



# Oregon

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**DATE:** March 8, 2017

**TO:** Senate Committee on Environment and Natural Resources

**FROM:** Jerri Bohard, Administrator  
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**SUBJECT:** SB 1008

## INTRODUCTION

Senate Bill 1008 makes changes to how federal Congestion Mitigation and Air Quality (CMAQ) funds are allocated and used in Oregon. It's a significant policy shift for Oregon from the eligible MPOs and smaller cities using the funds largely for transit infrastructure, bicycle and pedestrian facilities, and traffic flow improvement projects to using them for diesel engine repowers or retrofits. The bill would reduce the amount of funds going to those jurisdictions for investments.

## DISCUSSION

ODOT administers federal CMAQ funds in the state under Federal Highway Administration rules; ODOT is responsible to ensure funds are used according to those rules. The funds are administered on a reimbursement basis.

Senate Bill 1008 requires that beginning on January 1, 2018, public improvement contracts that include federal CMAQ funds must set aside 1% for diesel engine repowers or retrofits used on the contract. As of January 1, 2020, the bill expands the set-aside of 1% of a public improvement contract to any state-funded contract of \$2 million or more where state funds make up at least 30% for state contracting agencies or local agencies with a population of 10,000 or more.

The bill specifies that the engines replaced or retrofitted using the funds identified in the bill must be used for three years following the repower or retrofit for at least 50 percent of the engine's use in Oregon. Any amount remaining unexpended is deposited into DEQ's Clean Diesel Engine Fund.

The Federal Highway Administration holds ODOT accountable to ensure CMAQ funds are spent appropriately. The engine repower or retrofit could only be made for equipment primarily used in a CMAQ eligible nonattainment or maintenance area. ODOT would be required to monitor the engine for the usable life of the investment. Any funds deposited into the Clean Diesel Engine Fund and administered by DEQ would have to follow FHWA rules for the use of CMAQ dollars and ODOT would continue to be accountable.

State highway funds used for highway construction cannot be used for diesel repowers or retrofits as prescribed by the bill beginning in 2020. There is no funding source other than CMAQ funds available to ODOT to meet this requirement.

The bill describes the uses of the Clean Diesel Engine Fund, allowing for loans to be granted and also allows for DEQ's administrative costs. CMAQ funds cannot be used for either loans or program administration costs. Any CMAQ funds would have to be provided on a reimbursement basis and must be used and monitored according to federal CMAQ rules.

Lastly, the bill specifies the legislature intends to direct and deposit one-quarter of all CMAQ funds into the Clean Diesel Engine Fund over the next 10 years. Historically, eligible MPOs and smaller cities throughout the state have used CMAQ funds largely for transit infrastructure, bicycle and pedestrian facilities, and traffic flow improvement projects. Making this policy change to a focus on diesel repowers and retrofits will have a significant impact on the types of investments historically made with CMAQ funds throughout the state and reduce the amount of funds going to the MPOs.

#### **SUMMARY**

SB 1008 makes a significant policy change to how Oregon has historically used federal CMAQ funds. The bill prescribes using the funds for diesel engine retrofits or replacements, which reduces the amount of funds available to MPOs for transit infrastructure, bicycle and pedestrian facilities, and traffic flow improvement projects.