

# Senate Bill 1008

Sponsored by Senators DEMBROW, TAYLOR, FREDERICK, GELSER, Representatives GREENLICK, MALSTROM, NOSSE; Senator BURDICK, Representatives GORSEK, HELM, HERNANDEZ, HOLVEY, KENY-GUYER, MARSH, PILUSO, POWER, REARDON, SANCHEZ, SOLLMAN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Beginning January 1, 2018, requires certain public improvement contracts to reserve one percent of total contract price for performing repowers or retrofits of certain diesel engines used in course of performing contract. Sunsets requirement on January 2, 2030.

Requires Department of Environmental Quality to establish and maintain statewide inventory of nonroad diesel engines. Requires department to complete initial inventory no later than July 1, 2018.

Beginning January 1, 2020, requires certain nonroad diesel engines to be registered with department. Authorizes Environmental Quality Commission to adopt rules and registration fees.

Directs commission to adopt by rule diesel engine emission standards for medium-duty trucks, heavy-duty trucks and nonroad diesel engines operative January 1, 2020. Requires commission to phase in implementation of certain standards.

Authorizes State of Oregon to deposit moneys received pursuant to settlement agreements in Clean Diesel Engine Fund and engage in certain uses of moneys.

Adds grants and loans for replacements to permissible uses of moneys in Clean Diesel Engine Fund.

Repeals state preemption of local regulation of idling by primary engines in commercial vehicles.

Declares legislative intent for use of federal funds received as congestion mitigation and air quality improvement grants.

Declares emergency, effective July 1, 2017.

## A BILL FOR AN ACT

1  
2 Relating to diesel; creating new provisions; amending ORS 468A.795, 468A.796, 468A.797, 468A.799,  
3 468A.801 and 468A.803 and section 12, chapter 855, Oregon Laws 2007; repealing ORS 825.615;  
4 and declaring an emergency.

5 Whereas exposure to diesel particulate pollution causes myriad health effects, including the  
6 exacerbation of asthma symptoms and early death from heart disease and various cancers; and

7 Whereas children are especially vulnerable to the negative health effects of diesel particulate  
8 pollution because their lungs are still in the developmental phase and they breathe, on average, 50  
9 percent more air per pound of body weight than adults; and

10 Whereas marginalized communities, including communities of color, bear a disproportionate  
11 burden of exposure to diesel pollution; and

12 Whereas the health impacts and premature deaths caused by diesel particulate pollution have  
13 an annual economic impact of more than \$3 billion in this state; and

14 Whereas 23 Oregon counties have total concentrations of ambient levels of diesel particulate  
15 matter that are considered harmful to health; and

16 Whereas the problem of diesel particulate pollution in this state is exacerbated when engines  
17 are allowed to idle unnecessarily; and

18 Whereas new diesel engines and older diesel engines retrofitted with particulate filters can re-  
19 duce diesel particulates by up to 95 percent as compared to diesel particulate matter emissions from  
20 older, dirty diesel engines that are not retrofitted; and

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 Whereas the attrition rate of older, dirty diesel engines that are not retrofitted is too slow to  
 2 adequately curb emissions in a timely manner and protect public health; and

3 Whereas a strategy to shorten the timeline for conversion to the use of new diesel engines and  
 4 older diesel engines retrofitted with particulate filters requires a combination of regulations and  
 5 incentives; and

6 Whereas the incorporation of California’s emission standards for nonroad diesel engines into the  
 7 Department of Environmental Quality’s existing air quality regulations will benefit public health;  
 8 now, therefore,

9 **Be It Enacted by the People of the State of Oregon:**

10  
 11 **ONE PERCENT FOR CLEAN DIESEL IN PUBLIC CONTRACTS**

12  
 13 **SECTION 1.** Section 2 of this 2017 Act is added to and made a part of the Public Con-  
 14 tracting Code.

15 **SECTION 2.** (1) As used in this section, “diesel engine” has the meaning given that term  
 16 in ORS 468A.795.

17 (2) Except as provided in subsection (4) of this section, a public improvement contract  
 18 for which federal funds from congestion mitigation and air quality improvement grants are  
 19 a source of funding must reserve an amount equal to at least one percent of the total con-  
 20 tract price for the purpose of performing qualifying repowers or retrofits, as described in  
 21 ORS 468A.797, 468A.799 and 468A.803, of diesel engines that:

22 (a) Will be used in the course of performing the contract; and

23 (b) For the three years following a repower or retrofit, will undergo at least 50 percent  
 24 of the diesel engine’s use in Oregon, as measured by miles driven or hours operated.

25 (3) Any amount reserved in a public improvement contract under subsection (2) of this  
 26 section that remains unexpended after completion of and final payment for the public im-  
 27 provement contract shall be deposited in the Clean Diesel Engine Fund.

28 (4)(a) The Environmental Quality Commission may adopt by rule minimum standards for  
 29 contract specifications relating to the use of diesel engines in the course of performing a  
 30 public improvement contract.

31 (b) As an alternative to meeting the requirements of subsection (2) of this section, a  
 32 public improvement contract subject to subsection (2) of this section may include contract  
 33 specifications that meet the minimum standards adopted by the commission by rule under  
 34 this subsection.

35 **SECTION 3.** (1) Section 2 of this 2017 Act becomes operative on January 1, 2018.

36 (2) Section 2 of this 2017 Act applies to public improvement contracts advertised or so-  
 37 licited on or after January 1, 2018, or, for public improvement contracts that are not adver-  
 38 tised or solicited, public improvement contracts that a contracting agency enters into on or  
 39 after January 1, 2018.

40 **SECTION 4.** Section 2 of this 2017 Act is amended to read:

41 **Sec. 2.** (1) As used in this section[,]:

42 (a) “Diesel engine” has the meaning given that term in ORS 468A.795.

43 (b) “Local contracting agency” does not include small special districts as defined by the  
 44 Environmental Quality Commission by rule.

45 (2) Except as provided in subsection [(4)] (5) of this section, a public improvement contract [for

1 *which federal funds from congestion mitigation and air quality improvement grants are a source of*  
 2 *funding]* must reserve an amount equal to at least one percent of the total contract price for the  
 3 purpose of performing qualifying repowers or retrofits, as described in ORS 468A.797, 468A.799 and  
 4 468A.803, of diesel engines that:

5 (a) Will be used in the course of performing the contract; and

6 (b) For the three years following a repower or retrofit, will undergo at least 50 percent of the  
 7 diesel engine's use in Oregon, as measured by miles driven or hours operated.

