



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

100 Cambridge Street Suite 900 Boston, MA 02114 • 617-292-5500

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

RESPONSE TO COMMENTS ON EMERGENCY REGULATION AMENDMENTS TO

310 CMR 7.40

Low Emission Vehicle Program

**REGULATORY AUTHORITY:
M.G.L. c. 111 §§142A–142M; M.G.L. c. 21N**

February 3, 2025

On November 4, 2024, the Massachusetts Department of Environmental Protection (MassDEP) filed emergency regulations with the Massachusetts Secretary of the Commonwealth that amended 310 CMR 7.40, *Low Emission Vehicle Program*, to incorporate regulations promulgated by the California Air Resources Board (CARB) for the Heavy-duty Omnibus (HDO) model year (MY) 2026 legacy engine provisions. The emergency regulations also clarify exemptions for transit buses, emergency vehicles and military tactical vehicles, and delay the HDO effective MY from MY 2025 to MY 2026. These amendments were effective upon filing.

To make the regulations permanent, MassDEP solicited public comment to comply with the public review process requirements under Massachusetts General Laws Chapter 30A, Section 2. MassDEP held two public hearings on the amendments to 310 CMR 7.40 on December 9, 2024, and accepted written comments until December 19, 2024. Notice of the hearing and public comment period was published in the Boston Globe and the Worcester Telegram & Gazette on November 4, 2024, and in the Massachusetts Register on November 11, 2024. MassDEP filed a Notice of Compliance with the Secretary of the Commonwealth on February 3, 2025, which made the regulations permanent.

MassDEP received 91 sets of comments from the individuals and organizations listed in Attachment 1. In general, the trucking industry and users of trucks (e.g., businesses and municipalities) asked MassDEP to delay the HDO regulation effective MY to 2027 to align with U.S. Environmental Protection Agency (EPA) truck standards, and environmental advocates asked MassDEP to not delay HDO beyond MY 2025. MassDEP has summarized and responded to the comments below. In addition to comments regarding the HDO emergency regulations, many individuals and organizations included comments opposing or supporting MassDEP's Advanced Clean Trucks (ACT) regulations, which were not the subject of the emergency regulations. Since these comments were outside the scope of the HDO emergency regulations MassDEP has not summarized or responded to these comments.

1. **Comment:** MassDEP should not delay HDO implementation from MY 2025 to MY 2026 because:
 - The U.S. EPA granted a Clean Air Act (CAA) preemption waiver to California on December 18, 2024, which means MassDEP can begin enforcing its HDO regulations beginning with MY 2025.
 - Implementing HDO has many benefits, including that it provides carbon dioxide emissions reductions to meet the Commonwealth's climate goals, improves air quality and protects the health of Massachusetts' residents, and saves vehicle maintenance and fuel costs.
 - HDO gives significant flexibilities for automakers to be able to comply (and MassDEP should investigate any claims to the contrary) and therefore delaying implementation is not warranted.
 - The HDO delay lacks transparent, data-driven justification which have been the hallmarks of MassDEP's regulatory process. MassDEP should publicly share a detailed analysis of manufacturers' compliance capabilities to ensure accountability.

Response: MassDEP has made the emergency regulations permanent with no changes. The emergency regulation amended the initial model year that HDO is applicable from MY 2025 to MY 2026 to provide certainty to all stakeholders and because EPA had not yet issued a waiver for HDO when the emergency regulations were filed. While EPA has now issued a waiver for HDO, MY 2025 is already underway and restarting HDO part way through MY 2025 would create compliance issues not contemplated in the California regulations that Massachusetts must follow.

2. **Comment:** To ensure that medium- and heavy-duty vehicle (MHDV) users can work to reduce emissions and that the harmful impacts of this proposal are addressed, MassDEP should:
- Engage directly with organizations and residents in environmental justice populations and other neighborhoods most impacted by emissions from MHDVs.
 - Expand access to electric vehicle service equipment (EVSE) for MHDVs.
 - Provide support for municipalities seeking to procure zero-emission vehicles (ZEVs) for public purposes.
 - Increase air-quality monitoring and mitigation in impacted communities.
 - Develop an updated state-specific Action Plan for MHDV decarbonization.

