Testimony on behalf of HB 2814

Chair Marsh, Vice Chair Helm and Brock Smith, and members of the committee,

My name is Kevin Downing. I reside at 6202 SE 21st Ave. Portland. I had served the state of Oregon as an employee at the Department of Environmental Quality for 26 years, the last 18 as the originator and, almost always during this time, the sole resource for the Oregon Clean Diesel Initiative. I retired in 2018.

Oregon's Voluntary Approach to an Environmental/Public Health Problem

The Clean Diesel Initiative sought to secure reductions in diesel emissions from older, legacy engines outside a regulatory framework. We emphasized three broad strategies: Burn Fuel Cleaner (retrofit, repower, replace), Burn Cleaner Fuel (switch to alternatives like, natural gas, propane, electricity) and Burn Less Fuel (improving efficiency in operations, reducing unnecessary idling). There was no regulatory structure for this, so it was to be done by securing voluntary involvement. More on the limits of this approach later.

I was assigned this work in recognition of a growing body of scientific and medical analysis acknowledging that the exhaust from diesel engines was a significant health risk at ordinary and common levels of exposure, including people with no direct involvement with these engines. My work assignment also acknowledged that the federal response to this issue was inadequate, principally because emission standards for engines at this level applied only to new equipment and vehicles, relying upon market driven turnover to secure any health, welfare and environmental benefits. With a diesel engine's durability, this requires tremendous patience. As an anecdotal example, a Portland based towboat company explained to me that when they were building a towboat in the 1980s, they installed a perfectly good engine from a World War II submarine, only finally scrapping it after an additional 25 years of operation.

Economics Around Diesel - Both Adverse and Supportive Towards Reduction Efforts

In the towboat example, and every other circumstance where someone purchased a diesel engine, they were making a sound business decision. Since first developed in the late 1800s, the diesel engine remains the most efficient internal combustion engine available. Its durability and power make it the obvious choice where these factors are paramount, most notably in moving freight and construction. These business decisions are made because every day economic factors narrowly avoid any consideration of, in this case, downwind costs. Instead these costs effectively represent a subsidy borne by others. In the case of diesel, these are substantial. EPA's and other independent scientific estimates put the cost burden at between $3.50 and $5 per gallon of fuel consumed. The current price for diesel fuel in Oregon, according to AAA, is $2.72. Ordinary economics in the marketplace fails to account for environmental costs. At the same time, the scale of the public costs warrants taking action, but how?

The Limits of a Voluntary Appeal

Most times, “voluntary” means you can choose to act or ignore the request. In the case of the Initiative, we considered the notion of voluntary to be slightly different, i.e., the decision was not whether but how to act in response to this bona fide health and environmental issue. Fleet owners in this paradigm had the opportunity to decide the option that best suited their circumstances. This also meant that taking action voluntarily would reduce a necessity to adopt further regulations.

After most initial presentations and pitches to fleet managers, the question most commonly raised was, what is Tri-Met doing? This translated loosely as, why should I do something when a bigger actor is in play? This was a reasonable query because Tri-Met was, and may still be, the single largest user of diesel fuel in Oregon. Also compelling, its operations centered in the most urbanized and densely populated communities in Oregon. So we approached Tri-Met for a meeting with the General Manager, who at that time had recently returned from Oregon where he had served as the Deputy Director of the US EPA in the Clinton administration and before that had been the Executive Director of the Oregon Department of Environmental Quality, presumably a receptive audience. Nonetheless, he turned down a request to take actions similar to what had been implemented with the Seattle transit fleet. We pointed out that a fare increase of just 5 cents would cover the cost to install exhaust retrofits, this in a year when no fare increase was planned after a number of years where the fare was increased by 25 cents each year. The reason offered was that fare increases were only for service improvements and, although the agency promoted itself as essential for air quality improvement, this could not be considered a service improvement. To this day, Tri-Met has retained and still operates unfiltered buses, even as it has purchased new buses.

Oregon Lacks a Strong Signal for Change

A voluntary approach puts the burden on the fleet owner and makes them responsible for change. As we have seen, marketplace economics fails to support the fleet owner in this respect. For private fleets, any action taken may put them at competitive disadvantage to others. As a result, Oregon has a truck fleet and a nonroad equipment inventory that is older than accounted for based on comparison to national surveys. Our proximity to California and Washington state (in the case of the ports of Seattle and Tacoma), where requirements restricting the use of older diesels has led to some migration of older noncompliant vehicles and equipment to Oregon in substantial enough numbers so as to offset any gains taken voluntarily by Oregon fleets under the Initiative.

We lack a strong signal to fleet owners to take the challenge of eliminating older diesel engines. Creating strong social cues that are compelling and incontrovertible is certainly a public policy option. An incomplete example is beverage container recycling, something of which Oregonians take some certain pride. We forget that even with anti-littering laws that Oregonians were just as likely as anyone else to toss cans and bottles alongside the road. The situation is completely different now because of incentives like the deposit fee but also because of changes in social expectation, as well as littering laws.

I am at a loss as to how to replicate what happened with the Bottle Bill to this situation. However, it is clear that the voluntary approach is not at all effective. Continuing with current level of effort, which is disjointed, lacks focus and, in the case of the VW settlement funds, is temporary, compels us to a position of simply waiting for the last engine to be scrapped. This is an inadequate and unacceptable outcome to a circumstance that risks the lives of Oregonians at the same scale as motor vehicle deaths every year. HB 2814 identifies a legally feasible approach to implementing a strong signal so that we don't wait another twenty years for relief. I urge your support for HB 2814.