8 **(3) Subsection (2) of this section applies only to a public improvement contract for:**

9 **(a) A public improvement for which federal funds from congestion mitigation and air**  
 10 **quality improvement grants are a source of funding; or**

11 **(b) A public improvement with a value of \$2 million or more and for which state funds**  
 12 **constitute 30 percent or more of the value of the contract if the contracting agency is:**

13 **(A) A state contracting agency; or**

14 **(B) A local contracting agency located in an area designated by the United States Office**  
 15 **of Management and Budget as a micropolitan or metropolitan statistical area with a popu-**  
 16 **lation of 10,000 or more.**

17 [(3)] **(4)** Any amount reserved in a public improvement contract under subsection (2) of this  
 18 section that remains unexpended after completion of and final payment for the public improvement  
 19 contract shall be deposited in the Clean Diesel Engine Fund.

20 [(4)(a)] **(5)(a)** The Environmental Quality Commission may adopt by rule minimum standards for  
 21 contract specifications relating to the use of diesel engines in the course of performing a public  
 22 improvement contract.

23 (b) As an alternative to meeting the requirements of subsection (2) of this section, a public im-  
 24 provement contract subject to subsection [(2)] **(3)** of this section may include contract specifications  
 25 that meet the minimum standards adopted by the commission by rule under this subsection.

26 **SECTION 5. (1) The amendments to section 2 of this 2017 Act by section 4 of this 2017**  
 27 **Act become operative on January 1, 2020.**

28 **(2) The amendments to section 2 of this 2017 Act by section 4 of this 2017 Act apply to**  
 29 **public improvement contracts advertised or solicited on or after January 1, 2020, or, if the**  
 30 **public improvement contracts are not advertised or solicited, to public improvement con-**  
 31 **tracts entered into on or after January 1, 2020.**

32 **SECTION 6. Section 2 of this 2017 Act is repealed on January 2, 2030.**

33  
 34 **OREGON CLEAN DIESEL PROGRAM**

35 **(Definitions)**

36  
 37 **SECTION 7.** ORS 468A.795 is amended to read:

38 468A.795. As used in ORS 468A.795 to 468A.803 and sections 11 to 16, chapter 855, Oregon Laws  
 39 2007:

40 [(1)] *"Combined weight" has the meaning given that term in ORS 825.005.]*

41 [(2)] **(1)** "Cost-effectiveness threshold" means the cost, in dollars, per ton of diesel particulate  
 42 matter reduced, as established by rule of the Environmental Quality Commission.

43 **(2) "Diesel engine" means a compression ignition engine.**

44 **(3) "Equivalent equipment" means a piece of equipment that performs the same function**  
 45 **and has the equivalent horsepower to a piece of equipment subject to a replacement.**

1       (4) **“Equivalent motor vehicle” means a motor vehicle that performs the same function**  
2 **and is in the same weight class as a motor vehicle subject to a replacement.**

3       (5) **“Gross vehicle weight rating” means the value specified by the manufacturer as the**  
4 **maximum loaded weight of a single or a combination vehicle.**

5       [(3)] (6) **“Heavy-duty truck” means a motor vehicle or combination of vehicles operated as a unit**  
6 **that has a [combined weight] gross vehicle weight rating that is greater than 26,000 pounds.**

7       [(4)] (7) **“Incremental cost” means the cost of a qualifying replacement, repower or retrofit less**  
8 **a baseline cost that would otherwise be incurred in the normal course of business.**

9       [(5)] (8) **“Medium-duty truck” means a motor vehicle or combination of vehicles operated as a**  
10 **unit that has a [combined weight] gross vehicle weight rating that is greater than 14,000 pounds**  
11 **but less than or equal to 26,000 pounds.**

12       [(6)] (9) **“Motor vehicle” has the meaning given that term in ORS 825.005.**

13       (10) **“Nonroad diesel engine” means a diesel engine of 25 horsepower or more that is not**  
14 **designed primarily to propel a motor vehicle on public highways.**

15       [(7) *“Nonroad Oregon diesel engine” means any Oregon diesel engine that was not designed pri-*  
16 *marily to propel a motor vehicle on public highways of this state.*]

17       [(8) *“Oregon diesel engine” means an engine at least 50 percent of the use of which, as measured*  
18 *by miles driven or hours operated, will occur in Oregon for the three years following the repowering*  
19 *or retrofitting of the engine.*]

20       [(9)] (11) **“Oregon diesel truck engine” means a diesel engine in a truck at least 50 percent of**  
21 **the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the**  
22 **two years preceding the scrapping of the engine.**

23       [(10)] (12) **“Public highway” has the meaning given that term in ORS 825.005.**

24       (13)(a) **“Replacement” means:**

25       **(A) To scrap a motor vehicle powered by a diesel engine and replace the motor vehicle**  
26 **with an equivalent motor vehicle; or**

27       **(B) To scrap a piece of equipment powered by a nonroad diesel engine and replace the**  
28 **equipment with equivalent equipment.**

29       **(b) “Replacement” does not mean ordinary maintenance, repair or replacement of a diesel**  
30 **engine.**

31       [(11)] (14) **“Repower” means to scrap an old diesel engine and [replace it with] in its place**  
32 **substitute a new engine, a used engine or a remanufactured engine, or [with] electric motors, drives**  
33 **or fuel cells, with a minimum useful life of seven years.**

34       [(12)] (15) **“Retrofit” means to equip a diesel engine with new emissions-reducing parts or tech-**  
35 **nology after the manufacture of the original engine. A retrofit must use the greatest degree of**  
36 **emissions reduction available for the particular application of the equipment retrofitted that meets**  
37 **the cost-effectiveness threshold.**

38       [(13)] (16) **“Scrap” means to destroy and render inoperable.**

39       [(14)] (17) **“Truck” means a motor vehicle or combination of vehicles operated as a unit that has**  
40 **a [combined weight] gross vehicle weight rating that is greater than 14,000 pounds.**

41       **SECTION 8.** ORS 468A.795, as amended by section 6a, chapter 855, Oregon Laws 2007, is  
42 amended to read:

43       468A.795. As used in ORS 468A.795 to 468A.803:

44       [(1) *“Combined weight” has the meaning given that term in ORS 825.005.*]

45       [(2)] (1) **“Cost-effectiveness threshold” means the cost, in dollars, per ton of diesel particulate**

1 matter reduced, as established by rule of the Environmental Quality Commission.

