

**LOCAL LAW NO. OF 2006
COUNTY OF ROCKLAND
STATE OF NEW YORK**

(Sponsor: Hon. Harriet D. Cornell;
Co-Sponsors: Hon. Roman Rodriguez, Hon. Philip Soskin)

JAFFEE/WOLFE: UNAN.

A local law relating to the reduction of the emission of pollutants from the county's on-road, diesel fuel-powered motor vehicles and requiring annual reports to the county executive and legislature of Rockland county.

Be it enacted by the legislature of the county of Rockland as follows:

Section 1. Name of local law

This law shall be known as "the Rockland county ultra low sulfur diesel fuel and best available retrofit technology act"

Section 2. Definitions.

When used in this law:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies,

as set forth in section 5 of this local law, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "County department" means any department of Rockland county government that uses diesel-powered vehicles in any capacity. It does not include contract agencies.

(3) "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

(4) "Motor vehicle" means a vehicle owned by the county and operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the office of fire and emergency management, or the sheriff's office.

(5) "Person" means any individual, partnership, firm, company, association, joint stock association, corporation or other like organization.

(6) "Reasonable cost" means that such technology does not cost greater than forty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission

control strategies, as set forth in section 5 of this local law, when considering the cost of the strategies, themselves, and the cost of installation.

(7) "Specially equipped vehicle" means a motor vehicle defined as specially equipped pursuant to rules and regulations developed and approved by an appropriate department of county government designated by the county executive, and adopted by the legislature of Rockland county.

(8) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

Section 3. Use of ultra low sulfur diesel fuel required.

(1) Each diesel fuel-powered motor vehicle owned, leased, or operated by a county department shall be powered by ultra low sulfur diesel fuel.

(2) Diesel fuel-powered motor vehicles having a gross vehicle weight rating of more than 8,500 pounds that are owned or operated by county departments shall utilize the best available retrofit technology or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, pursuant to the following schedule:

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|--------------------------------|---------------------|
| 10% of all such motor vehicles | by January 1, 2007; |
| 20% of all such motor vehicles | by January 1, 2008; |
| 30% of all such motor vehicles | by January 1, 2009; |

50% of all such motor vehicles	by January 1, 2010;
70% of all such motor vehicles	by January 1, 2011;
90% of all such motor vehicles	by January 1, 2012;
100% of all such motor vehicles	by July 1, 2012.

Section 4. County executive discretion regarding technology

(1) The county executive shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered motor vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than annually.

(2) The county executive may determine that a technology, whether or not it has been verified by the United States environmental protection agency or the California air resources board, may be appropriate to test, on an experimental basis, on a particular type of diesel fuel-powered motor vehicle owned or operated by a county department. The county executive may authorize such technology to be installed on up to three of such type of motor vehicle. Any motor vehicle on which such technology is installed may be counted for the purpose of meeting the requirements of section 3(2) of this local law. Such technology shall not be required to be installed on other motor vehicles of the same type and shall be subject to the provisions of paragraph three of this section.

(3) No county department shall be required to replace best available retrofit technology or experimental technology utilized for a diesel fuel-powered

motor vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle, except that technology that falls within level 4, as set forth in section 5 of this law, shall not be required to be replaced until it has reached the end of its useful life.

Section 5. Classification of diesel emission control strategies.

The classification levels for diesel emission control strategies are as follows, with level 4 being the highest classification level:

Level 4 – strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

Level 3 – strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

Level 2 – strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

Level 1 – strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

Section 6. Procedure when ultra-low sulfur diesel fuel is unavailable.

The county executive shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of this law if ultra low sulfur diesel fuel is not available to meet the needs of county departments to fulfill the requirements of this law.

Such determination shall expire after six months and shall be renewed in writing every six months if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

Section 7. Waiver.

The county executive may issue a waiver for the use of ultra low sulfur diesel fuel where a county department makes a written finding, approved in writing by the county executive, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to section 6 of this law, is not available to meet the requirements of this law, provided that such department, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for its diesel fuel-powered motor vehicles. Any waiver issued pursuant to this section shall expire after two months, unless the county department renews the finding, in writing, and the county executive approves such renewal, in writing.

Section 8. Report to county executive and legislature.

(1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the appropriate department or departments of county government, as determined by the county executive, shall submit a report to the county executive and legislature of Rockland county regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available

retrofit technology by diesel fuel-powered motor vehicles owned or operated by county departments during the immediately preceding calendar year. The information contained in this report shall include, but not be limited to, for each county department: (i) the total number of diesel fuel-powered motor vehicles owned or operated by such department; (ii) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel; (iii) the total number of diesel fuel-powered motor vehicles owned or operated by such department having a gross vehicle weight rating of more than 8,500 pounds; (iv) the number of such motor vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle; (v) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for particulate matter that is at least as stringent; (vi) the number of such motor vehicles that utilized technology in accordance with paragraph two of subdivision c of this section and the results and analyses regarding the testing of such technology; and (vii) all waivers, findings, and renewals of such findings, issued pursuant to sections 6 and 7 of this law that, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such department; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than

thirty parts per million where a determination is in effect pursuant to section 6 of this law; and detailed information concerning the department's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to sections 6 or 7 of this law.

(2) Where a determination is in effect pursuant to section 6 or 7 of this law, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this section.

(3) The report due January 1, 2007 in accordance with paragraph one of this section shall only include the information required pursuant to subparagraphs (i), (ii) and (vii) of such paragraph.

Section 8. Inapplicability.

This law shall not apply:

(1) when federal or state funding precludes the county from imposing the requirements of this law; or

(2) to purchases that are emergency procurements pursuant to the charter or any local law allowing for such emergency procurements.

Section 10. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm,

partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 11. Effective date.

This local law shall take effect immediately upon filing in the office of the secretary of state pursuant to section 27 of the municipal home rule law.

JLW
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