

CLEAN AIR CONSTRUCTION STANDARD

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ISSUE STATEMENT

Pollution from diesel exhaust poses a threat to the health of people living and working in the greater Portland area. Diesel pollution is presently at unhealthy levels; in some areas, like near freight corridors, rail yards or construction sites, diesel pollution levels are over 10 times higher than state health benchmarks. Clackamas, Multnomah and Washington counties rank in the top 5 percent of all counties nationwide for ambient diesel particulate concentrations. The majority of diesel pollution in our region comes from nonroad construction equipment. Although newer diesel engines have pollution controls that minimize diesel emissions, older dirty diesel engines are still prevalent due to their long lifespan.

To address this issue and improve air quality in greater Portland, staff from Metro have been participating in a regional collaborative with partners from the City of Portland, Multnomah County, Washington County, Clackamas County, Port of Portland and Trimet. The Clean Air Construction Collaborative (Collaborative) has collectively developed a Clean Air Construction Standard (Standard) that would require cleaner equipment and vehicles to be used on public construction projects to reduce diesel pollution.

To date, the City of Portland and Multnomah County have adopted the Standard; other partner agencies are at various stages of adoption. The Collaborative is currently developing a framework for administering and implementing the Standard at a regional level, as well as collaborating in pursuit of grant funding to provide support for COBID-certified firms to comply with the Standard.

ACTION REQUESTED

Staff requests Council guidance on adoption of a Clean Air Construction Standard for Metro projects.

At this work session, staff will present an overview of the regional work to develop a Clean Air Construction Standard and the status of work done to date to consider how that Standard might be applied to Metro projects.

If Council provides direction to proceed with development of a Standard, then staff will bring a proposed final version to Council for consideration for adoption later this year.

IDENTIFIED POLICY OUTCOMES

Council direction to date on reducing diesel emissions has come from Council letters of support for the Clean Air Construction Standard and Metro's *Sustainability Plan for Internal Operations* and *Strategic Plan to Advance Racial Equity, Diversity and Inclusion*.

Council letters of support

In February 2019, Councilor Chase sent a letter of support for the Professional Business Development Group's application for the Environmental Protection Agency's Diesel Emission Reduction Act grant funds for 2019. These grant funds would be used to replace equipment and trucks owned by minority and women owned businesses to help them comply with the Standard.

In March 2019, Council President Peterson sent a letter of support to Portland Mayor Wheeler in support of the City's proposal to serve as the lead agency in administering the Standard, and stating Metro's intent to adopt the Standard by the end of the calendar year.

Metro Sustainability Plan

Metro's adopted Sustainability Plan for internal operations (2010) identifies the following actions related to diesel emissions in support of the climate and toxics reductions goals:

Climate Action 2.2 Reduce emissions from the consumption of carbon-intensive fuel related to business operations by adopting sustainable fuel use standards.

Standards should include:

- *Provisions for back-up generators, heavy equipment, offroad vehicles and other equipment;*
- *Idle reduction policy for fleet and contractors;*
- ***Diesel emission standards for off-road equipment based on EPA's Tier system, and retrofit or replace equipment to meet those standards; and***
- *Fuel efficiency standards for fleet vehicles and increased use of alternative fuels where available.*

*Toxics Action 2.3 Adopt diesel particulate matter (PM) reduction strategies for internal operations and on Metro property. **Include idle reduction policy and require use of diesel PM control technology for all diesel-burning equipment.***

Strategic Plan to Advance Racial Equity, Diversity and Inclusion

Environmental justice communities, including communities of color and low-income populations, experience a disproportionate burden of exposure to diesel pollution in the Portland Metro area because they often live and work in areas with higher pollution levels.

Goal E – Metro's resource allocation advances racial equity directs Metro to "create and implement policies and procedures to ensure that its resources and investments advance racial equity". Reducing diesel emissions on Metro projects will improve health outcomes for those individuals with greatest exposure. In addition, in recognition that COBID-certified firms already face barriers to participation in public contracts, providing support to COBID-certified firms in complying with the Standard is crucial.

POLICY QUESTION(S)

1. Does Council direct staff to tailor the Clean Air Construction Standard for adoption at Metro and continue working with other agencies to develop a regional framework for administering the Standard?

If Council responds “yes” to question 1:

2. Does Council have guidance on the appropriate scope for projects subject to the Standard at Metro?
3. What additional strategies and resources should be pursued to ensure equity goals are reached through the Standard?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

Scope of projects subject to the Standard

One key policy consideration concerns the dollar threshold that would trigger application of the Standard to Metro projects. Following are threshold options that staff have considered and pros and cons of each option, as well as the number of projects that fit within those thresholds over the last three years. The two options below balance the priorities of reducing diesel emissions and reducing contracting barriers for COBID firms.

