

FREQUENTLY ASKED QUESTIONS & ANSWERS

Regarding
Onroad and Nonroad Vehicles Emission Standards
In
Westchester County, New York

Applicability & General Requirements

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1. What does the Air Quality; onroad and nonroad vehicles; Emission standards Chapter 873, Article XIII, Section 873.1329 of the Laws of Westchester County require?

The onroad and nonroad: Emission Standards, Chapter 873, Article XIII, Section 873.1329 of the Laws of Westchester County (The Law) requires that all onroad and nonroad diesel vehicles owned, leased and/or operated by or on behalf of Westchester County be powered by Ultra Low Sulfur Diesel Fuel (ULSDF) as of September 1, 2006 and that all onroad and nonroad vehicles to which the Law applies be retrofitted with Best Available Technology (BAT) in accordance with the requirements of the Rules and Regulations.

2. Who is required to comply with Law?

Contractors and subcontractors who enter into an agreement or contract with Westchester County, valued at more than \$150,000.00 (such a sum to increase \$5,000.00 on the first day of January each year after 2006 until it reaches a maximum of \$250,000.00), to perform County work.

The Law applies to all onroad and nonroad diesel vehicles owned, leased and/or operated by or on behalf of Westchester County, including all departments, agencies, bureaus, boards, commissioners, sewer and water and other districts, the Westchester Community College, the Westchester County airport, and all other entities whose expenses are shown in the operating budget of Westchester County and/or are paid in whole or in part from Westchester County funds.

3. What types of vehicles are affected?

All diesel powered onroad and nonroad vehicles are affected.

Nonroad diesel vehicles are defined as vehicles that are powered by a diesel engine fifty (50) horsepower or greater, including but are not limited to excavators, backhoes, cranes, compressors, pavers, bulldozers and similar equipment. Onroad diesel vehicles is defined as self propelled vehicles designed for transporting persons or property on a street or highway that operate on diesel fuel. For more information regarding the Law applicability and requirements, see Section 2 of the Law.

4. Does a contract with Westchester County specify the requirements of the Law?

Yes, under Agreements and Contracts of Section 873.1329.3 item #3, Westchester County is required to specify in all of its solicitations, bids and requests for proposals, and contracts that all contractors and subcontractors, in the performance of such contract, be in compliance with the provisions of Section 873.1329.2. Please refer to the Law and Rules and Regulations which can be accessed on the Westchester County Health Department website at <https://health.westchestergov.com/>

5. What is ultra low sulfur diesel fuel?

Ultra low sulfur diesel fuel (ULSDF) is diesel fuel certified to have a sulfur content of 15 ppm or less. Westchester County Department of Health (WCDH) staff may collect a sample of the ULSDF used on a construction site to verify compliance with the law.

6. How is Best Available Technology (BAT) specified?

Best Available Technology (BAT) is an emission control technology that is verified by the USEPA or California Air Resource Board (CARB) or identified under New York City Department of Environmental Protection (NYCDEP)'s Local Law 77 to reduce diesel particulate matter emissions by at least 85% as compared to a similar engine operating on a traditional diesel fuel without emission control technology or reduce emissions to less than 0.01 grams per break horsepower per hour of diesel particulate matter and achieves the greatest reduction in emissions of nitrogen oxides (NO_x).

For each equipment type, BAT shall be specified in the order of categories as stated in the Rules and Regulations. BAT includes, but is not limited to, Diesel Particulate Filters (DPFs) or other devices with equivalent removal efficiency for diesel particulate matter (PM). If installation of DPFs is not feasible for safety, mechanical reasons or proper operations then alternate control technologies such as flow-through filters (FTFs) or Diesel Oxidation Catalysts (DOCs) may be used provided that the alternate control technology is pre-approved by the WCDH.

Both the USEPA and the CARB verify the performance of diesel retrofit devices through a verification process. The goal of the verification process is to ensure that the emission control system performs as per manufacturer's claim. EPA maintains a list of verified technologies on their website at: <https://www.epa.gov/verified-diesel-tech> Similarly, CARB's list of verified technologies can be found at: <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>.