2 **(2) “Diesel engine” means a compression ignition engine.**

3 **(3) “Equivalent equipment” means a piece of equipment that performs the same function**  
4 **and has the equivalent horsepower to a piece of equipment subject to a replacement.**

5 **(4) “Equivalent motor vehicle” means a motor vehicle that performs the same function**  
6 **and is in the same weight class as a motor vehicle subject to a replacement.**

7 **(5) “Gross vehicle weight rating” means the value specified by the manufacturer as the**  
8 **maximum loaded weight of a single or a combination vehicle.**

9 [(3)] **(6) “Heavy-duty truck” means a motor vehicle or combination of vehicles operated as a unit**  
10 **that has a [combined weight] gross vehicle weight rating that is greater than 26,000 pounds.**

11 [(4)] **(7) “Incremental cost” means the cost of a qualifying replacement, repower or retrofit less**  
12 **a baseline cost that would otherwise be incurred in the normal course of business.**

13 [(5)] **(8) “Medium-duty truck” means a motor vehicle or combination of vehicles operated as a**  
14 **unit that has a [combined weight] gross vehicle weight rating that is greater than 14,000 pounds**  
15 **but less than or equal to 26,000 pounds.**

16 [(6)] **(9) “Motor vehicle” has the meaning given that term in ORS 825.005.**

17 **(10) “Nonroad diesel engine” means a diesel engine of 25 horsepower or more that is not**  
18 **designed primarily to propel a motor vehicle on public highways.**

19 [(7) *“Nonroad Oregon diesel engine” means any Oregon diesel engine that was not designed pri-*  
20 *marily to propel a motor vehicle on public highways of this state.*]

21 [(8) *“Oregon diesel engine” means an engine at least 50 percent of the use of which, as measured*  
22 *by miles driven or hours operated, will occur in Oregon for the three years following the repowering*  
23 *or retrofitting of the engine.*]

24 [(9)] **(11) “Oregon diesel truck engine” means a diesel engine in a truck at least 50 percent of**  
25 **the use of which, as measured by miles driven or hours operated, has occurred in Oregon for the**  
26 **two years preceding the scrapping of the engine.**

27 [(10)] **(12) “Public highway” has the meaning given that term in ORS 825.005.**

28 **(13)(a) “Replacement” means:**

29 **(A) To scrap a motor vehicle powered by a diesel engine and replace the motor vehicle**  
30 **with an equivalent motor vehicle; or**

31 **(B) To scrap a piece of equipment powered by a nonroad diesel engine and replace the**  
32 **equipment with equivalent equipment.**

33 **(b) “Replacement” does not mean ordinary maintenance, repair or replacement of a diesel**  
34 **engine.**

35 [(11)] **(14) “Repower” means to scrap an old diesel engine and [replace it with] in its place**  
36 **substitute a new engine, a used engine or a remanufactured engine, or [with] electric motors, drives**  
37 **or fuel cells, with a minimum useful life of seven years.**

38 [(12)] **(15) “Retrofit” means to equip a diesel engine with new emissions-reducing parts or tech-**  
39 **nology after the manufacture of the original engine. A retrofit must use the greatest degree of**  
40 **emissions reduction available for the particular application of the equipment retrofitted that meets**  
41 **the cost-effectiveness threshold.**

42 [(13)] **(16) “Scrap” means to destroy and render inoperable.**

43 [(14)] **(17) “Truck” means a motor vehicle or combination of vehicles operated as a unit that has**  
44 **a [combined weight] gross vehicle weight rating that is greater than 14,000 pounds.**

45

(School Buses)

**SECTION 9.** ORS 468A.796 is amended to read:

468A.796. All school buses with diesel engines operated in Oregon must be:

(1) Retrofitted with 2007 equivalent engines and 2007 fine particulate matter capture technology by January 1, [2017] **2021**; or

(2) Replaced with school buses manufactured on or after January 1, 2007, by January 1, 2025.

A school bus replaced under this subsection may not be used for transportation of any type.

(Nonroad Diesel Engine Inventory)

**SECTION 10.** Section 11 of this 2017 Act is added to and made a part of ORS 468A.795 to 468A.803.

**SECTION 11.** The Department of Environmental Quality shall establish and maintain a statewide inventory of nonroad diesel engines used in Oregon. The inventory must identify nonroad diesel engines by engine model year, horsepower and annual usage. The Environmental Quality Commission may adopt rules necessary for implementation of this section, including but not limited to rules identifying the classes of nonroad diesel engines to be included in the inventory.

**SECTION 12.** The Department of Environmental Quality shall establish the initial inventory of nonroad diesel engines used in Oregon required by section 11 of this 2017 Act no later than July 1, 2018.

(Nonroad Diesel Engine Registration)

**SECTION 13.** Sections 14 and 15 of this 2017 Act are added to and made a part of ORS 468A.795 to 468A.803.

**SECTION 14.** (1) A person may not operate a nonroad diesel engine in this state without first registering the engine with the Department of Environmental Quality under section 15 of this 2017 Act.

(2) This section does not apply to:

(a) Farm tractors, as defined in ORS 801.265.

(b) Implements of husbandry, as defined in ORS 801.310.

(c) Any other nonroad diesel engines exempted from the registration requirement by the Environmental Quality Commission by rule.

**SECTION 15.** (1) The Department of Environmental Quality shall register and provide a registration renewal for an increment of one year or less for a nonroad diesel engine owned or operated by a person who pays the appropriate registration or renewal fee.

(2)(a) The department may appoint agents to register nonroad diesel engines. Agents shall register nonroad diesel engines in accordance with procedures prescribed by the Environmental Quality Commission by rule and shall charge and collect the fees prescribed by law.

(b) The department may authorize an agent who is not a department employee to charge a service fee of \$2, in addition to the registration fee, for the registration service performed by the agent.

1 (c) The department shall supply agents with registration forms for nonroad diesel en-  
2 gines.

3 (3) The commission shall establish by rule a schedule of fees for the issuance and renewal  
4 of nonroad diesel engine registrations. The fees established under the schedule shall be based  
5 on the costs of the department in carrying out the provisions of this section and section 14  
6 of this 2017 Act.

7 (4) The fees collected under this section shall be paid into the State Treasury for deposit  
8 in the Clean Diesel Engine Fund, to be used only for paying the department's expenses in  
9 administering and enforcing this section and section 14 of this 2017 Act.

10 **SECTION 16.** (1) Sections 13 to 15 of this 2017 Act become operative on January 1, 2020.

11 (2) The Environmental Quality Commission and the Department of Environmental Qual-  
12 ity may take any action before the operative date specified in subsection (1) of this section  
13 that is necessary for the commission and the department to exercise, on and after the op-  
14 erative date specified in subsection (1) of this section, all of the duties, functions and powers  
15 conferred on the commission and the department by sections 13 to 15 of this 2017 Act.