Response: The emergency regulations amended the HDO regulations, which establish more stringent tailpipe emissions for new MHDVs. Separately from the HDO regulations, MassDEP is implementing the ACT regulation beginning in MY 2025 which requires increasing percentages of MHD zero emissions vehicles (ZEVs). Many of the strategies the Commonwealth is implementing in support of the ACT regulations are laid out in the *Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Action Plan*¹ that was developed to accelerate a transition to zero-emission trucks and buses. The Action Plan identifies barriers and opportunities for rapid and equitable truck and bus electrification and actionable policy and program recommendations for state policymakers, utilities, and utility regulators, and addresses many of the issues facing overburdened and underserved communities identified in this comment. The Commonwealth is actively participating in the Multi-State ZEV Task Force that developed the Action Plan and with the Electric Vehicle Infrastructure Coordinating Council (EVICC)² to support the transition to zero-emissions vehicles and will continue to engage with environmental justice advocates in these efforts.

As detailed in response #3 below, MassDEP and other state agencies have numerous incentive grants that provide funding for municipalities (and other entities) to purchase MHD ZEVs and install EVSE.

3. **Comment:** MassDEP should further delay implementation of HDO until MY 2027 when EPA and CARB share a uniform standard for NOx emissions. Additional support is needed to ensure the success of the Low Emission Vehicle (LEV) program and avoid an undue financial burden on communities and businesses, including increased funding opportunities for zero-emission vehicles (not limited to electric vehicles), increased funding for fueling and

¹ <https://www.f.nescaum.org/documents/multi-state-medium-and-heavy-duty-zero-emission-vehicle-action-plan/>

² See <https://www.mass.gov/info-details/electric-vehicle-infrastructure-coordinating-council-evicc> for additional information on EVICC efforts.

charging infrastructure, expanded state contracts, and strategic exemptions. Off-road emission reductions made great headway in the past because of available solutions at the time. Not having available solutions hinders daily work of MHDV users and keeps higher-emitting vehicles on the road longer.

Response: MassDEP has made the regulations permanent with no changes. HDO includes flexibility mechanisms, such as the legacy engine provision adopted in the regulations. In addition, HDO allows NOx compliance credits to be banked in the averaging, banking, and trading (ABT) program starting with MY 2022, to be used toward future compliance.

While HDO does not require the manufacturing of ZEV trucks, there is ongoing work to ensure that there is sufficient ZEV infrastructure available in Massachusetts. MassDEP's Diesel Emissions Reduction Act (DERA)³ program provides grants for the purchase of MHD ZEVs and charging infrastructure. The Department of Energy Resources (DOER) Fleet Electric Vehicle Supply Equipment (EVSE) Deployment Program⁴ also supports EVSE installation at state facilities. DOER's Massachusetts Offers Rebates for Electric Vehicles (MOR-EV)⁵ and MOR-EV Trucks⁶ programs offer rebates for the purchase or lease of light-, medium- and heavy-duty ZEVs to public and private entities. Numerous other efforts are underway to increase public ZEV charging station access to support the increase in ZEVs on Massachusetts roadways:

- MassDOT is using federal funds for the construction and operation of DCFC stations along major highway corridors under the National Electric Vehicle Infrastructure program (NEVI).⁷
- The Massachusetts Department of Public Utilities (DPU) authorized \$395 million in new funding to accelerate EV charging station deployment across the Commonwealth.⁸ This infrastructure investment supports “make-ready” programs delivered by Eversource Energy, National Grid, and Unitil for residential, fleet, public, and workplace customers.
- In December 2024, DOER received a \$5.9M EPA Clean Heavy-Duty Vehicle grant to replace 28 refuse haulers, step vans, and straight/box trucks.⁹
- On January 10, 2025, the U.S. Department of Transportation announced a \$14.4 million grant to the MassDOT to install 472 EV charging ports, providing accessible charging for multi-modal transit trips and prioritizing disadvantaged communities near dense multi-family housing areas.¹⁰

4. **Comment:** MassDEP should amend the regulations to classify the following vehicles as exempt “emergency vehicles.”

- Department of Public Works (DPW)

³ <https://www.mass.gov/how-to/apply-for-a-diesel-emissions-reduction-act-dera-electric-solicitation-grant>

⁴ <https://www.mass.gov/info-details/fleet-ev-charging-deployment-grant-program-20>

⁵ <https://mor-ev.org/>

⁶ <https://mor-ev.org/mor-ev-trucks>

⁷ <https://www.mass.gov/massdot-nevi-plan>

⁸ <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/16827694>

⁹ <https://www.epa.gov/clean-heavy-duty-vehicles-program/clean-heavy-duty-vehicles-grant-program-tentative-selections>

¹⁰ <https://www.transportation.gov/briefing-room/investing-america-biden-harris-administration-announces-635-million-awards-continue>

- Tow companies
- Utility companies
- Private-sector businesses (construction, landscaping, etc.)
- Contractors who perform services for all public entities
- Fleet Electrical Services (electric, gas, and telecommunications companies)
- All end users (manufacturers and distributors)
- Compressed Natural Gas (CNG) buses
- Plated off road equipment

If MassDEP does not believe it has the authority to amend the regulations because of references within the statute, then MassDEP should approach the Legislature about amending the statute.

