

Testimony of Cindy Robert
On Senate Bill 1008
Senate Committee on Environment and Natural Resources
March 8, 2017



Chair Dembrow and members of the Committee:

Given the harmful impacts of diesel emissions and their disproportionate impact on vulnerable and marginalized populations within our region, Metro strongly supports SB 1008's intent to reduce diesel emissions through both regulatory and fiscal measures.

However, we vigorously oppose one of the bill's provisions: the requirement that 25% of federal Congestion Management and Air Quality (CMAQ) funds be set aside for diesel mitigation. These funds support a well-established program that efficiently reduces air pollution while supporting mobility, public safety, and economic development in the Portland metropolitan region. We have spent much of the last year working to address another threat to this funding, only to see this provision appear in SB 1008 without any consultation with the affected regions. **As long as this provision remains in the bill, Metro will have no choice but to oppose the bill as a whole.** (A more detailed summary of our concerns about the CMAQ set-aside is attached, as well as a one-pager describing the benefits of this program for economic development.)

The health and environmental effects of diesel emissions have been the subject of extensive research throughout the world. As you heard at your February 23 informational hearing, health experts have concluded that diesel exhaust is a known human carcinogen at exposure levels seen in many parts of Oregon and particularly the region we serve. These levels of exposure can also lead to increased risk of cardiovascular and respiratory diseases, especially in young children, the elderly, and marginalized communities, including communities of color. Protecting these vulnerable populations is a critical priority for Metro Council. The Oregon Department of Environmental Quality estimates the annual health and environmental impacts in Oregon associated with highway, non-road, marine and locomotive diesel vehicles to be as high as 460 premature deaths per year with annual costs from exposure at \$3.5 billion.¹ While U.S. emissions standards for diesel engines have been tightened dramatically over the last 20 years, diesel engines have a long life that can be extended even more by rebuilding these engines. The current projected rate of turnover to new engines likely means that the benefits from these tighter standards will not be fully realized within Oregon for 20 years or more.

Reducing greenhouse gases and diesel particulate emissions is a goal of Metro's Regional Solid Waste Management Plan and Regional Transportation Plan. Our Climate Smart strategy also looks to reduce air toxics including diesel emissions. Diesel emission reductions also reduce black carbon emissions which contribute to climate change. Over the past several years, Metro has undertaken multiple efforts to reduce diesel emissions, including: requiring trucks with best available emission technology for long-hauling the region's garbage to the landfill in Gilliam County; retrofitting 119 of the most polluting garbage trucks in the Metro area; and working with a wide range of partners to address barriers impeding diesel truck fleets from switching to CNG.

Contact: Andy Shaw, 503.929.6070, or Randy Tucker 503.481.9455

Metro remains committed to diesel emission reductions and to continuing our efforts to support diesel reduction programs. For example, as we update our regional waste management plan we will consider how we can use solid waste funds to accelerate the turnover of older diesel equipment in solid waste and recycling operations in the Metro region.

Metro participated in Chair Dembrow's Diesel Work Group that discussed the issues addressed by SB 1008. We commend that group's efforts. Regarding additional provisions of SB 1008 beyond the set-aside of CMAQ funds, we support provisions including:

- Directing Oregon's share of the national VW diesel lawsuit settlement to the state Clean Diesel Fund. We concur with the priorities and principles set out in the bill to first target school buses and then distribute funds in accord with the criteria set out in the bill. We particularly support the bill's focus on geographic areas with the greatest health risks.
- Phasing-in, as appropriate, emission standards for diesel engines for both on-road and off-road equipment. By appropriate, we mean, for example: allowing for exemptions for farm equipment; targeting regions with the greatest diesel emission problems; and ensuring regulations are consistent with federal requirements.
- Increasing the use of clean diesel equipment on public improvement contracts by either requiring that one percent of those contracts be reserved for that purpose or requiring that those contracts include minimum clean diesel equipment specifications. Metro is currently participating in a regional project looking at "best practices" nationwide for clean diesel contract specifications. We believe that project will provide valuable information for the state rulemaking prescribed in SB 1008 that will establish clean diesel contract specification standards.
- Establishing a non-road diesel registration program to provide needed information about the scope of the non-road diesel problem.
- Repealing state preemption of local regulation of idling of primary engines in commercial vehicles.