16  
17 (Diesel Engine Emission Standards)

18  
19 **SECTION 17.** Sections 18 and 19 of this 2017 Act are added to and made a part of ORS  
20 468A.795 to 468A.803.

21 **SECTION 18.** (1) The Environmental Quality Commission by rule shall establish diesel  
22 engine emission standards for medium-duty trucks and heavy-duty trucks.

23 (2) The standards adopted by the commission under this section must include a schedule  
24 to phase in implementation of a requirement that, by January 1, 2\_\_\_\_, all medium-duty  
25 trucks and heavy-duty trucks operating in Oregon must have a 2007 model year or newer  
26 engine.

27 (3) The schedule required by subsection (2) of this section must require that:

28 (a) By January 1, 2\_\_\_\_, a medium-duty truck with a 1995 model year or older diesel  
29 engine be replaced by a medium-duty truck with a 2007 model year or newer engine.

30 (b) Beginning January 1, 2\_\_\_\_, a medium-duty truck with a 1996 model year to 2006  
31 model year diesel engine be replaced by a medium-duty truck with a 2007 model year or  
32 newer engine.

33 (c) Beginning January 1, 2\_\_\_\_, a heavy-duty truck with a 1995 model year or older diesel  
34 engine be replaced by a heavy-duty truck with a 2007 model year or newer engine.

35 (d) Beginning January 1, 2\_\_\_\_, a heavy-duty truck with a 1996 model year to 2006 model  
36 year diesel engine replaced by a heavy-duty truck with a 2007 model year or newer engine.

37 (4) The schedule required by subsection (2) of this section must prioritize implementation  
38 of the standards adopted by the commission in the areas of this state where diesel engine  
39 emissions are of the most concern. In identifying an area where diesel engine emissions are  
40 of the most concern, the commission shall rely on the following factors:

41 (a) Whether the area has concentrations of air contaminants that exceed any ambient  
42 benchmark concentrations for air contaminants established by rule by the commission under  
43 ORS 468A.025;

44 (b) The prevalence of sensitive populations in the area;

45 (c) Whether the area has elevated concentrations of diesel particulate matter; and

1 (d) The area's present and projected population density.

2 (5) Rules adopted under this section must allow for owners and operators of medium-duty  
 3 trucks and heavy-duty trucks to meet the diesel engine emission standards through alter-  
 4 native compliance options that may include, but need not be limited to:

5 (a) A fleet averaging option.

6 (b) Options that provide flexibility for small fleets.

7 (c) Provisions that allow owners and operators to obtain compliance credits.

8 (d) Compliance extensions for individual trucks that meet eligibility requirements adopted  
 9 by the commission by rule.

10 (e) Compliance through retrofitting with exhaust controls that reduce diesel particulate  
 11 emissions by at least 85 percent when compared with the baseline emissions for the relevant  
 12 engine year and application.

13 (6) Rules adopted under this section must include standards restricting the addition to  
 14 fleets, after dates to be established by rule, of medium-duty trucks and heavy-duty trucks  
 15 that are powered by diesel engines of certain model years.

16 (7) Before adopting rules under this section, the commission shall consider regulations  
 17 adopted by the State of California for reducing diesel engine emissions from in-use medium-  
 18 duty trucks and heavy-duty trucks.

19 (8) The following classes of vehicles are exempt from rules adopted under this section:

20 (a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

21 (b) Farm tractors, as defined in ORS 801.265.

22 (c) Implements of husbandry, as defined in ORS 801.310.

23 (d) Motor vehicles used exclusively as training vehicles, as determined by the commission  
 24 by rule.

25 (e) Any other medium-duty trucks or heavy-duty trucks exempted from the diesel engine  
 26 emission standards by the commission by rule.

27 **SECTION 19.** (1) The Environmental Quality Commission shall adopt by rule nonroad  
 28 diesel engine emission standards.

29 (2) The standards must include, but not be limited to, standards restricting the addition  
 30 of nonroad pieces of equipment to fleets that are powered by nonroad diesel engines that do  
 31 not meet or exceed certain tier standards for nonroad diesel exhaust emissions as adopted  
 32 by the United States Environmental Protection Agency.

33 (3) The standards adopted under this section, and implementation and enforcement of the  
 34 standards, must be consistent with the requirements of section 209(e) of the federal Clean  
 35 Air Act (P.L. 88-206 as amended).

36 (4) Before adopting rules under this section, the commission shall consider regulations  
 37 adopted by the State of California for reducing nonroad diesel engine emissions.

38 **SECTION 20.** (1) Sections 18 and 19 of this 2017 Act become operative on January 1,  
 39 2\_\_\_\_\_.

40 (2) The Environmental Quality Commission and the Department of Environmental Qual-  
 41 ity may take any action before the operative date specified in subsection (1) of this section  
 42 that is necessary for the commission and the department to exercise, on and after the op-  
 43 erative date specified in subsection (1) of this section, all of the duties, functions and powers  
 44 conferred on the commission and the department by sections 18 and 19 of this 2017 Act.  
 45



(Clean Diesel Engine Fund Uses: Provisions Operative July 1, 2017)

**SECTION 21.** ORS 468A.797 is amended to read:

468A.797. (1) The Environmental Quality Commission by rule shall establish standards related to the certified cost necessary to perform a qualifying **replacement**, repower or retrofit, including but not limited to rules establishing the certified cost for purposes of the tax credit established in section 12, chapter 855, Oregon Laws 2007.

(2) For the purposes of subsection (1) of this section, certified cost:

(a) May not exceed the incremental cost of labor and hardware that the Department of Environmental Quality finds necessary to perform a qualifying **replacement**, repower or retrofit;

(b) Does not include the cost of any portion of a **replacement**, repower or retrofit undertaken to comply with any applicable local, state or federal pollution or emissions law or for ordinary maintenance, repair or replacement of a diesel engine; and

(c) May not exceed the cost-effectiveness threshold.

**SECTION 22.** ORS 468A.797, as amended by section 7a, chapter 855, Oregon Laws 2007, is amended to read:

468A.797. (1) The Environmental Quality Commission by rule shall establish standards related to the certified cost necessary to perform a qualifying **replacement**, repower or retrofit.