Response: MassDEP did not classify any other vehicles as “emergency vehicles” as suggested. Under Section 209 of the federal CAA, California is allowed to set its own, more stringent, motor vehicle emissions standards instead of federal standards.¹¹ Section 177 of the CAA allows states to adopt California’s motor vehicle standards as long as they are identical to the California standards.¹² California Vehicle Code sections 27156.2¹³ and 27156.3¹⁴ exempt certain emergency vehicles from California laws and regulations that apply to “motor vehicle pollution control devices.” Since Massachusetts must be identical to California, MassDEP has adopted references to California Vehicle Code sections 27156.2 and 27156.3, and has not incorporated any other categories or entities proposed by commenters. Emergency vehicles are generally those used by fire, police, corrections, and emergency medical technicians/paramedics. Please see additional details in the Frequently Asked Questions (FAQs) at <https://www.mass.gov/doc/faq-on-massdep-hdo-and-act-implementation-0/download>.

5. **Comment:** Do school buses qualify under the HDO transit bus exemption?

Response: School buses do not qualify under the HDO transit bus exemption.

6. **Comment:** Rather than implementing the truck regulations, the state should do more with what is in place right now to help air quality by investing more in public transportation. They should expand and make all public transportation free for Massachusetts residents including all buses, trains and subways.

¹¹ U.S. EPA, Title II – Emission Standards for Moving Sources, Part A – Section 209, 42 U.S.C. §7543, <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap85-subchapII-partA-sec7543.pdf>

¹² U.S. EPA, Title I – Air Pollution Prevention and Control, Part D – Section 177, 42 U.S.C. §7507, <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap85-subchapI-partD-subpart1-sec7507.pdf>

¹³ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=27156.2.&lawCode=VEH

¹⁴ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=27156.3.&lawCode=VEH

Response: As noted in the Background Document that accompanied the emergency regulation, Massachusetts is required by statute to adopt California vehicle emissions standards if they achieve greater emission reductions than federal standards and therefore MassDEP has made the regulations permanent with no changes. In addition to clean truck rules the Commonwealth is investing more in public transportation. The Massachusetts Clean Energy and Climate Plan for 2025 and 2030¹⁵ details programs that improve public transportation and reduce vehicle miles travelled. For example, the Massachusetts Bay Transportation Authority (MBTA) Bus Modernization program invests in active transportation programs such as Complete and Shared Streets, works with employers to reduce unnecessary travel, and is developing a program to incentivize e-bike purchases to increase mode switching. Note that it is not within MassDEP's jurisdiction to make all public transportation free for Massachusetts residents.

7. **Comment:** Manufacturers are undermining the truck market in the U.S., pricing trucks as much as \$80K more than in Europe. MassDEP should help educate constituents about the HDO and ACT rules to clarify any misunderstanding and to ensure that misinformation does not run rampant. MassDEP should guide constituents to the sources of funding available to help reduce any cost premiums for electric vehicles, including rebates and tax incentives available at the federal and state level.

Response: The Massachusetts Clean Energy Center (MassCEC) is developing webpages with information on rebates, incentives and tax credits to help guide parties seeking to purchase MHD ZEVs. In addition, MassDEP has posted information about the truck regulations, including Frequently Asked Questions and other documents online at <https://www.mass.gov/guides/massachusetts-low-emission-vehicle-lev-program> to help educate interested parties and the public and clarify any misunderstanding.