Scope options:

Threshold	Average # of projects (past 3 FYs)	Pros	Cons
\$500,000	8/year average Average value: \$1.5 million	<ul style="list-style-type: none">• Would be consistent with Multnomah & Washington County thresholds• Would likely apply to fewer COBID firms (unless subs on larger projects)• Allows Metro to ease into requirement; threshold could be lowered over time	<ul style="list-style-type: none">• Reduced diesel pollution benefits compared to lower threshold• Would not align with any other procurement thresholds so may add confusion about whether Standard applies to projects
\$100,000 for public improvement*; \$150,000 for other construction services*	29/year average Average value: \$600,000	<ul style="list-style-type: none">• Applies to more projects, so would more comprehensively address diesel pollution• Less confusion around whether Standard applies or not due to alignment with other procurement thresholds	<ul style="list-style-type: none">• Potentially higher costs for contractors to comply with Standard (would get passed on to Metro)• Standard might apply to more COBID firms• Higher Metro contribution to regional program administration costs• Would likely require additional staffing support to administer

* These mirror Metro’s Formal Procurement thresholds

Support for COBID-certified firms

Another key policy consideration is how the Standard applies to COBID-certified firms and the support made available to COBID firms to comply with the Standard. Compliance may

impose additional costs on contractors to upgrade equipment. The proposed regional framework includes the following elements to assist COBID firms with compliance:

- One method of meeting the Standard includes retrofitting existing equipment; this compliance method is gradually phased out over time. However, after the standard is fully-implemented in 2026, COBID-certified firms may continue to use additional types of emissions control devices on retrofitted equipment.
- The Collaborative is working to secure funding to help COBID-certified firms to retrofit or replace construction equipment and vehicles, including:
 - Volkswagen settlement fund: Oregon is eligible to receive at least \$72.9 million in settlement funds earmarked for efforts that reduce the impacts of diesel engines. A bill passed in the 2019 Oregon legislative session explicitly allows the use of these funds for construction diesel engine retrofit, repower or replacement, with particular preference for certified firms.
 - EPA DERA grant funds: This federal program supports projects that reduce diesel emissions. Professional Business Development Group (PBDG), a local organization working to improve conditions in the construction industry by increasing capacity and utilization of COBID firms, has submitted a grant application for \$750,000 to replace vehicles and equipment owned by COBID firms. Metro has provided a letter of support for this application.
- Additional program support for COBID-certified firms:
 - more in-person compliance support
 - targeted outreach and engagement
 - grant application support (e.g., mailers, outreach, informational meetings)

Metro could consider implementing these additional support mechanisms:

- Additional financial support options such as:
 - Low-cost financing partnerships with local financial institutions for diesel engine replacements
 - Contributing funds to its own or a centrally-managed fund to provide additional grants
- Additional outreach and/or technical support

STAFF RECOMMENDATIONS

Staff recommends that Council:

1. Direct staff to develop a Clean Air Construction Standard for Metro projects.
2. Support staff's continued engagement in the development of a regional framework for administering the Standard.
3. Support staff working with jurisdictional and organizational partners to encourage adoption of the Standard.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Racial equity goals

Adoption of a Clean Air Construction Standard for Metro projects would impact racial equity in two primary ways:

- *Help to decrease diesel emissions, which have a disproportionate impact on communities of color.* According to a Portland Air Toxics Study, African American

and Latinx populations in the Portland Metro area face up to three times higher exposure rates.

- *Potentially create a barrier for COBID-certified firms to participate in Metro construction contracts.* In recognition that COBID-certified firms already face barriers to participation in public contracts, the framework includes the above-mentioned elements to support COBID firms in complying with the Standard.

Climate action goals

In addition to Metro's *Sustainability Plan for internal operations*, adoption of the Standard aligns with Metro's desired outcome for the region to be a leader on climate. Diesel exhaust is the largest source of black carbon particles in the nation. Black carbon is the second most important global warming pollutant, behind carbon dioxide. Black carbon particles released to the atmosphere absorb heat, increasing air temperatures.

Stakeholder engagement

The Collaborative has completed outreach to stakeholder groups including construction project managers, equipment operators, construction firms including COBID firms, industry associations, environmental organizations, and neighborhood and community groups. See the background document for a full detail of outreach activities.

Anticipated effects

It is anticipated that implementation of this Standard would accelerate the timeline for upgrading diesel equipment and vehicles in the region to cleaner versions, resulting in improvements to air quality and health outcomes in the region.

Financial implications

Adoption of the Standard has financial implications at a project and program level.

- **Project:** Construction contractors will likely increase project costs to cover their compliance expenditures. An evaluation of 11 public improvement projects subject to similar requirements found that retrofitting costs ranged from 0.06% to 0.57% of contract costs. The Standard includes phased in timelines to allow contractors to plan for needed investments.
- **Program:** The City of Portland will serve as the lead agency in administering the program for all regional partners, including overall program management and communications, equipment and vehicle registration, regional database development and maintenance, compliance and enforcement, and COBID support. Metro will need to contribute funding toward these regional program administration costs; Metro's contribution will in part depend on the number of Metro projects subject to the Standard.

ATTACHMENTS

- Clean Air Construction Standard
- Background information
- Is legislation required for Council action? **No**
- If yes, is draft legislation attached? **No**