(2) For the purposes of subsection (1) of this section, certified cost:

(a) May not exceed the incremental cost of labor and hardware that the Department of Environmental Quality finds necessary to perform a qualifying **replacement**, repower or retrofit;

(b) Does not include the cost of any portion of a **replacement**, repower or retrofit undertaken to comply with any applicable local, state or federal pollution or emissions law or for ordinary maintenance, repair or replacement of a diesel engine; and

(c) May not exceed the cost-effectiveness threshold.

**SECTION 23.** ORS 468A.799 is amended to read:

468A.799. (1) The Environmental Quality Commission by rule shall establish standards for *[the qualifying repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine,]* **qualifying replacements, repowers and retrofits**, including but not limited to rules establishing repower or retrofit qualifications for purposes of the tax credit established in section 12, chapter 855, Oregon Laws 2007.

(2) The standards adopted by the commission under this section must *[include]* **require, at a minimum:**

*[(a) A requirement for the reduction of diesel particulate matter emissions by at least 25 percent compared with the baseline emissions for the relevant engine year and application;]*

**(a) For the qualifying replacement of a motor vehicle powered by a diesel engine, that:**

**(A) The motor vehicle to be scrapped has at least three years of remaining useful life; and**

**(B) The engine model year of the equivalent motor vehicle is 2007 or newer.**

**(b) For the qualifying replacement of a piece of equipment powered by a nonroad diesel engine, that:**

**(A) The nonroad piece of equipment to be scrapped has at least three years of remaining useful life; and**

**(B) The equivalent equipment is powered by a nonroad diesel engine that meets or exceeds the United States Environmental Protection Agency Tier 4 standards for nonroad die-**

1 sel exhaust emissions.

2 (c) For the qualifying repower of a nonroad diesel engine, that the repower will be ac-  
3 complished using a higher tier engine than the engine to be scrapped, based on the United  
4 States Environmental Protection Agency tier standards for nonroad diesel exhaust emis-  
5 sions.

6 (d) For the qualifying retrofit of a diesel engine, a resulting reduction of diesel  
7 particulate matter emissions by at least 85 percent when compared with the baseline emis-  
8 sions for the relevant engine year and application.

9 [(b)] (e) That a list of technologies approved as qualifying repowers or retrofits that have been  
10 verified by the United States Environmental Protection Agency or the California Air Resources  
11 Board[; and] is included in the standards.

12 [(c)] (3) [A requirement that] A qualifying **replacement**, repower or retrofit [does] **may** not in-  
13 clude the **replacement**, repower or retrofit of a **motor** vehicle, **piece of equipment** or engine for  
14 which a grant, loan or tax credit under ORS 468A.803 or section 12, chapter 855, Oregon Laws 2007,  
15 has **previously** been awarded or allowed, unless the **replacement**, repower or retrofit will reduce  
16 emissions further than the **replacement**, repower or retrofit funded by the **previous** grant, loan or  
17 tax credit.

18 **SECTION 24.** ORS 468A.799, as amended by section 8a, chapter 855, Oregon Laws 2007, is  
19 amended to read:

20 468A.799. (1) The Environmental Quality Commission by rule shall establish standards for [the  
21 qualifying repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine] **qualify-**  
22 **ing replacements, repowers and retrofits.**

23 (2) The standards adopted by the commission under this section must [include] **require, at a**  
24 **minimum:**

25 [(a) A requirement for the reduction of diesel particulate matter emissions by at least 25 percent  
26 compared with the baseline emissions for the relevant engine year and application;]

27 (a) For the qualifying replacement of a motor vehicle powered by a diesel engine, that:

28 (A) The motor vehicle to be scrapped has at least three years of remaining useful life;  
29 and

30 (B) The engine model year of the equivalent motor vehicle is 2007 or newer.

31 (b) For the qualifying replacement of a piece of equipment powered by a nonroad diesel  
32 engine, that:

33 (A) The nonroad piece of equipment to be scrapped has at least three years of remaining  
34 useful life; and

35 (B) The equivalent equipment is powered by a nonroad diesel engine that meets or ex-  
36 ceeds the United States Environmental Protection Agency Tier 4 standards for nonroad die-  
37 sel exhaust emissions.

38 (c) For the qualifying repower of a nonroad diesel engine, that the repower will be ac-  
39 complished using a higher tier engine than the engine to be scrapped, based on the United  
40 States Environmental Protection Agency tier standards for nonroad diesel exhaust emis-  
41 sions.

42 (d) For the qualifying retrofit of a diesel engine, a resulting reduction of diesel  
43 particulate matter emissions by at least 85 percent when compared with the baseline emis-  
44 sions for the relevant engine year and application.

45 [(b)] (e) That a list of technologies approved as qualifying repowers or retrofits that have been

1 verified by the United States Environmental Protection Agency or the California Air Resources  
2 Board[; and] **is included in the standards.**

3 [(c)] (3) [A requirement that] A qualifying **replacement**, repower or retrofit [does] **may** not in-  
4 clude the **replacement**, repower or retrofit of a **motor vehicle, piece of equipment** or engine for  
5 which a grant or loan under ORS 468A.803 has **previously** been awarded or allowed, unless the  
6 **replacement**, repower or retrofit will reduce emissions further than the **replacement**, repower or  
7 retrofit funded by the **previous** grant or loan.

8 **SECTION 25.** ORS 468A.801 is amended to read:

9 468A.801. (1) The Clean Diesel Engine Fund is established in the State Treasury separate and  
10 distinct from the General Fund. Interest earned by the Clean Diesel Engine Fund shall be credited  
11 to the fund. The moneys in the fund are continuously appropriated to the Department of Environ-  
12 mental Quality to be used for the purposes described in ORS 468A.803.

13 (2) The Clean Diesel Engine Fund consists of:

14 (a) Funds appropriated by the Legislative Assembly;

15 (b) Grants provided by the federal government pursuant to the federal Clean Air Act, 42 U.S.C.  
16 7401 et seq., or other federal laws; [and]

17 [(c) Any other revenues derived from gifts or grants given to the state for the purpose of providing  
18 financial assistance to owners or operators of diesel engines for the purpose of repowering, retrofitting  
19 or scrapping diesel engines to reduce diesel engine emissions.]

