



Draft Fiscal Impact Statement

Diesel Emissions Identification Program 2023

Statement of fiscal and economic impact

Fiscal and Economic Impact

DEQ invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules. In the 2019 session of the Oregon State Legislature, HB 2007 was enrolled, and it directed DEQ to establish a voluntary emission control labeling program by rule (a requirement now codified at ORS 468A.813). This voluntary program will allow owners and operators of diesel-powered construction equipment, if they choose to participate, to receive a label for each piece of equipment after successfully demonstrating the emissions profile for the engine belonging to that equipment.

The label will give interested parties, such as inspectors or the general public, information on how much pollution might be coming from the equipment. The program is not mandatory. If the owner or operator of diesel-powered construction equipment chooses to participate in the program, then they must comply with program specifications in order to be issued emission control labels.

The proposed rules are expected to have relatively minimal or no economic impact. Section 15 of HB 2007, ORS 468A.813, allows DEQ to establish a fee schedule for the labels to be issued by the program. However, through outreach conducted by program staff with interested parties within the construction industry this year, DEQ determined not to propose a per label fee. Instead, DEQ will pay for the cost of the labels from within its operating budget.

Fee Analysis

This rulemaking does not involve fees.

Statement of Cost of Compliance

In general, costs associated with voluntarily complying with this program include the cost of time spent filling out forms and providing necessary documentation and information, the cost of time spent adhering the labels to the equipment, and any time spent on miscellaneous follow up and reporting, such as the need for one or more replacement labels due to issues like label damage or a change in engine status. These costs are expected to be minor in relation to the period of time that participation in this program can cover, which can extend up to the full life of the equipment's use.

State agencies

DEQ does not expect the proposed rules to have a significant fiscal impact on state agencies. State agencies that choose to participate in this voluntary program would likely have costs that are in alignment with those described in the section above. DEQ, as a state agency, will have costs associated with carrying out the program, and currently has FTE costs for the rulemaking process through program startup. The costs associated with carrying out the program include program staff, emission control labels, information technology support and development in addition to any miscellaneous items that support the program's operation.

DEQ does not anticipate that these costs will exceed 1.5 FTE on an annual basis and will require limited other costs, such as acquiring materials necessary to create labels, and has determined that it will be able to cover those costs under existing program budgets.

Local governments

Similarly, DEQ does not expect the proposed rules to have a significant fiscal impact on local governments. Local governments that choose to participate in this voluntary program would likely have costs that are in alignment with those described in the Statement of Cost of Compliance section above.

Public

DEQ does not expect that the proposed rules will have a direct fiscal impact on the general public. If the labels are used to help with tracking and ensuring compliance with clean construction contracting standards from other agencies, then any potential fiscal impact could be positive due to the lower negative health impacts, and therefore lower medical expense, associated with reduced diesel emissions.

Large businesses - businesses with more than 50 employees

Due to the voluntary nature of the program, there is no cost of compliance for large businesses. However, there will likely be some cost associated with voluntary participation in this program, as previously described.

Small businesses – businesses with 50 or fewer employees

Due to the voluntary nature of this program, there is no cost of compliance for small businesses. However, there is likely to be some cost associated with voluntary participation in this program, as previously described.

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

There are no small businesses within the construction industry, which would typically be subcontractors, that are subject to this rule, because the rule is purely voluntary. However, any business that owns or operates nonroad diesel-powered construction equipment can choose to participate in this program.

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

The proposed rules do not directly require any additional services or activities. If the labels provided by this program are used to demonstrate compliance with contracting standards from another agency, then it is expected that costs associated with obtaining and maintaining labels through this program would be attributed to the cost of complying with those standards. DEQ does not have any data on those associated costs at this time.

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

The proposed rules will not require additional resources for any entity to comply with them, because they are purely voluntary. For small businesses that choose to comply with the program, it may result in a nominal increase in administrative costs related to obtaining and maintaining an active registration with the program.

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

DEQ has included small business representation for the rules advisory committee (RAC) by securing associations from the construction industry that represent a large swath of business interests, including those of small businesses. A small business contractor that is multi-certified by the Oregon Certification Office for Business Inclusion and Diversity (COBID) has also been included in the RAC.

Documents referenced for fiscal and economic impact

- [House Bill 2007 \(ORS 468A.813\)](#)
- [Oregon 2017 Non-Road Diesel Engine Inventory Study Findings](#)
- [2020 Census of the United States](#)
- [Oregon Construction Outlook, June 2022](#)

Racial Equity and Environmental Justice

Communities of color historically and currently experience exposure to disproportionate levels of pollution. In particular, the various pollutants that come from diesel-powered equipment, vehicles, and other modes of transportation, pose a significant health burden to communities of color and vulnerable populations that live near areas of high traffic, such as the Interstate 5, which runs through nine of the state's 36 counties. These counties are:

- Clackamas
- Douglas
- Jackson
- Josephine
- Lane
- Linn
- Marion
- Multnomah
- Washington

According to the 2020 Census, these counties hold about 79% of the state's BIPOC population and about 72% of the state's white population. A majority of each racial group lives along I-5, with the highest majorities found within the state's Black population at 91% and Asian population at 90%. The lowest majority was found with Native Americans at 61%, while the Latino population was at 75%.

In 2017, DEQ contracted with Eastern Research Group, Inc., to conduct a statewide inventory study for nonroad diesel engines. In its findings, published in 2020, the highest concentrations of Particulate Matter of a nominal diameter 2.5 microns or less (or PM2.5) pollution were found in the Portland metro area and Willamette Valley regions. These concentrations of PM2.5 pollution accounted for nearly 40% of statewide emissions. The study also found that more than 200 tons of PM2.5 emissions were attributable to the construction and mining sector in 2017, which was second only to the agricultural sector by a small margin.

This is a cause of concern for the health of Oregonians, especially when diesel emissions from construction equipment are a mobile source, meaning that they move from place to place, and are found all over the state. Moreover, according to an outlook posted by the Oregon Office of Economic Analysis earlier this year, "the [construction] industry is at historic highs" with its forecast remaining "steady" for the foreseeable future.

With construction showing no sign of slowing down, it is important that owners and operators of diesel-powered construction equipment have the option to use this voluntary labeling program to aid in displaying their dedication to a healthier environment, one piece of equipment at a time. This display can help with identifying cleaner equipment to be used and maintained for construction projects, particularly those in the counties along the I-5 and for the various bridges, highways, and other areas of high traffic around the state.

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues. DEQ considered these effects by looking into the demographics of the state and where population groups were concentrated in relation to where the highest

concentrations of diesel emissions from the construction industry were found. Multiple community organizations dedicated to environmental justice have graciously accepted an invitation to participate on the RAC for this rulemaking to provide feedback and insight from an environmental justice lens. DEQ will hold a public hearing in the first quarter of 2023 to receive feedback from the general public as well.

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