

heavy duty vehicles for purposes of this section. This term shall not include vehicles that are specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department or fire department.

c. "Best available retrofit technology" means technology, verified by the United States environmental protection agency for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies 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.

d. "Reasonable cost" means that such technology does not cost greater than 30 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 paragraph c of this subdivision, when considering the cost of the strategies, themselves, and the cost of installation.

E. "USEFUL LIFE" MEANS THE PERIOD OF PROBABLE USEFULNESS FOR WHICH INDEBTEDNESS WAS INCURRED FOR A VEHICLE AS ESTABLISHED IN APPLICABLE STATE FINANCE LAW OR LOCAL FINANCE LAW, REFLECTED IN THE PERIOD FOR WHICH INDEBTEDNESS WAS INCURRED BY THE OWNER OF THE VEHICLE.

2. Any diesel powered heavy duty vehicle that is owned by, operated by or on behalf of, or leased by a state agency and state and regional public authority shall be powered by ultra low sulfur diesel fuel.

3. Any diesel powered heavy duty vehicle that is owned by, operated by or on behalf of, or leased by a state agency and state and regional public authority with more than half of its governing body appointed by the governor shall utilize the best available retrofit technology for reducing the emission of pollutants. The commissioner shall promulgate regulations for the implementation of this subdivision specifying procedures for compliance according to the following schedule:

a. Not less than 33% of the vehicles covered by this subdivision shall have best available retrofit technology on or before December 31, 2008.

b. Not less than 66% of the vehicles covered by this subdivision shall have best available retrofit technology on or before December 31, 2009.

c. [All] THE REMAINDER OF vehicles covered by this subdivision shall have best available retrofit technology on or before December 31, 2010 ; PROVIDED THAT SUCH VEHICLES ARE NOT WITHIN FIVE YEARS OF THE END OF THEIR USEFUL LIFE AND SHALL CEASE TO BE OPERATED UPON THE END OF SUCH USEFUL LIFE. PROVIDED FURTHER THAT ALL VEHICLES COVERED BY THIS SUBDIVISION SHALL HAVE BEST AVAILABLE RETROFIT TECHNOLOGY ON OR BEFORE DECEMBER 31, 2016.

This subdivision shall not apply to any vehicle subject to a lease or public works contract entered into or renewed prior to the effective date of this section.

4. In addition to other provisions for regulations in this section, the commissioner shall promulgate regulations as necessary and appropriate to carry out the provisions of this act including but not limited to provision for waivers upon written finding by the commissioner that (a) best available retrofit technology for reducing the emissions of pollutants as required by subdivision 3 of this section is not available for a particular vehicle or class of vehicles and (b) that ultra low sulfur diesel fuel is not available.

1 5. In addition to any waiver which may be issued pursuant to subdivi-
2 sion four of this section, the department shall issue a waiver to a
3 state agency, a state or regional public authority, or a person operat-
4 ing any diesel-powered heavy duty vehicle on behalf of a state agency,
5 state or regional public authority, upon a request in a form acceptable
6 to the department for a waiver from the provisions of subdivision three
7 of this section for a vehicle engine provided that such vehicle engine
8 will cease to be used in the state on or before December thirty-first,
9 two thousand thirteen. Any waiver issued pursuant to this subdivision
10 shall expire when a state agency, a state or regional public authority,
11 or a person operating any diesel-powered heavy duty vehicle on behalf of
12 a state agency, state or regional public authority ceases to use the
13 engine in the state but not later than December thirty-first, two thou-
14 sand thirteen.

15 6. This section shall not apply where federal law or funding precludes
16 the state from imposing the requirements of this section.

17 7. On or before January 1, 2008 and every year thereafter, the commis-
18 sioner shall report to the governor and legislature on the use of ultra
19 low sulfur diesel fuel and the use of the best available retrofit tech-
20 nology as required under this section. The information contained in this
21 report shall include, but not be limited to, for each state agency and
22 public authority covered by this section: (a) the total number of diesel
23 fuel-powered motor vehicles owned or operated by such agency and author-
24 ity; (b) the number of such motor vehicles that were powered by ultra
25 low sulfur diesel fuel; (c) the total number of diesel fuel-powered
26 motor vehicles owned or operated by such agency and authority having a
27 gross vehicle weight rating of more than 8,500 pounds; (d) the number of
28 such motor vehicles that utilized the best available retrofit technolo-
29 gy, including a breakdown by motor vehicle model, engine year and the
30 type of technology used for each vehicle; (e) the number of such motor
31 vehicles that are equipped with an engine certified to the applicable
32 2007 United States environmental protection agency standard for particu-
33 late matter as set forth in section 86.007-11 of title 40 of the code of
34 federal regulations or to any subsequent United States environmental
35 protection agency standard for particulate matter that is at least as
36 stringent; and (f) all waivers, findings, and renewals of such findings,
37 which, for each waiver, shall include, but not be limited to, the quan-
38 tity of diesel fuel needed to power diesel fuel-powered motor vehicles
39 owned or operated by such agency and authority; specific information
40 concerning the availability of ultra low sulfur diesel fuel.

41 8. The department shall, to the extent practicable, coordinate with
42 regions which have proposed or adopted heavy duty emission inspection
43 programs to promote regional consistency in such programs.

44 S 2. This act shall take effect immediately.