20 (c) **Any other moneys received by the state for providing financial or technical assistance**  
21 **to owners or operators of diesel engines for the purpose of reducing diesel engine emissions;**  
22 **and**

23 (d) **Any other moneys deposited in the fund from any sources.**

24 **SECTION 26.** ORS 468A.803 is amended to read:

25 468A.803. (1) The Department of Environmental Quality shall use the moneys in the Clean Diesel  
26 Engine Fund to award:

27 (a) **Grants and loans to the owners and operators of motor vehicles powered by diesel**  
28 **engines, and equipment powered by nonroad diesel engines, for up to 25 percent of the cer-**  
29 **tified costs of qualifying replacements as described in ORS 468A.797 and 468A.799;**

30 [(a)] (b) Grants and loans to the owners and operators of [Oregon] diesel engines for up to 100  
31 percent of the certified costs of qualifying retrofits as described in ORS 468A.797 and 468A.799;

32 [(b)] (c) Grants and loans to the owners and operators of nonroad [Oregon] diesel engines for  
33 up to 25 percent of the certified costs of qualifying repowers as described in ORS 468A.797 and  
34 468A.799; and

35 [(c)] (d) Grants to the owners of Oregon diesel truck engines to scrap those engines.

36 [(2) Subject to and consistent with federal law, any moneys received from the federal government  
37 that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 (2)(b) must be used for ini-  
38 tiatives to reduce emissions from diesel engines. Subsections (1), (3) to (5) and (7) of this section and  
39 ORS 468A.797 and 468A.799 do not apply to use of moneys in the Clean Diesel Engine Fund received  
40 from the federal government.]

41 [(3)] (2) In determining the amount of a grant or loan under this section, the department must  
42 reduce the incremental cost of a qualifying **replacement**, repower or retrofit by the value of any  
43 existing financial incentive that directly reduces the cost of the qualifying **replacement**, repower  
44 or retrofit, including tax credits, other grants or loans, or any other public financial assistance.

45 [(4)] (3) The department may certify third parties to perform qualifying **replacements**, repowers

1 and retrofits and may contract with third parties to perform such services for the certified costs of  
 2 qualifying **replacements**, repowers and retrofits. The department may also contract with insti-  
 3 tutions of higher education or other public bodies as defined by ORS 174.109 to train and certify  
 4 third parties to perform qualifying **replacements**, repowers and retrofits.

5 **(4) The department may not award a grant or loan for a replacement, repower or retrofit**  
 6 **under subsection (1) of this section unless the grant or loan applicant demonstrates to the**  
 7 **department's satisfaction that the resulting equivalent motor vehicle, equivalent equipment,**  
 8 **repowered nonroad diesel engine or retrofitted diesel engine will undergo at least 50 percent**  
 9 **of its use in Oregon, as measured by miles driven or hours operated, for the three years**  
 10 **following the replacement, repower or retrofit.**

11 (5) The department may not award a grant to scrap an Oregon diesel truck engine under sub-  
 12 section (1)(c) of this section unless the engine was manufactured prior to 1994 and the engine is  
 13 in operating condition at the time of the grant application or, if repairs are needed, the owner  
 14 demonstrates to the department's satisfaction that the engine can be repaired to an operating con-  
 15 dition for less than its commercial scrap value. The Environmental Quality Commission shall adopt  
 16 rules for a maximum grant awarded under subsection (1)(c) of this section for an engine in a  
 17 heavy-duty truck and for an engine in a medium-duty truck. A grant awarded under subsection  
 18 (1)(c) of this section may not be combined with any other tax credits, grants or loans, or any other  
 19 public financial assistance, to scrap an Oregon diesel truck engine.

20 **(6) Subject to and consistent with federal law, any moneys received from the federal**  
 21 **government that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 (2)(b)**  
 22 **must be used for initiatives to reduce diesel engine emissions. Subsections (1) to (5) of this**  
 23 **section and ORS 468A.797 and 468A.799 do not apply to use of moneys in the fund received**  
 24 **from the federal government.**

25 **(7) Any moneys received by the State of Oregon pursuant to a voluntary written agree-**  
 26 **ment or a settlement approved in an administrative or judicial proceeding that are deposited**  
 27 **in the Clean Diesel Engine Fund must be used by the department for activities consistent**  
 28 **with the terms and conditions of the agreement or settlement. Subsections (1) to (5) of this**  
 29 **section and ORS 468A.797 and 468A.799 do not apply to the use of moneys in the fund received**  
 30 **pursuant to this subsection.**

31 [(6)] **(8) Except as provided in subsection (7) of this section,** the department may use the  
 32 moneys in the Clean Diesel Engine Fund to pay expenses of the department in administering [*the*  
 33 *program described in this section*] **ORS 468A.795 to 468A.803.**

34 [(7)] *The commission shall adopt rules to implement this section and ORS 468A.801, including but*  
 35 *not limited to establishing preferences for grant and loan awards based upon percentage of engine use*  
 36 *in Oregon, whether a grant or loan applicant will provide matching funds, whether scrapping, repow-*  
 37 *ering or retrofitting an engine will benefit sensitive populations or areas with elevated concentrations*  
 38 *of diesel particulate matter, or such other criteria as the commission may establish. The rules adopted*  
 39 *by the commission shall reserve a portion of the financial assistance available each year for applicants*  
 40 *that own or operate a small number of Oregon diesel engines or Oregon diesel truck engines and shall*  
 41 *provide for simplified access to financial assistance for those applicants.]*

42 [(8)] *The department may perform activities necessary to ensure that recipients of grants and loans*  
 43 *from the Clean Diesel Engine Fund comply with applicable requirements. If the department determines*  
 44 *that a recipient has not complied with applicable requirements, it may order the recipient to refund all*  
 45 *grant or loan moneys and may impose penalties pursuant to ORS 468.140.]*

1       **SECTION 27.** Section 28 of this 2017 Act is added to and made a part of ORS 468A.795 to  
2       **468A.803.**

3       **SECTION 28.** (1) The Environmental Quality Commission shall adopt rules to implement  
4       **ORS 468A.801 and 468A.803, including but not limited to rules that establish preferences for**  
5       **awarding grants and loans under ORS 468A.803 (1) based on the percentage of diesel engine**  
6       **use in Oregon, whether a grant or loan applicant will provide matching funds, whether**  
7       **scrapping, replacing, repowering or retrofitting an engine will benefit sensitive populations**  
8       **or areas with elevated concentrations of diesel particulate matter, or such other criteria as**  
9       **the commission may establish by rule.**

10       (2) Rules adopted by the commission under this section must reserve a portion of the  
11       financial assistance available each year for applicants that own or operate a small number  
12       of diesel engines or Oregon diesel truck engines, and must provide for simplified access to  
13       financial assistance for those applicants.

14       (3) The Department of Environmental Quality may perform activities necessary to ensure  
15       that recipients of financial assistance from the Clean Diesel Engine Fund comply with ap-  
16       plicable requirements. If the department determines that a recipient has not complied with  
17       applicable requirements, the department may order the recipient to refund all financial as-  
18       sistance moneys and may impose civil penalties pursuant to ORS 468.140.

