

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. 2018-095

Affirming Multnomah County's Intent to Establish a Clean Diesel Procurement Policy that will Require Contractors Working on County Construction Projects to use Equipment that Reduces Air Pollution.

The Multnomah County Board of Commissioners Finds:

- a. Exposure to diesel particulate pollution causes myriad health effects, including the exacerbation of asthma symptoms and early death from heart disease and various cancers.
- b. Diesel exhaust is 100 times more toxic than gasoline exhaust, and includes fine sooty particles layered in heavy metals and toxic gases.
- c. Children are especially vulnerable to the negative health effects of diesel particulate pollution because their lungs are still in the developmental phase and they breathe, on average, 50 percent more air per pound of body weight than adults.
- d. Environmental justice communities in Multnomah County, including communities of color, bear a disproportionate burden of exposure to diesel particulate pollution.
- e. The health impacts and premature deaths caused by diesel particulate pollution have an annual economic impact of more than \$3 billion in the State of Oregon.
- f. Multnomah County has the highest ambient concentrations of diesel particulate matter in the state.
- g. Most areas of Multnomah County have levels of diesel particulate pollution that exceed the State adopted health benchmark, and some areas have levels many times in excess of the health benchmark.
- h. The Portland Air Toxics Solution (PATs) Study shows average diesel particulate matter levels need to be reduced by 86% across the Portland Metro area to meet the State adopted health benchmark.
- i. The Multnomah County 2015 Climate Action Plan (adopted by Resolution No. 2015-076) includes Action 7F to pursue strategies at the local and state level to reduce the climate forcing and air quality impacts from black carbon sources such as diesel engines and wood stoves. Action 7F also directs the prioritizing of reduction of diesel particulate matter on projects near sensitive populations.

- j. Approximately 65 percent of diesel air toxics in the Portland-area are emitted from non-road equipment, including construction equipment, severely impacting the health of City and Multnomah County residents.
- k. Reducing diesel particulate pollution has been demonstrated to yield a 10:1 return in human health benefits per dollar invested in off-road engine retrofits on Multnomah County projects.
- l. In order to address effects on human health, Multnomah County and the City of Portland have prioritized improved air quality through replacement and retrofits of high-polluting diesel vehicles and construction equipment. That commitment dates back to 2006, when the County and City replaced or retrofitted with diesel emission controls much of the County's and City's construction equipment as part of three federal grants totaling \$2.3 million.
- m. From 2009 to 2011, the City and Multnomah County piloted voluntary clean diesel contracting standards on the Balch Creek sewer replacement, a sidewalk improvement project and the East County Courthouse. The City and County also piloted program compliance on the downtown Multnomah County Courthouse to better understand administrative and enforcement costs associated with program implementation.
- n. Construction contracting industry associations provided feedback that the City and County should pursue a regional strategy that would ensure a consistent approach across Portland Metro area public agencies.
- o. For more than two years, the City of Portland has been collaborating with Multnomah County, Clackamas County, Washington County, Port or Portland, Metro, and Oregon Department of Environmental Quality to build agreement on a framework for a regional strategy to reduce diesel particulate pollution on public construction projects, as outlined in Exhibit A.
- p. In July 2018, the City and County received the report, "Ensuring Healthy Air Local Collaborative and Regulatory Options in the Portland Metro Area" from consultants Good Company and Eastern Research Group. The report identified the top strategies the City and County should pursue to improve air quality, including the diesel engine specifications for public construction projects.
- q. New diesel engines and older diesel engines retrofitted with particulate filters can reduce diesel particulates by up to 95 percent as compared to diesel particulate matter emissions from older, dirty diesel engines that are not retrofitted.
- r. The attrition rate of older, dirty diesel engines that are not retrofitted is too slow to adequately curb emissions in a timely manner and protect public health.
- s. A strategy to reduce the public's exposure to diesel particulate matter requires a public policy response.

The Multnomah County Board of Commissioners Resolves:

1. To support the Chair and the Office of Sustainability in adopting a clean air construction procurement policy and accompanying administrative procedure to reduce diesel particulate pollution on County construction projects no later than December 20, 2018, that meets the framework outlined in Exhibit A.
2. To support the Chair and the Office of Sustainability in their work with regional partners to ensure a consistent regional policy, including options for technical assistance and enforcement at a regional level.
3. To support the Chair and the Office of Sustainability in providing options to assist Certification Office for Business Inclusion and Diversity (COBID) Certified Firms with compliance with County processes, including funding resources to mitigate the impact of a clean air construction procurement policy on Certified Disadvantaged, Minority, Women and Emerging Small Businesses (DMWESB) firms.
4. To support the Chair, the Office of Sustainability, and the Office of Government Relations in advocating for the allocation of Volkswagen Settlement funds explicitly to provide financial assistance to COBID Certified Firms retrofitting, repowering, or replacing diesel vehicles and equipment to assist in compliance with clean air construction procurement policy.
5. To support the Chair and the Office of Sustainability in identifying annual General Fund costs and resources required for a clean air construction program starting in FY 2020 upon which implementation of any clean air construction procurement policy would be contingent.

