

WESTCHESTER COUNTY HEALTH DEPARTMENT
RULES & REGULATIONS
FOR
ONROAD AND NONROAD VEHICLES; EMISSION STANDARDS
IN
WESTCHESTER COUNTY, NEW YORK

**Adopted by the Commissioner Pursuant to
Article II, Section 873.203.2 of
Chapter 873 of the Laws of Westchester County**

Effective Date March 2, 2009

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1.0 General Provisions

These Rules & Regulations for Onroad and Nonroad Vehicles, Emissions Standards in Westchester County (the "Rules and Regulations") supplement the Air Quality; Onroad and Nonroad Vehicles, Emissions Standards, Chapter 873, Article XIII, Section 873.1329 of the Laws of Westchester County (the Law). The Law was duly adopted on February 6, 2006 and effective on February 10, 2006. Please refer to the Law which may be found at the Westchester County Department of Health (WCDH) website www.westchestergov.com/health.

The Law applies to onroad and nonroad diesel vehicles owned, leased and/or operated by or on behalf of Westchester County (County) when used to perform County work.

Onroad diesel vehicle is defined as any self-propelled vehicle designed for transporting persons or property on a street or highway that operates on diesel fuel.

Nonroad diesel vehicle is defined as vehicle that is powered by a diesel engine fifty (50) horsepower or greater, including but is not limited to power generators, compressors, excavators, backhoes, cranes, bulldozers and similar equipment.

The Law applies to agreements or contracts by contractors and subcontractors with Westchester County; executed after the effective date of the Law that has a total value of more than \$150,000.00 (amount is increased by \$5000.00 on the First of January yearly following the Law effective date until it reaches a maximum of \$250,000.00).

1.1 The Law where applicable requires that:

- All onroad and nonroad diesel vehicles be powered by Ultra Low Sulfur Diesel Fuel (ULSDF).
- All onroad diesel vehicles with model year 2003 engines and older be retrofitted with the Best Available Technology (BAT).
- All nonroad diesel vehicles that are powered by diesel engines 50 horsepower or greater, model year 2003 and older shall be retrofitted with the BAT.
- All onroad diesel vehicles with model year 2004 engines and newer, and have gross vehicle weight of more than 14,000 pounds be retrofitted with BAT or equipped with engines certified to the United States Environmental Protection Agency (USEPA) 2007 standards for particulate matter in accordance with 40CFR 86.007-11.
- All nonroad diesel vehicles, that are powered by diesel engines 50 horsepower or greater, model year 2004 and newer be retrofitted with

BAT or equipped with engines certified to the USEPA 2007 standards for particulate matter in accordance with 40CFR 86.007-11.

BAT is defined as system reducing particulate matter emissions by at least 85% or reducing particulate emissions to less than or equal to 0.01 grams diesel particulate matter per break horsepower per hour; and achieves the greatest reduction in NO_x emissions at reasonable cost.

The system utilized for reducing the emissions of pollutants shall be based on technology verified by the USEPA or the California Air Resources Board (CARB) or which has been identified pursuant to New York City's Department of Environmental Protection (NYCDEP) under the Local Law 77.

2.0 Applicability

Please refer to Section 2. of the Law which may be found at the WCDH website www.westchestergov.com/health for further details.

The Law is applicable to all onroad and nonroad diesel vehicles owned, leased and/or operated by the County and contractors and subcontractors performing County work with the agreements or contracts value of more than \$150,000 (amount is to increase by \$5000.00 on the first of January yearly following the Law effective date until it reaches a maximum of \$250,000.00).

The Law is not applicable to Federal or State funded projects that precludes the requirements of the Law, diesel emergency response vehicles, vehicles associated with emergency procurements, or to any agreements or contracts entered into prior to the effective date. In addition, the Law is not applicable to labor, services, materials and/or equipment provided by (1) a common carrier, (2) a shipping company (including overnight delivery companies) or (3) a manufacturer or delivery company which does not deliver materials or equipment to Westchester County government on a regular and frequent basis.

Onroad and nonroad vehicles may be exempt by WCDH from BAT retrofit if BAT is not available for the type of vehicle (see Section 5.0 Verified Best Available Technology) or if the vehicle is used for fewer than five (5) calendar days per task per contract.

The BAT retrofit may be waived by WCDH for onroad and nonroad vehicles if the use of BAT poses a hazard to the engine performance or poses a threat to the safety of employees and the public.

3.0 Law Implementation Schedule

- A. All onroad and nonroad diesel vehicles to which the Law applies shall be powered by ULSDF (15 parts per million (ppm) maximum sulfur content) no later than September 1, 2006.
- B. All onroad and nonroad diesel vehicles to which the Law applies shall utilize BAT or be equipped with engines certified to the applicable 2007 USEPA standard for particulate matter as set forth in Section 86.007-11 of Title 40 of the Code of Federal Regulations by September 1, 2009.
- C. All onroad and nonroad diesel vehicles to which the Law applies shall be retrofitted in accordance with the schedule set forth in this section prior to the start of County work.

4.0 Ultra Low Sulfur Diesel Fuel

All onroad and nonroad diesel vehicles, subject to the Law, shall be powered by ULSDF regardless of size and weight of the vehicle or the BAT selected. In the event that sufficient quantities of ULSDF are not available, contractors and subcontractors may request, in writing, a determination permitting the use of diesel fuel with a sulfur content of no more than thirty parts per million (30 ppm). Contractors and subcontractors shall use whatever quantity of ULSDF available first. The determination expires sixty (60) days from the date the determination is issued and may be renewed for additional periods of sixty (60) days, on a case by case basis.