19  
20                               (Clean Diesel Engine Fund Uses: Provisions Operative  
21                               January 1, 2\_\_\_\_)

22  
23       **SECTION 29.** ORS 468A.803, as amended by section 26 of this 2017 Act, is amended to read:

24       468A.803. (1) The Department of Environmental Quality shall use the moneys in the Clean Diesel  
25       Engine Fund to award:

26       (a) Grants and loans to the owners and operators of motor vehicles powered by diesel engines,  
27       and equipment powered by nonroad diesel engines, for up to 25 percent of the certified costs of  
28       qualifying replacements as described in ORS 468A.797 and 468A.799;

29       (b) Grants and loans to the owners and operators of diesel engines for up to 100 percent of the  
30       certified costs of qualifying retrofits as described in ORS 468A.797 and 468A.799;

31       (c) Grants and loans to the owners and operators of nonroad diesel engines for up to 25 percent  
32       of the certified costs of qualifying repowers as described in ORS 468A.797 and 468A.799; and

33       (d) Grants to the owners of Oregon diesel truck engines to scrap those engines.

34       (e) **Other financial incentives, as developed by the department by rule, for owners and**  
35       **operators of diesel engines to achieve compliance with the diesel engine emission standards**  
36       **adopted by the Environmental Quality Commission under sections 18 and 19 of this 2017 Act.**

37       (2) In determining the amount of a grant or loan under this section, the department must reduce  
38       the incremental cost of a qualifying replacement, repower or retrofit by the value of any existing  
39       financial incentive that directly reduces the cost of the qualifying replacement, repower or retrofit,  
40       including tax credits, other grants or loans, or any other public financial assistance.

41       (3) The department may certify third parties to perform qualifying replacements, repowers and  
42       retrofits and may contract with third parties to perform such services for the certified costs of  
43       qualifying replacements, repowers and retrofits. The department may also contract with institutions  
44       of higher education or other public bodies as defined by ORS 174.109 to train and certify third par-  
45       ties to perform qualifying replacements, repowers and retrofits.

1 (4) The department may not award a [*grant or loan for a replacement, repower or retrofit under*  
 2 *subsection (1) of this section*] **grant, loan or other financial incentive under subsection (1)(a), (b),**  
 3 **(d) or (e) of this section** unless the [*grant or loan*] applicant **for a grant, loan or other financial**  
 4 **incentive** demonstrates to the department's satisfaction that the resulting equivalent motor vehicle,  
 5 equivalent equipment, repowered nonroad diesel engine or retrofitted diesel engine will undergo at  
 6 least 50 percent of its use in Oregon, as measured by miles driven or hours operated, for the three  
 7 years following the [*replacement, repower or retrofit*] **completion of the activity for which the**  
 8 **grant, loan or other financial incentive was awarded.**

9 (5) The department may not award a grant to scrap an Oregon diesel truck engine under sub-  
 10 section (1) of this section unless the engine was manufactured prior to 1994 and the engine is in  
 11 operating condition at the time of the grant application or, if repairs are needed, the owner dem-  
 12 onstrates to the department's satisfaction that the engine can be repaired to an operating condition  
 13 for less than its commercial scrap value. The Environmental Quality Commission shall adopt rules  
 14 for a maximum grant awarded under subsection (1) of this section for an engine in a heavy-duty  
 15 truck and for an engine in a medium-duty truck. A grant awarded under subsection (1) of this sec-  
 16 tion may not be combined with any other tax credits, grants or loans, or any other public financial  
 17 assistance, to scrap an Oregon diesel truck engine.

18 (6) Subject to and consistent with federal law, any moneys received from the federal government  
 19 that are deposited in the Clean Diesel Engine Fund under ORS 468A.801 (2)(b) must be used for in-  
 20 itiatives to reduce diesel engine emissions. Subsections (1) to (5) of this section and ORS 468A.797  
 21 and 468A.799 do not apply to use of moneys in the fund received from the federal government.

22 (7) Any moneys received by the State of Oregon pursuant to a voluntary written agreement or  
 23 a settlement approved in an administrative or judicial proceeding that are deposited in the Clean  
 24 Diesel Engine Fund must be used by the department for activities consistent with the terms and  
 25 conditions of the agreement or settlement. Subsections (1) to (5) of this section and ORS 468A.797  
 26 and 468A.799 do not apply to the use of moneys in the fund received pursuant to this subsection.

27 (8) Except as provided in subsection (7) of this section, the department may use the moneys in  
 28 the Clean Diesel Engine Fund to pay expenses of the department in administering ORS 468A.795 to  
 29 468A.803.

30 **SECTION 30.** Section 28 of this 2017 Act is amended to read:

31 **Sec. 28.** (1) The Environmental Quality Commission shall adopt rules to implement ORS  
 32 468A.801 and 468A.803, including but not limited to rules that establish preferences for awarding:

33 (a) Grants and loans under ORS 468A.803 [(1)] (1)(a) to (d) based on the percentage of diesel  
 34 engine use in Oregon, whether a grant or loan applicant will provide matching funds, whether  
 35 scrapping, replacing, repowering or retrofitting an engine will benefit sensitive populations or areas  
 36 with elevated concentrations of diesel particulate matter, or such other criteria as the commission  
 37 may establish by rule[.]; and

38 (b) **Financial incentives under ORS 468A.803 (1)(e) based on the factors for prioritizing**  
 39 **implementation of diesel engine emission standards set forth in section 18 of this 2017 Act.**

40 (2) Rules adopted by the commission under this section must reserve a portion of the financial  
 41 assistance available each year for applicants that own or operate a small number of diesel engines  
 42 or Oregon diesel truck engines, and must provide for simplified access to financial assistance for  
 43 those applicants.

44 (3) The Department of Environmental Quality may perform activities necessary to ensure that  
 45 recipients of financial assistance from the Clean Diesel Engine Fund comply with applicable re-

1 requirements. If the department determines that a recipient has not complied with applicable require-  
 2 ments, the department may order the recipient to refund all financial assistance moneys and may  
 3 impose civil penalties pursuant to ORS 468.140.

