gas Recirculation Valves, Exhaust Gas Recirculation Coolers, Turbochargers, Fuel Injectors. California adopted date 9/9/21.
- (l) Section 2168: Required Corrective Action and Recall for Emission-Related Component Failures. California adopted date 9/9/21.
- (m) Section 2169: Required Recall or Corrective Action Plan. California adopted date 9/9/21.
- (n) Section 2169.1: Approval and Implementation of Corrective Action Plan. California adopted date 9/9/21.
- (o) Section 2169.2: Notification of Owners. California adopted date 9/9/21.
- (p) Section 2169.3: Repair Label. California adopted date 9/9/21.
- (q) Section 2169.4: Proof of Correction Certificate. California adopted date 9/9/21.
- (r) Section 2169.5: Preliminary Tests. California 9/9/21 date 9/9/21.
- (s) Section 2169.6: Communication with Repair Personnel. California adopted date 9/9/21.
- (t) Section 2169.7: Recordkeeping and Reporting Requirements. California adopted date 9/9/21.
- (u) Section 2169.8: Extension of Time. California adopted date 9/9/21.
- (v) Section 2423(n): Exhaust Emission Standards and Test Procedures – Off-Road Compression-Ignition Engines. California adopted date 9/9/21.
- (w) Section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. California adopted date 9/9/21.
- (4) Emission standards, testing procedures, warranty, reporting, enforcement, recall and other California provisions adopted by reference. Each manufacturer of new

2026 and subsequent model year on-highway medium- and heavy-duty vehicles and trailers must comply with each of the following applicable standards specified in CCR, Title 17 as incorporated by reference herein:

- (a) Section 95660: Purpose. California effective date 1/1/2015.
- (b) Section 95661: Applicability. California effective date 1/1/2015.
- (c) Section 95662: Definitions. California effective date 12/22/21.
- (d) Section 95663: Greenhouse Gas Exhaust Emission Standards and Test Procedures for New 2014 and Subsequent Model Heavy-Duty Vehicles. California effective date 12/22/21.

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025 & 468A.360

**Statutes/Other Implemented:** ORS 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

DEQ 16-2023, temporary amend filed 11/16/2023, effective 01/01/2024 through 06/28/2024

DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021

**340-261-0060**

**Exemptions**

(1) All exemptions in the California rules adopted by reference apply with the exception of the transit agency diesel-fueled bus and engine exemption described in CCR, Title 13, section 1956.8(a)(2)(F).

(2) New diesel-fueled buses sold to any transit agency are exempt from OAR 340-261-0050.

(3) Emergency vehicles, as defined in ORS 801.260, and ambulances, as defined in ORS 801.115, are exempt from OAR 340-261-0050.

**Statutory/Other Authority:** ORS 468.020, 468A.025 & 468A.360

**Statutes/Other Implemented:** 468A.025, 468A.360, ORS 468A.010, 468A.015, 468A.050 & 468A.279

**History:**

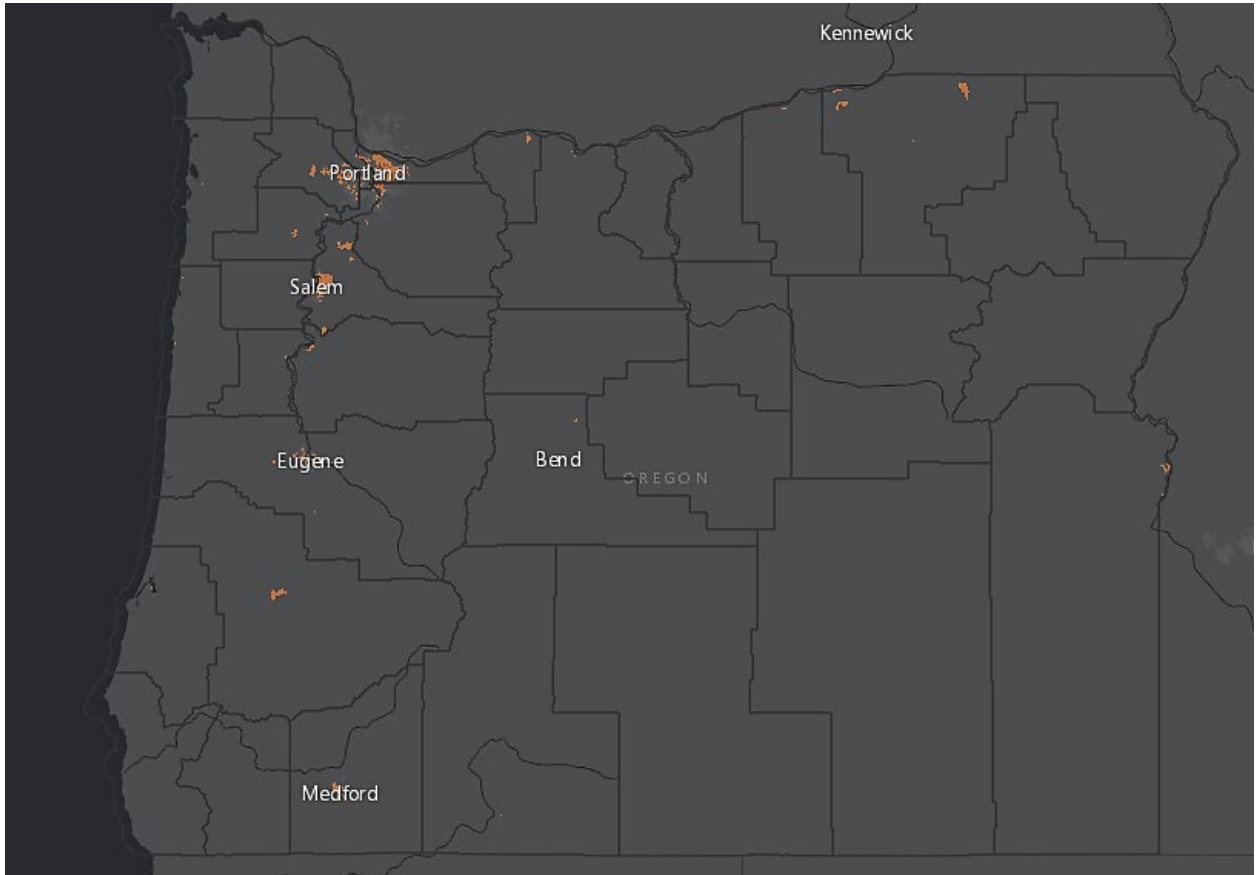
DEQ 17-2021, adopt filed 11/17/2021, effective 11/17/2021



State of Oregon Department of Environmental Quality

# OAR 340-261-0030 – Figure 1

Statewide Disadvantaged Community Map



**Figure 1: Statewide Disadvantaged Community Map; NOTE: See <https://geo.maps.arcgis.com/apps/instant/interactivelegend/index.html?appid=ba8d77b62d6a45b2a38b6d8d7d614f5c> for most current interactive version of this map. All areas highlighted in orange or red on this static map or the interactive map link above reflect a composite vulnerable population rank, diesel particulate matter concentration rank and population density rank score greater than 3.5 and are considered disadvantaged communities under this rule.**