

LBD05844-04-1

1 equipment, including self-propelled machines used exclusively in grow-  
2 ing, harvesting or handling farm produce, and self-propelled caterpillar  
3 or crawler-type equipment while being operated on the contract site, and  
4 timber harvesting equipment such as harvesters, wood chippers, forward-  
5 ers, log skidders, and other processing equipment used exclusively off  
6 highway for timber harvesting and logging purposes, shall not be deemed  
7 heavy duty vehicles for purposes of this section. This term shall not  
8 include vehicles that are specially equipped for emergency response by  
9 the department, office of emergency management, sheriff's office of the  
10 department of finance, police department or fire department.

11 c. "Best available retrofit technology" means technology, verified by  
12 the United States environmental protection agency for reducing the emis-  
13 sion of pollutants that achieves reductions in particulate matter emis-  
14 sions at the highest classification level for diesel emission control  
15 strategies that is applicable to the particular engine and application.  
16 Such technology shall also, at a reasonable cost, achieve the greatest  
17 reduction in emissions of nitrogen oxides at such particulate matter  
18 reduction level and shall in no event result in a net increase in the  
19 emissions of either particulate matter or nitrogen oxides.

20 d. "Reasonable cost" means that such technology does not cost greater  
21 than 30 percent more than other technology applicable to the particular  
22 engine and application that falls within the same classification level  
23 for diesel emission control strategies, as set forth in paragraph c of  
24 this subdivision, when considering the cost of the strategies, them-  
25 selves, and the cost of installation.

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

29 3. Any diesel powered heavy duty vehicle that is owned by, operated by  
30 [or on behalf of,] or leased by a state agency and state and regional  
31 public authority with more than half of its governing body appointed by  
32 the governor shall utilize the best available retrofit technology for  
33 reducing the emission of pollutants. The commissioner shall promulgate  
34 regulations for the implementation of this subdivision specifying that  
35 all vehicles covered by this subdivision shall have best available  
36 retrofit technology on or before December 31, [2012] 2014.

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

40 4. In addition to other provisions for regulations in this section,  
41 the commissioner shall promulgate regulations as necessary and appropri-  
42 ate to carry out the provisions of this act including but not limited to  
43 provision for waivers upon written finding by the commissioner that (a)  
44 best available retrofit technology for reducing the emissions of pollu-  
45 tants as required by subdivision 3 of this section is not available for  
46 a particular vehicle or class of vehicles and (b) that ultra low sulfur  
47 diesel fuel is not available.

48 5. In addition to any waiver which may be issued pursuant to subdivi-  
49 sion four of this section, the department shall issue a waiver to a  
50 state agency, a state or regional public authority, [or a person operat-  
51 ing any diesel-powered heavy duty vehicle on behalf of a state agency,]  
52 state or regional public authority, upon a request in a form acceptable  
53 to the department for a waiver from the provisions of subdivision three  
54 of this section for a vehicle engine provided that such vehicle engine  
55 will cease to be used in the state on or before December thirty-first,  
56 two thousand thirteen. Any waiver issued pursuant to this subdivision

1 shall expire when a state agency, a state or regional public authority,  
2 [or a person operating any diesel-powered heavy duty vehicle on behalf  
3 of a state agency,] state or regional public authority ceases to use the  
4 engine in the state but not later than December thirty-first, two thou-  
5 sand [thirteen] FOURTEEN.

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

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

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

35 S 2. This act shall take effect immediately.