



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Bethany A. Card
Secretary

Martin Suuberg
Commissioner

BACKGROUND DOCUMENT ON PROPOSED REGULATION

310 CMR 7.41

Large Entity Reporting Requirement

REGULATORY AUTHORITY: M.G.L. c. 111 §§142A-142E and 142K; M.G.L. c. 21N

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I. SUMMARY

The Massachusetts Department of Environmental Protection (MassDEP) is proposing to adopt new regulation 310 CMR 7.41, *Large Entity Reporting Requirement*, which requires certain owners of medium- and heavy-duty (MHD) vehicle fleets to submit a one-time report to MassDEP 6 months after the regulation is finalized. This report will enable MassDEP to assess the best way to develop electric vehicle charging infrastructure and other programs to support and accelerate the MHD zero emission vehicle (ZEV) market in Massachusetts. The proposed regulation is modeled on the California Air Resource Board (CARB)'s one-time Large Entity Reporting (LER) Requirement for medium- and heavy-duty (MHD) vehicles.

II. BACKGROUND

On-road MHD vehicles that operate throughout Massachusetts are an essential part of the state's economy. However, trucks are a significant source of nitrogen oxides (NOx) that lead to ozone formation, particulate matter (PM), and greenhouse gas (GHG) emissions in Massachusetts. Reducing emissions from trucks is an important part of Massachusetts' programs to meet and maintain the health-based National Ambient Air Quality Standards (NAAQS), reduce the risk from exposure to toxic diesel PM, and reduce the GHG emissions that contribute to climate change.¹

In response to the threat of climate change, in 2008 Massachusetts enacted the Global Warming Solutions Act (GWSA), containing M.G.L. Chapter 21N which set goals to achieve GHG reductions of 10-25% below 1990 levels in 2020 and at least 80% in 2050 from all sources. In 2021, Governor Baker signed An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy that amended the GWSA to require emissions reduction limits from 1990 levels, of 50% in 2030, 75% in 2040, and net zero GHG emissions in 2050. The amendments to M.G.L. c. 21N also require the Secretary of Energy and Environmental Affairs (EEA) to establish statewide limits for 2025, 2035 and 2045 and sector sublimits for specified sectors, as well as roadmap plans to achieve the statewide limits and sector sublimits. The transportation sector is one of the sectors for which EEA first set sublimits for 2025 and 2030 on June 30, 2022.² Currently, GHG emissions for the transportation sector are the largest for any sector. Pursuant to work done under the Massachusetts' GWSA, Massachusetts' 2019 GHG emissions for the transportation sector are estimated at 30.8 million metric tons of carbon dioxide equivalents (MMTCO_{2e}), which is 43% of the total GHG statewide emissions in the 2019 inventory.³

¹ CARB is developing updated standards applicable to passenger cars, light-duty trucks, and medium-duty passenger vehicles. MassDEP is following CARB's progress, and, as indicated on page 39 of the *Massachusetts Clean Energy and Climate Plan for 2025 and 2030* (available at <https://www.mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download>) "California is currently in the process of promulgating a new Advanced Clean Cars II regulation that will require continued growth in zero-emission passenger vehicle sales, until ZEV sales reach 100% of all passenger vehicle sales by 2035. Massachusetts was the first participating state to endorse this goal and will promulgate the next round of regulation by the end of 2022."

² See p. xiii in <https://www.mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download>.

³ See <https://www.mass.gov/doc/statewide-greenhouse-gas-emissions-level-proposed-1990-baseline-update-appendix-c/download>.

MassDEP has broad authority to promulgate regulations regarding pollution of the atmosphere and to control or prevent such air pollution. See M.G.L. c. 111, Sections 142A-142E. In addition, M.G.L. c. 21N, Section 2, as amended, requires in relevant part that:

[MassDEP] shall establish programs to monitor ... emissions of greenhouse gases and shall promulgate regulations regarding sources or categories of sources that emit greenhouse gases in order to achieve greenhouse gas emissions limits and sublimits and implement the roadmap plans established by this chapter.

While 310 CMR 7.41 will have no direct emission impacts, it will require the collection of information that will assist the Commonwealth to develop programs and policies to reduce MHD vehicle emissions of criteria and GHG pollutants.

