

Regulating Diesel Engine Emissions

This Act establishes requirements for specific types of vehicles and off-road equipment powered by diesel engines that will reduce significantly the amount of fine particle diesel emissions from these diesel vehicles and equipment and will diminish the exposure of school children to these harmful emissions.

The Act provides for stricter enforcement of idling standards for all motor vehicles, and imposes stricter requirements and stricter enforcement for school bus idling. Further, the bill establishes a Diesel Risk Mitigation Fund for the reimbursement of the cost of retrofits required pursuant to the bill. This fund would receive constitutionally dedicated moneys for this purpose.

Under the Act, no owner of regulated vehicles or regulated equipment will be required to comply with the provisions of the bill concerning the retrofitting of vehicles and equipment unless the State Treasurer certifies that the constitutionally dedicated moneys have been deposited in the fund for the year in which the requirement to install the retrofit devices is imposed. Also, owners of regulated vehicles or regulated equipment cannot be required to comply with the retrofit provisions of the bill unless the state Department of Environmental Protection (DEP) certifies that there are sufficient moneys in the fund in a given year to cover the costs of the retrofits and their installation required in that year. Under the bill the DEP is authorized to determine that sufficient moneys are in the fund to cover the costs of some of the retrofits and their installation that are required in that year, and if the State Treasurer has made the other required certification, the DEP may determine which retrofits can be funded, require those retrofits, and certify that sufficient moneys are in the fund to reimburse the cost of those retrofits and their installation.

Specifically, the Act requires:

- The retrofitting of all diesel school buses used to transport children in primary and secondary schools in the state with closed crankcase technology designed to reduce fine particle diesel emissions in the cabin of the school bus;
- The use of best available retrofit technologies, including retrofitting, on publicly owned diesel solid waste vehicles, privately owned diesel solid waste vehicles under public contract, publicly owned on-road diesel vehicles and off-road diesel equipment, and all diesel commercial buses;
- The DEP to study emissions reduction technology for diesel school buses, and determine if further retrofitting of school buses is indicated by the results of the study;
- Certain warranties and assurances from manufacturers of best available retrofit technologies to ensure against damage to regulated vehicles and regulated equipment and pay for any damage that may be caused;
- The adoption of rules and regulations by the DEP, no less stringent than the restrictions on idling under DEP rules and regulations in effect on the effective date of the bill, concerning the idling of school buses and the development of policies and procedures by the DEP, in consultation with the Department of Education, school districts and school administrators, to achieve compliance with those rules and regulations;
- Enforcement of school bus idling violations against the school district serviced by the school bus operated in violation of the idling restrictions;
- Increased penalties of \$250 to \$1,000 per day, per vehicle for violations of any motor vehicle idling restrictions, except that no penalties may be assessed against the driver of a school bus who is not the owner of the school bus; and

- A determination by DEP of whether supplies of ultra-low sulfur diesel fuel would be sufficient to avoid certain problems in the fuel markets before only ultra-low sulfur diesel fuel is required to be sold in the State.

This bill requires that the regulated school buses have the closed crankcase technology installed no later than two years after the date of enactment, unless the required funding certifications are not made, in which case, the requirement should be met within the two years after the certification. During that time, the DEP will study the health issues involved with school bus emissions and, if the results of the study warrant further retrofit requirements, the bill authorizes the DEP to establish and impose those requirements.

The bill requires the owners of regulated vehicles or regulated equipment to use the best available retrofit technologies in or on their regulated vehicles or regulated equipment as provided in DEP regulations, or submit plans proposing alternatives for the use of best available retrofit technologies in or on the vehicles and equipment that they own. The DEP is required to adopt rules and regulations no later than 270 days after the effective date of the act. The DEP will prescribe the level of fine particle emissions reduction for each type of regulated vehicle or piece of regulated equipment, but an owner could request and negotiate alternatives with the DEP to attain compliance.

The bill defines "best available retrofit technology" to include particle filters, diesel oxidation catalysts, flow through filters, and other retrofit devices, modified diesel fuel and other special fuels; "best available retrofit technology" cannot include repowering of a vehicle or equipment. The bill requires that the United States Environmental Protection Agency or the state Air Resources Board must have designated the technology as a verified technology.

The bill requires each owner of a regulated vehicle or regulated equipment to submit an inventory of all diesel vehicles and equipment owned, operated, or leased by the owner, and either a notice of intent to follow the requirements prescribed by DEP regulation or a fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan. A combined fleet retrofit plan allows several owners to coordinate compliance together, and a fleet averaging plan allows an owner to attain reductions by implementing alternative measures and retrofitting vehicles and equipment that may not be designated to get a certain amount of reduction from across the owner's fleet.