In conclusion, Metro believes SB 1008 supports:

- The Portland region's desire for equitable outcomes related to successful communities, including clean air and water and that the region is a leader in minimizing contributions to climate change.
- The region's 2014 Climate Smart strategy and Regional Transportation Plan.
- Improving the sustainability of our regional solid waste system through reducing the impact of solid waste garbage and recycling vehicles.

We urge you to remove the CMAQ set-aside and move the bill forward. Thank you for the opportunity to testify.

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SB 1008: Why Diverting CMAQ Funds Is a Bad Idea

Senate Bill 1008 includes a provision diverting 25% of the federal Congestion Mitigation and Air Quality (CMAQ) dollars that flow to Oregon into a fund to pay for efforts to reduce pollution from diesel engines. While this is a laudable goal, diversion of CMAQ dollars would be highly disruptive to well-established programs that have a proven track record of reducing transportation-related pollution, and is unlikely to result in efficient expenditure of the funds on diesel pollution reduction.

- **Regional flexible funds, including CMAQ funds, are strategically leveraged to bring in additional federal dollars and implement projects that improve air quality. A 25% set-aside jeopardizes the ability to leverage these funds and to achieve these air quality benefits.**

The Portland region has leveraged CMAQ funding to bring \$2 billion dollars of federal transportation funding to the state since 1991, which means that our region has more than tripled the amount of federal funding we bring in to build transportation projects that reduce air pollution.

CMAQ funding has been spent on transportation projects with high return on investment when it comes to emissions reduced per dollar spent. This includes transit expansion, bike and pedestrian infrastructure, and travel options. All of these projects also have significant co-benefits in terms of physical activity and public health.

The Portland region combines our CMAQ funding with three other sources of federal funds. We require any projects that use any of those funds to meet air quality guidelines, thereby expanding the number of projects that are focused on reducing air pollution.

- **A 25% reduction in CMAQ funding threatens the critical role these funds have played in supporting industrial expansion and economic development.**

For a quarter-century, the Portland region has chosen to aggressively reduce vehicle miles traveled (VMT) and associated pollution from transportation sources through the use of CMAQ and other regional flexible funds in order to allow a limited number of waivers for industry to expand without implementing the most costly pollution control technologies. This arrangement – which is explained on a separate attachment – is known as the “industrial growth allowance” and has enabled expansion of Intel and other major industrial facilities. Diverting CMAQ funds to a diesel retrofit program, which would not reduce VMT, places this program at risk.

- **SB 1008 would divert 25% of CMAQ funds beginning on July 1 of this year, but Oregon regions that currently receive these funds have already committed them through 2021 and beyond.**

Per ODOT, CMAQ funds are allocated in three-year cycles. Funds for the latest cycle, 2019-2021, were allocated last year. In the Portland region, this process involved months of negotiation between local governments, businesses and community groups. SB 1008 would require both the Portland region and the Rogue Valley region to revisit hard-fought funding commitments and decide which approved transportation projects should be delayed or canceled in light of the reduced funding.

Moreover, the Portland region bonds against its regional flexible funds, including CMAQ funds, to pay for major transportation projects, most recently the MAX Orange Line. The Orange Line funding commitment runs through the year 2027. In the most recent allocation, the region committed to

bonding through the year 2034 to support project development for three freeway bottleneck projects (I-5/Rose Quarter, I-205/Abernethy Bridge, I-217) and construction of two high-capacity transit projects (Southwest Corridor, Division Bus Rapid Transit) as well as a list of active transportation projects. A 25% set-aside would obviously undermine these existing and anticipated commitments.

- **A 25% diesel set-aside would be more damaging than another threat to CMAQ funding that several regions have spent the better part of the last year trying to solve.**

In 2016, after the Portland region completed the process of allocating the 2019-2021 regional flexible funds, it was determined that two additional regions now qualify for CMAQ funding: the Salem-Keizer region and the Eugene-Springfield region. However, no additional federal funding accompanies this determination. ODOT and the affected regions have been negotiating for months about how to provide funding to the newly eligible regions while holding the previously eligible regions harmless. A 25% set-aside would massively complicate this effort.