4 **SECTION 31. (1) The amendments to ORS 468A.803 and section 28 of this 2017 Act by**  
 5 **sections 29 and 30 of this 2017 Act become operative January 1, 2\_\_\_\_\_.**

6 **(2) The Environmental Quality Commission and the Department of Environmental Qual-**  
 7 **ity may take any action before the operative date specified in subsection (1) of this section**  
 8 **that is necessary for the commission and the department to exercise, on and after the op-**  
 9 **erative date specified in subsection (1) of this section, all of the duties, functions and powers**  
 10 **conferred on the commission and the department by the amendments to ORS 468A.803 and**  
 11 **section 28 of this 2017 Act by sections 29 and 30 of this 2017 Act.**

12  
 13 **REPEAL OF STATE PREEMPTION OF LOCAL REGULATION OF**  
 14 **IDLING BY PRIMARY ENGINES IN COMMERCIAL VEHICLES**

15  
 16 **SECTION 32. ORS 825.615 is repealed.**

17  
 18 **STATEMENT OF LEGISLATIVE INTENT REGARDING**  
 19 **FEDERAL CONGESTION MITIGATION AND AIR QUALITY**  
 20 **IMPROVEMENT GRANTS**

21  
 22 **SECTION 33. It is the intent of the Legislative Assembly that during the period beginning**  
 23 **July 1, 2017, and ending July 1, 2027, one quarter of all federal funds received by the state**  
 24 **as congestion mitigation and air quality improvement grants shall be deposited in the Clean**  
 25 **Diesel Engine Fund to be used as provided in ORS 468A.803.**

26 **SECTION 34. Section 33 of this 2017 Act is repealed July 2, 2027.**

27  
 28 **CONFORMING AMENDMENTS TO TAX CREDIT APPLICABLE TO PAST TAX YEARS**

29  
 30 **SECTION 35. Section 12, chapter 855, Oregon Laws 2007, is amended to read:**

31 **Sec. 12. (1) A personal income or corporate income or excise taxpayer is allowed a credit**  
 32 **against the taxes that are otherwise due under ORS chapter 316, 317 or 318 for the certified costs**  
 33 **of a repower of a nonroad [Oregon] diesel engine or retrofit of [an Oregon] a diesel engine that oc-**  
 34 **currs after [the effective date of this 2007 Act] September 27, 2007, if:**

35 (a) The repower or retrofit has been identified as qualifying for the credit under rules adopted  
 36 by the Environmental Quality Commission under [section 8 of this 2007 Act] **ORS 468A.799;**

37 (b) [The engine will constitute an Oregon diesel engine] **The repowered or retrofitted engine**  
 38 **will undergo at least 50 percent of its use in Oregon, as measured by miles driven or hours**  
 39 **operated, for the three years following the repower or retrofit; and**

40 (c) The taxpayer has obtained a tax credit cost certification from the Department of Environ-  
 41 mental Quality under section 16 [of this 2007 Act], **chapter 855, Oregon Laws 2007,** for the cost  
 42 of the repower or retrofit.

43 (2) The maximum amount of the tax credit allowed under this section is limited to:

44 (a) 25 percent of the certified cost of each qualifying repower; and

45 (b) 50 percent of the certified cost of each qualifying retrofit.

1 (3) The amount of the tax credit allowed to the taxpayer under this section in any one tax year  
2 may not exceed the tax liability of the taxpayer for the tax year.

3 (4) Any tax credit that is allowed under this section, but limited by subsection (3) of this section,  
4 and that is not used by the taxpayer in a particular tax year may be carried forward and offset  
5 against the taxpayer's tax liability as prescribed in subsection (3) of this section for the next suc-  
6 ceeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
7 forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section  
8 for the second succeeding tax year. Any credit remaining unused in the second succeeding tax year  
9 may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3)  
10 of this section for the third succeeding tax year, but may not be carried forward for any tax year  
11 thereafter.

12 (5) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
13 duction for the engine to which the taxpayer otherwise may be entitled for purposes of ORS chapter  
14 316, 317 or 318. The taxpayer's adjusted basis for determining gain or loss may not be decreased by  
15 any tax credits allowed under this section.

16 (6)(a) The Department of Revenue may disallow the credit allowed under this section if the de-  
17 partment finds that the credit was obtained by fraud or misrepresentation, or if the department  
18 learns that the engine that was the subject of the qualifying repower or retrofit was destroyed by  
19 arson committed by the taxpayer, or if the engine no longer meets the requirements for obtaining  
20 the tax credit.

21 (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or  
22 other law, all prior tax relief provided to the taxpayer shall be forfeited, the department shall pro-  
23 ceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit  
24 and the taxpayer shall be denied any further credit provided under this section.

25 (c) The department may perform activities necessary to ensure that recipients of the tax credit  
26 comply with applicable requirements.

27 (7)(a) A nonresident individual shall be allowed the credit computed in the same manner and  
28 subject to the same limitations as the credit allowed a resident by this section. However, the credit  
29 shall be prorated using the proportion provided in ORS 316.117.

30 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
31 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
32 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

33 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
34 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
35 ORS 316.117.

36 (8) The taxpayer shall claim the credit on a form prescribed by the Department of Revenue  
37 containing the information required by the Department of Revenue. The taxpayer shall maintain the  
38 tax credit cost certification issued by the Department of Environmental Quality under section 16  
39 [of this 2007 Act], **chapter 855, Oregon Laws 2007**, in the records of the taxpayer for the length  
40 of time prescribed by the Department of Revenue and shall provide a copy of the cost certification  
41 to the Department of Revenue if requested.

42 (9) A taxpayer may not claim a credit under this section and ORS 315.304 with respect to the  
43 same diesel engine or group of diesel engines. A taxpayer may claim a credit under this section and  
44 under ORS [469.185 to 469.225] **469B.130 to 469B.169** with respect to the same diesel engine or group  
45 of diesel engines if the taxpayer and diesel engines otherwise meet the requirements to be allowed



1 a tax credit under ORS [469.185 to 469.225] **469B.130 to 469B.169.**

2  
3 **APPROPRIATION**

4  
5 **SECTION 36.** In addition to and not in lieu of any other appropriation, there is appro-  
6 priated to the Department of Environmental Quality, for the biennium beginning July 1, 2017,  
7 out of the General Fund, the amount of \$\_\_\_\_\_ for the purpose of completing the initial in-  
8 ventory required by section 11 of this 2017 Act.

9  
10 **CAPTIONS**

11  
12 **SECTION 37.** The unit captions used in this 2017 Act are provided only for the conven-  
13 ience of the reader and do not become part of the statutory law of this state or express any  
14 legislative intent in the enactment of this 2017 Act.

15  
16 **EMERGENCY CLAUSE**

17  
18 **SECTION 38.** This 2017 Act being necessary for the immediate preservation of the public  
19 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect  
20 July 1, 2017.

21 \_\_\_\_\_