¹⁵ <https://www.mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download>

Attachment 1

1. Christine M. Roane
2. Robert Kearns
3. Jane Nickodemus
4. Ray Orfan
5. Andrew Zucker
6. Tucker McNulty
7. Greg Dennis
8. Donald Henrich
9. Louis Zaczekiewicz
10. Richard Hassinger
11. Jennifer Sawyer
12. Harry Newell
13. Timothy Lundergan
14. Stephen Jones
15. Aliou Niane
16. Dan Franklin
17. Ray Stetkiewicz
18. Meghan Monson
19. Michaela Nielsen
20. John Wilson
21. Matt Eshelman
22. Erin Taylor
23. Kacey Bongarzone
24. Bernhard Meister
25. Neil Angus
26. Darren Chiarizio
27. Health Groups/Organizations Daniel Fitzgerald, American Lung Association
28. Health Professionals Daniel Fitzgerald, American Lung Association
29. Christopher R. Carlozzi, National Federation of Independent Business (NFIB)
30. Marc Valenti, Town of Lexington
31. David Melly, Environmental League of Massachusetts & 15 other Organizations (350 Massachusetts, Acadia Center, Alternatives for Communities and Environment, Arise for Social Justice, Black Economic Council of Massachusetts, Clean Water Action, League of Women Voters of Massachusetts, Mass Audubon, Newton EV Task Force, CALSTART, Conservation Law Foundation, Environmental Defense Fund, Green Energy Consumers Alliance, Sierra Club of Massachusetts, and Union of Concerned Scientists)
32. Ruthanne Fuller, City of Newton
33. Mason White, Ice Glen Holdings, Inc. DBA Fleet Electrical Service
34. Robert A. Rio, Massachusetts Chemistry & Technology Alliance (MCTA)
35. Sean Flynn, Flynn's Truck Plaza
36. Kate Roy, Massachusetts Municipal Wholesale Electric Company (MMWEC)
37. Richard Clemence, Hyde Group Inc.

38. Kevin Shen, Union of Concerned Scientists (UCS)
39. Antonio Pagliarulo, Green Dalton Committee
40. Sean Lyonais, Al's Oil Service LLC
41. Peter Ferraro, Flynn's Truck Stop and Al's Oil Service
42. Shelly Dein, Town of Arlington's Clean Energy Future Committee
43. Edward Flynn, Heating oil company
44. Michael Davis, Attleboro Sustainability Commission
45. Jennifer Pederson, Massachusetts Water Works Association (MWWA)
46. Kate Sullivan Craven, Holyoke Gas & Electric (HG&E)
47. Scott J. Crisafulli, Town of Milford
48. William Sperrazza, Town of Wilbraham
49. Brian Houghton, Massachusetts Food Association (MFA)
50. Jim Flanagan, Reed Machinery, Inc.
51. Don Knapp, Massachusetts Movers Association
52. Steven Rocheleau, Rocheleau Tool & Die Co., Inc
53. Robert F. O'Koniewski, Kevin Weeks, Trucking Association of Massachusetts (TAM) & Massachusetts State Automobile Dealers Association (MSADA)
54. Joseph F. Nolan, Utility Contractors' Association of New England (UCANE)
55. Jason Mathers, Zero-Emission Truck Initiative on behalf of Environmental Defense Fund
56. Sue Gander, World Resources Institute, Electric School Bus Initiative
57. John Drenzo, Statewide Towing Association
58. Adam Chapdelaine, Massachusetts Municipal Association
59. Bill Rennie, Retailers Association of Massachusetts
60. Karen Connelly, Massachusetts Association of Lawn Care Professionals
61. Rishi Reddi, Ceres
62. Chris Egan, Massachusetts Forest Alliance
63. Craig Dauphinais, Massachusetts Aggregate & Concrete Producers Association (MaCAPA)
64. Michael S. Giaimo, American Petroleum Institute (API)
65. Harmon Hirtz, SwissTurn USA
66. Chris Connors, Massachusetts Association of Landscape Professionals (MALP)
67. Kevin Cleveland, Massachusetts Arborists Association (MAA)
68. Vincent J. Ragucci, III, Energy New England (ENE)
69. Magda Garncarz, Associated Industries of Massachusetts (AIM)
70. Jordan Stutt, CALSTART
71. Zachary Tsetsos, Eversource, National Grid, Unitil, and Verizon (Utility Companies)
72. Sarah Krame, Sierra Club
73. Scott Johndrow, Town of Westhampton
74. Adrienne Nunez, MMA
75. Christopher Cronin, Andover
76. Tricia Yacovone-Biagi, Shelburne Selectboard
77. Tonya Capparello, Wilbraham DPW
78. Daniel Fitzgerald, American Lung Association

79. Michael Boynton, Medway Town Manager
80. Kristina Poydenis, Conservation Law Foundation (CLF)
81. Anna Vanderspek, Green Energy Consumers Alliance
82. James Nee, MetroWest RTA (MWRTA)
83. Brian Buckley, Ballard Trucks
84. Mary Ellen DeFrias, GATRA
85. Michael Ferrante, Massachusetts Energy Marketers Association
87. Jim Blake, Massachusetts Energy Marketers Association member, Danvers resident
88. Mitchell Guralnick, New England Bus Association
89. John McAteer, J.F. White Contracting Co.
90. Paul Hilton, Cape Cod Collaborative
91. Rebekah Whilden, Sierra Club