- **Because of the administrative requirements around the USDOT federal aid process, diverting CMAQ dollars to diesel emissions reduction efforts is unlikely to provide the benefits sought.**

Administration of federal CMAQ dollars comes with numerous requirements that increase costs for non-traditional recipients and transportation projects. In general, federal eligibility requirements and procurement rules (e.g., Buy America), pre-authorization clauses, NEPA compliance, rules around allowable costs for reimbursement, and documentation and reporting requirements (e.g., demonstration of long-term emissions reductions using Federal Highway Administration-approved methods) can increase project costs by 30%. Entities already familiar with administering USDOT funds are equipped to efficiently navigate the CMAQ requirements. For those agencies that are unfamiliar with these regulations, these administrative requirements pose a significant challenge and add significant costs. DEQ – which is currently not an administrator of CMAQ funds – is one such agency.

As proposed in SB 1008, the use of CMAQ funds for this program would raise additional federal eligibility and administration issues. For example, CMAQ recipients (e.g., DEQ) would need to demonstrate that diesel retrofit projects underwent a competitive allocation process. Even more problematic is the requirement that the emissions reduction benefit be realized in the CMAQ-eligible areas of the state, meaning that DEQ would have to prove to the Federal Highway Administration that any trucks receiving funding to update their engines are driving a majority of their miles within the Portland, Eugene, Salem, and Rogue Valley metropolitan areas. Yet the proposed diesel program only has a requirement that trucks drive 50% of their miles within the state of Oregon.

Moreover, CMAQ is a reimbursement program, which makes it very difficult for the private sector to use. This has frequently been a challenge with respect to diesel emissions reduction programs. To receive funding, a private sector company would have to have the financial capacity to implement the retrofit and then receive all approvals required by the CMAQ program before receiving any reimbursement. This can take years.

For these reasons and others, Oregon's track record of administering CMAQ funding to deliver non-traditional CMAQ projects is poor. For example, DEQ was awarded CMAQ funding for a school bus diesel retrofit project eight years ago through a competitive process and has not yet delivered the project.

Air Quality and Economic Development: the Portland Region's CMAQ Story

For twenty-five years, the Portland region has used the federal Congestion Mitigation and Air Quality Improvement (CMAQ) program to reduce the amount of air pollutants emitted by the transportation sector in order to allow for industrial growth in our region. The CMAQ program provides funding to areas that fail to meet federal ambient air quality standards, known as “non-attainment” areas, as well as areas that have moved from non-attainment into attainment but have the potential to revert back. The goal of the program is to decrease air pollution emissions from the transportation sector.

The Portland metropolitan region received a non-attainment designation from the U.S. Environmental Protection Agency (EPA) in 1991. This designation meant that our region failed to meet federal air quality standards, and we were required to develop a plan to curb emissions of air pollution from all sources in order to reduce the risk to human health. As part of an air quality improvement plan, each source – e.g., transportation, industry, etc. – is given an “emissions budget” to adhere to that is monitored by the Oregon Department of Environmental Quality (DEQ) and EPA.

In our air quality plan, the Portland metropolitan region implemented strict emissions budgets from transportation sources in order to provide greater opportunity for industrial expansion. By taking on these stricter emissions allowances, the transportation sector provided an offset to allow industries within the region to expand without having to implement the most stringent and costly air pollution control technologies. This offset is called the industrial growth allowance. Our region's commitment to longer-term transportation-related air pollution reduction measures allowed EPA and DEQ to approve industrial growth allowances, even when we were under the strictest regulatory controls.

Although the region is now in attainment, our state and federal commitments continue to require aggressive transportation air quality measures, partially to maintain the industrial growth allowance while meeting federal standards. In order to protect the industrial growth allowance in the future, the region has continued to take on strict emissions budgets for the transportation sector and adopted long-term transportation control measures (TCMs) which commit us to increasing transit service, building out the bicycle network, and focusing pedestrian infrastructure in growth centers, among other commitments. Under the current plan, even more transportation measures will be required if the amount of travel per person in the region measurably increases for two consecutive years.

Since 1991, the Portland region has grown from 1 million to 1.6 million people and added over 820,000 jobs. Even in the face of this growth, the region has continued to meet federal air quality standards. This is an accomplishment many other places, including Seattle, San Francisco, Los Angeles, Denver, and Sacramento, have not achieved. The ability to offset economic and population growth through a strong focus on transportation-related air pollution reduction measures has helped our region improve our air quality while simultaneously growing our economy. We have continued to plan for even more aggressive transportation measures in order to allow for economic development in the future.

The CMAQ dollars our region receives are even more important in this context, because they are critical to meeting our transportation targets and thus expanding the region's and ultimately the state's economy.

ⁱ <http://www.deq.state.or.us/aq/diesel/docs/DieselEffectsReport.pdf>