5.0 Verified Best Available Technology

Each type of diesel powered onroad and nonroad vehicle shall be retrofitted with BAT that:

- A. reduces diesel particulate matter emissions by at least 85%, as compared to a similar engine operating on traditional diesel fuel without emission control technology, or reduces engine emissions to 0.01 grams diesel particulate matter per brake horse power per hour or less; and
- B. achieves the greatest reduction in emissions of nitrogen oxide at a reasonable cost and in no case produces a net increase in nitrogen oxides in excess of 10%.

In the case where BAT is not available for the type of vehicle, or there exists constraints; such vehicle may be retrofitted with alternate available control technology that will achieve the greatest reduction in emissions. All alternate available control technology shall require prior approval from the WCDH for reducing the emission of pollutants. Prior to selecting the alternate control technology, contractors and subcontractors must demonstrate to WCDH that the BAT is not available or operational constraints limit the use of BAT with the specific vehicles.

For newly purchased vehicles, BAT may be Original Equipment Manufacturer installed control technology and need not be shown on the EPA/CARB list. In which case, contractors and subcontractors shall submit supporting documentation stating as such.

5.1 Best Available Technology Categories

Contractors and subcontractors shall select BAT in the order of categories listed below and more information can be found on the NYCDEP website:

http://www.nyc.gov/html/dep/html/air_and_noise/index.shtml (choose Local Law 77 and Final Rule 2008):

Category I – Any properly installed and functioning system utilizing a Diesel Particulate Filter (DPF) from either the USEPA or CARB verified list, demonstrating an 85% or greater reduction in particulate matter.

If Category I is not available for the type of vehicle, or there exists constraints; such vehicle may be retrofitted with alternate available control technology described in Categories II and III below. The alternate control technology installed must be one that provides the greatest reduction in particulate matter that is available. Prior approval is required for all alternate control technology prior to installation.

Category II – Any properly installed and functioning system utilizing a Diesel Oxidation Catalyst (DOC) or Catalyzed Wire Mesh Filter (CWMF) Flow through Filter (FTF) from either the USEPA or CARB verified list, demonstrating a 50% or greater reduction in particulate matter.

Category III – Any properly installed and functioning system utilizing a Diesel Oxidation Catalyst (DOC) or any emulsified diesel fuel from either the USEPA or CARB verified list produces not less than 25% reduction in particulate matter.

The verified list can be obtained by accessing the following websites:

<http://www.epa.gov/otaq/retrofit/verif-list.htm>

<http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

If the use of BAT or the alternate control technology poses a hazard to the engine performance or a threat to the safety of employees and the public, a waiver from WCDH may be issued provided that contractors and subcontractors provide supporting documentation satisfactory to WCDH.

5.2 Best Available Technology Applicability

Contractors and subcontractors are not required to replace BAT or other authorized alternate control technology within three (3) years from the date contractors and subcontractors first utilizing such technology in accordance with the provisions of the Law.

Contractors and subcontractors utilizing authorized alternate control technology (Categories II or Categories III) may use such technology for three years from the date contractors and subcontractors first utilizing such technology in accordance with the provisions of this Law. After such three year period, if a better alternate control technology or BAT becomes available, contractors and subcontractors may be required to utilize the better alternate control technology or BAT available at that time. Contractors and subcontractors may be required to replace the installed alternate control technology with the better alternate control technology or BAT within six (6) months from the conclusion of the three year period or from the date the better alternate control technology or BAT becomes available or from the date the better alternate control technology or BAT replacement is required, whichever is later.

5.3 Best Available Technology Registration

After the installation of BAT or the alternate control technology satisfactory to the WCDH and prior to starting the County work, contractors and subcontractors shall make arrangements to have such BAT or alternate control technology installation verified by WCDH. Once the BAT or alternate control technology is verified, WCDH shall affix a decal to the vehicle. The decal assigned to each vehicle is not transferable and shall be conspicuously displayed on the vehicle.

Onroad and nonroad vehicles that are exempt by WCDH from BAT or the alternate control technology or if BAT or alternate control technology is waived by WCDH, contractors and subcontractors shall make arrangements to have the WCDH affix a decal to such vehicles.

Once a WCDH decal has been affixed to an onroad or nonroad vehicle, then the decaled vehicle may be utilized for County work as long as BAT or the alternate control technology is valid in accordance with the Law and the decal remains legible and affixed to the vehicle and the BAT or the alternate control technology has not been replaced or modified.

All contractors and subcontractors shall comply with Section 7.0 Reporting Requirement as long as the decaled vehicle is used for County work.

6.0 Agreements and Contracts

Westchester County shall specify in all of its solicitations, bids and requests for proposals to perform County work that all contractors and subcontractors shall comply with the provisions of the Law. Please refer to Section 2. of the Law which may be found at the WCDH website www.westchestergov.com/health for further details.

7.0 Reporting Requirements

- A. Contractors and subcontractors shall submit to WCDH, on a monthly basis, the Vehicle Equipment Information Form (Form I) completed in its entirety, updated as necessary, accurately listing all onroad and nonroad diesel vehicles utilized for County work.
- B. Contractors and subcontractors shall submit to WCDH the Vehicle/Equipment ULSDF Form (Form II) completed in its entirety, updated as necessary, accurately denoting such onroad and nonroad diesel vehicles that were powered by ULSDF or other diesel fuel with sulfur content not greater than 30 ppm and the quantity of diesel fuel needed to power each onroad and nonroad diesel vehicles to which the Law applies.

8.0 Contractor Violations

- 1. The Law establishes civil penalties for non-compliance in the amount of not to exceed \$10,000.00 plus twice the amount of money saved by such contractor or subcontractor for failure to comply with any provisions of the Law.
- 2. Any contractor or subcontractor who makes a false claim may be liable for a civil penalty not to exceed \$20,000.00, in addition to twice the amount of money saved by such contractor or subcontractor as a result of having made such false claim.