The BAT selection shall be in accordance with the Rules and Regulations. Additional information may be found on the NYCDEP website concerning the use of ULSDF and Emission Control Technology at <https://www1.nyc.gov/site/dep/environment/transportation-emissions.page> (choose Local Law 77 and Final Rule 2008)

7. Are there exclusions and waivers in the Law?

Yes. The definition of "County Work" excludes labor, services materials and/or equipment provided by:

- A common carrier
- A shipping company, including overnight delivery companies or
- A manufacturer or delivery company which does not deliver materials or equipment to Westchester County government on a regular and/or frequent basis.

Other exclusions from this Law are:

- Any agreement or contract entered into prior to the law effective date (February 10, 2006)
- The vehicle or equipment is used for fewer than five (5) calendar days per contract.
- The commissioner certifies that the BAT for reducing the emission of pollutants as required is unavailable for such a vehicle, in which case such agency or contractor shall use whatever technology available and appropriate for such a vehicle.
- The Commissioner issues a written waiver based upon a finding that the use of BAT for reducing the emission of pollutants may present a hazard.
- Contract value is less than \$150,000.00 (see The Law for further details).

8. How does a contractor report the use of ULSD and the retrofit of BAT?

Contractors and subcontractors are required to report the following:

- The number of onroad and nonroad diesel vehicles utilized per construction site on a monthly basis to the WCDH using **Form I – Vehicle/Equipment Information**
- The number of such onroad and nonroad diesel vehicles that were powered by ULSD or by diesel fuel with a sulfur content of no more than 30 ppm and the quantity of diesel fuel needed to power each onroad and nonroad diesel vehicles to which the Law applies, on a monthly basis, to the WCDH using **Form II- Vehicle/Equipment ULSD usage**

9. Does the installation of BAT require prior approval from Westchester County Health Department?

No, BAT (Category I) installation does not require prior approval from WCDH. However, alternate control technologies require pre-approval by WCDH. Contractors and subcontractors are recommended to consult with vehicle manufacturers and emission vehicle retrofit companies to search for the BAT available for their vehicles. The BAT must appear on either EPA's or CARB's approval and certified list and the appropriate BAT that will achieve the greatest reduction in emission shall be selected. Contractors and subcontractors may contact WCDH to inform the WCDH of the chosen BAT. Upon completion of BAT installation, contractors and subcontractors shall submit Form I to WCDH. Upon completion of BAT installation, the WCDH staff will also inspect the vehicle/equipment and affix a decal on the vehicle or equipment denoting that the vehicle/equipment is in compliance with The Law.

10. Where can one find a copy of the Law?

A copy of the Law (Chapter 873, Article XIII, Section 873.1329), together with Rules and Regulations and the Summary of the Law, is available on the Westchester County Website: <https://health.westchestergov.com/> searching under A-Z for Diesel Emission Standards.

11. Is the BAT retrofit permanent or is it subject to modification/upgrade in the future?

BAT (Category I) or authorized alternate control technologies (Categories II & III) are not required to be replaced within three years from the date contractors and subcontractors first utilize such BAT or authorized control technology in accordance with provisions of this Law.

Contractors and subcontractors utilizing authorized alternate control technologies (Category II & III) may be required to replace such technology if a better alternate control technology or BAT becomes available after such 3 year period. For more information see Section 5.2 of the Rules and Regulations.

12. What type of enforcement or penalties one may incur for failure to comply?

The Commissioner of WCDH is authorized to enforce the provision of the Law as follows:

- Any contractor or subcontractor who violates any provision of the Law shall be liable for a civil penalty not to exceed \$10,000.00 plus twice the amount of money saved by such contractor for failure to comply with the Law.
- 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 as a result of having made such false claim.

13. What if I have equipment that does not belong to me onsite? Will this equipment be subjected to the requirements of the Law?

Yes, unless it falls under one of the exclusion categories. All leased and/or rental diesel vehicles or equipment shall be fueled by ULSD. All leased and/or rental vehicles or equipment that is on site for more than 5 days and meet the applicability requirements is subject to the provisions of the Law.