MassDEP is also addressing MHD vehicle emissions through adoption of CARB's Advanced Clean Trucks (ACT), Phase 2 GHG, and Heavy-duty Omnibus regulations. ACT accelerates the introduction of Zero Emission Vehicles (ZEV) in the MHD truck sector, Phase 2 GHG requires manufacturers to improve existing technologies or develop new technologies to meet the requirements, and Heavy-duty Omnibus requires NO_x emissions reductions from new on-road heavy-duty engines and ensures emission reductions are maintained as those engines and vehicles are operated. MassDEP adoption of California's MHD engines and vehicles regulations, in combination with other programs and regulations, will reduce Massachusetts GHG emissions, which will contribute to achieving the statewide greenhouse gas emissions limits of 33% reduction in emissions in 2025, 50% in 2030, 75% in 2040 and net zero in 2050, as well as any additional interim statewide limits or sector sublimits that are established by EEA under Massachusetts GWSA.

III. DESCRIPTION OF PROPOSED REGULATIONS

The proposed 310 CMR 7.41 one-time Large Entity Reporting Requirement requires certain entities and brokers to submit information about MHD vehicle use to MassDEP so it can assess the ways to develop and locate charging infrastructure and programs on how to support and accelerate the MHD ZEV market in Massachusetts. 310 CMR 7.41 is modeled on the Advanced Clean Trucks, Large Entity Reporting Requirement adopted by CARB on March 15, 2021 at 13 CCR 2012 through 2012.2. The one-time Large Entity Reporting Requirement applies to each of the following entities:

- a) Any entity with gross annual revenues greater than \$50 million in the United States for the 2021 tax year, including revenues from all subsidiaries, subdivisions, or branches, that operated a facility in Massachusetts in 2021 and had one or more vehicles over 8,500 lbs. GVWR under common ownership or control that were operated in Massachusetts in calendar year 2021.
- b) Any fleet owner in the 2021 calendar year that had 40 or more vehicles with a GVWR greater than 8,500 lbs. under common ownership or control and operated a facility in Massachusetts.

- c) Any broker or entity that dispatched 40 or more vehicles with a GVWR greater than 8,500 lbs. into or throughout Massachusetts and operated a facility in Massachusetts in calendar year 2021.
- d) Any Massachusetts government agency, including all state agencies and local municipalities, that had one or more vehicles over 8,500 lbs. GVWR that were operated in Massachusetts in calendar year 2021 and any non-public school that operated one or more school buses over 8,500 lbs. GVWR in calendar year 2021.
- e) Any federal government agency that had one or more vehicles over 8,500 lbs. GVWR that were operated in Massachusetts in calendar year 2021.

The following entities, facilities, or vehicles are exempt from the reporting requirement:

- a) Military tactical vehicles and military tactical facilities owned or operated by the United States Department of Defense and/or the United States military services.
- b) Vehicles awaiting sale.
- c) Emergency vehicles.

Entities subject to 310 CMR 7.41 must report to MassDEP electronically no later than 6 months after the regulation is finalized. Information that must be reported includes the number of vehicles, general information about the vehicle home base where vehicles are domiciled or assigned to determine suitability for electrification, and information about vehicle operating characteristics, such as fuel, vehicle type, typical mileage per day and year, typical replacement cycle, whether the vehicle has predictable usage patterns, and whether the vehicle returns to a home base daily, remains near base, remains parked for 8+ hours, or is used to support emergencies. All reports must be signed by a Responsible Official and maintained until December 31, 2025.

IV. IMPACTS OF PROPOSED REGULATIONS

1. Economic Impacts

CARB estimates reporting costs of \$50 per hour and 25 hours per entity, or approximately \$1,250 for each entity. While there are some 1,700 Massachusetts entities with 40 or more Massachusetts-registered vehicles of all kinds, only a subset of these entities will have MHD vehicles subject to 310 CMR 7.41.

2. Impacts on Massachusetts Municipalities

Pursuant to Executive Order 145, state agencies must assess the fiscal impact of new regulations on the Commonwealth's municipalities.

Municipal facilities will be affected by 310 CMR 7.41 in the same manner as other owners of MHD vehicles. Municipalities may encounter increased costs due to the requirements of the regulation.

3. Massachusetts Environmental Policy Act (MEPA)

Pursuant to 301 CMR 11.03(12) (Massachusetts Environmental Policy Act Regulations), MassDEP is not required to file an Environmental Notification Form (ENF) regarding the proposed regulations because the regulations do not reduce standards for environmental protection, nor do they reduce opportunities for public participation in review processes or public access to information generated or provided in accordance with the regulations.

V. PUBLIC HEARING AND COMMENT

MassDEP will hold a public hearing on the proposed regulations in accordance with M.G.L c. 30A on October 4, 2022. MassDEP will accept written comments for 10 days after the public hearing, until October 14, 2022. The public hearing notice and proposed regulations are available on MassDEP's website at: <https://www.mass.gov/regulations/310-CMR-700-air-pollution-control#proposed-amendments-public-comment>. For further information, please contact Ngoc Hoang at ngoc.hoang@mass.gov.