ADOPTED this 20th day of September, 2018.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Katherine Thomas*
Katherine Thomas, Assistant County Attorney

SUBMITTED BY: John Wasiutynski, Director, Office of Sustainability

EXHIBIT A

OREGON CLEAN AIR CONSTRUCTION COLLABORATIVE: A Project to Address Diesel Particulate Pollution

Clean Construction Contracting Recommendation

The City of Portland, the Port of Portland, Metro, Multnomah County, and Clackamas County are evaluating the feasibility of implementing a common set of standards requiring that construction equipment meet certain diesel-exhaust-control specifications for public contracts.

Diesel Engine Requirements

Following the effective date of the adopted program and the phase-in schedule outlined below, all diesel-powered off-road construction equipment equal to or greater than 100 horsepower assigned to the project, shall meet the following requirements:

- Meet Tier 4 standards (including Tier 4i), or
- Retrofit with best available control technology (BACT). BACT consists of:
 - A diesel particulate filter (DPF) which has been verified by the U.S. EPA or the California Air Resources Board (CARB), or;
 - A diesel oxidation catalyst (DOC) verified by EPA or CARB when adequately demonstrated by the contractor that a DPF is not suitable.

Additionally, following the phase-in date of the adopted program, all on-road diesel dump trucks and cement mixers greater than 14,000 Gross Vehicle Weight used by the contractor or its subcontractor(s), shall meet the following requirements:

- Have engines that are 2007 model year or later, or
- Retrofit with BACT.

Idle Reduction Requirements

To reduce unnecessary idling:

- All non-road diesel equipment must shut down after five minutes of inactivity, and
- Contractors will post "Five Minute Limit" signs on the job site, and
- Contractors will ensure all diesel-equipment operators are aware of the policy.

EXHIBIT A

Phase-in Schedule

Schedule	Off-road	On-road
On effective date	No idling	No idling
At year 1 following effective date	No tier 0 engines allowed*	
At year 2 following effective date	No tier 1 engines allowed*	
At year 3 following effective date	No tier 2 engines allowed*	
At year 4 following effective date	No tier 3 engines allowed*	No pre-2007 engines
At year 5 following effective date	Tier 4 only*	
At year 6 following effective date	Tier 4 only*	
At year 7 following effective date	Tier 4 only**	2007 and newer only**

*Older equipment allowed when retrofitted with BACT (DPF to DOC)

**Older equipment allowed only when retrofitted with DPF

Diesel Engine Exemptions

A construction project manager may grant an exemption for the following reasons:

- If the equipment is not able to be retrofit with verified filter, or
- If rental equipment compliant with the procurement standard is not available within 100 miles, or
- If a filter will obscure the vision of the operator, or otherwise impact worker safety, or
- If the equipment is needed for an emergency, including for underground equipment operators.
- If there is special circumstances or unique equipment that would result in a significant and demonstrable hardship for the contractor to invest in upgrades.

Diesel Engine Compliance Options

- Use Tier 4 off-road equipment or 2007 or newer on-road vehicles, or
- Retrofit existing equipment with EPA or CARB verified device, or

EXHIBIT A

- Rent compliant equipment for the job, or
- Avoid the use of diesel equipment; consider electric, CNG, LPG, or other clean burning alternative fuels.

Idle Reduction Exemptions

The following are exemptions to the idling requirement:

- Circumstances where the safety of contractors and their employees may be compromised if diesel equipment is turned off. For example, where employees are working in a trench.
- Situations where the equipment is needed for power. For example, hydraulic power generation, power take off, or tool use such as hoist, winch, lift gate or boom operation.
- Situations where the equipment meets the most stringent EPA emissions standards or has been retrofit with a DPF; frequent shutdowns may be detrimental to the exhaust control system, rendering it less effective by lowering the exhaust temperature.
- Situations where equipment requires testing, servicing, inspection, or repairs.

Data Submission Requirements

The contractor shall be required to submit initial information for covered diesel vehicles and equipment that are used on the construction contract, including information on installed retrofit devices. Public agencies intend to issue compliance decals for all covered vehicles and equipment used on the applicable project sites. Decals must be displayed on covered vehicles and equipment at all times while on the job site. Once registered, the registered equipment and accompanying decal is transferable to other projects within and among participating agencies.

Contractors Responsibilities

Contractors will be responsible for ensuring that equipment used on the job site complies with these specifications, including data submission requirements. The contractor shall be responsible for any upfront costs associated with retrofitting any diesel-powered off-road construction equipment or on-road engines with emission control devices.

Certified Minority, Women, Emerging, and Small Businesses (MWESB) Alternative Compliance Method

Certified MWESB will need to comply with these standards. To help ease the transition, participating jurisdictions may provide the following assistance:

- Technical assistance.

EXHIBIT A

- Financial incentives to help with retrofit and/or replacement costs including the potential use of Volkswagen settlement funds.
- Offering a longer timeframe to comply with the policy.