The timing of these submittals shall be as follows:

- For regulated solid waste vehicles, no later than 180 days after the effective date of the rules and regulations adopted by the DEP pursuant to the bill;
- For regulated commercial buses owned and operated by the state Transit Corporation, no later than one year after the effective date of the rules and regulations;
- For private regulated commercial buses, no later than one year and 180 days after the effective date of the rules and regulations; and
- For publicly owned regulated vehicles and regulated equipment other than regulated solid waste vehicles or regulated commercial buses, no later than two years after the effective date of the rules and regulations.

Under the bill, no owner of a private regulated commercial bus is required to make the submittals before a public transit agency does, and the public agency must have begun retrofitting its buses and using those retrofits at least six months before any owner of a private regulated commercial bus is required to retrofit a bus.

After the submittals are made and any plans receive final approval, the owners of regulated vehicles or regulated equipment would receive compliance forms for each vehicle or piece of equipment required to use best available retrofit technologies. After any required installations were made, the compliance form will be completed, a copy of it will remain with the vehicle or piece of equipment at all times thereafter, and copies will be submitted to the DEP and

the State Treasurer. The installation of any required retrofit devices as part of this use of best available retrofit technologies will be confirmed at an inspection of the regulated vehicle under state motor vehicle inspection programs currently in effect under current law, or, for regulated off-road equipment, through the submittal of a compliance form issued by the DEP.

Under the bill the State Treasurer, in consultation with DEP, will administer reimbursements for the cost of complying with these requirements in accordance with the procedures and requirements established by the State Treasurer and the DEP pursuant to the bill. However, the bill provides for 100% of retrofit device and installation costs be covered.

Finally, the bill amends current law to allow for retrofitting of vehicles to be required, and establishes civil and civil administrative penalties of not more than \$5,000 for violations of the Act.

Submitted as:

New Jersey

Chapter 219 of 2005

Status: Enacted into law in 2005.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act Concerning Regulation of Fine
2 Particle Emissions from Certain Vehicles and Equipment.”

3

4

Section 2. [*Legislative Findings.*]

5

1. The [Legislature] finds and declares that the emissions of fine particles into the air
6 pose an extraordinary health risk to the people of the state; that exhaust emissions from diesel-
7 powered vehicles and equipment contribute substantially to the fine particle problem, and pose
8 both cardiovascular and cancer risks; that the United States Environmental Protection Agency
9 has classified diesel exhaust as likely to be carcinogenic to humans by inhalation at
10 environmental exposures; that the United States Environmental Protection Agency has also
11 identified diesel particle matter and diesel exhaust organic gases as a mobile source air toxic; that
12 studies repeatedly have found links between exposure to fine particles and health effects,
13 including premature death and increased incidents of asthma, allergies, and other breathing
14 disorders; and that these studies include the examination of the health impacts of the exposure to
15 diesel emissions for school children riding diesel-powered school buses.

16

2. The [Legislature] further finds and declares that, although some new diesel-powered
17 vehicles and equipment operate more cleanly and may contribute less to air quality problems
18 than their predecessors, diesel-powered trucks, buses, and off-road equipment tend to remain in
19 service as long as 20 years or more; that, among these types of vehicles and equipment, diesel
20 commercial buses and diesel solid waste vehicles operate in significant numbers in urban areas
21 of the State where the reduction of fine particle diesel emissions should be prioritized because
22 fine particle diesel emissions are at the highest concentrations in these areas; that the emissions
23 from diesel school buses directly impact the health of school children throughout the State; that
24 unless emissions from some on-road diesel-powered vehicles and off-road diesel-powered
25 equipment currently operating in the State are controlled, all on-road diesel-powered vehicles
26 and off-road diesel-powered equipment will continue to emit high levels of fine particles and
27 contribute to air pollution in the State for many years to come; that filters and other devices and
28 cleaner burning fuels are available to reduce emissions from older diesel vehicles and equipment;

29 that retrofitting certain diesel-powered vehicles and equipment with emissions reducing devices,
30 operating these vehicles and equipment on cleaner burning fuel, or both, could significantly
31 improve air quality; that although such requirements impose costs, the costs are relatively small
32 when compared with the costs of the vehicles or equipment they update or the cost of the impact
33 on the public health from the air pollution that the requirements abate; that by exercising
34 discretion in the types of vehicles and equipment and the matching of technologies to vehicles
35 and equipment, the cost of installing and using pollution-reducing devices and fuels can be
36 minimized and the air pollution reduction and public health benefits can be maximized; and that
37 the [Department of Environmental Protection] has estimated that targeting reductions of fine
38 particles from these vehicles and equipment could remove 315 tons per year from the ambient air
39 in the State and could prevent more than 150 premature deaths.

40 3. The [Legislature] therefore determines that it is of vital importance to the health of the
41 people of the State to begin to reduce significantly fine particle emissions and exposure of school
42 children to these emissions; and that this start can be most effectively and economically
43 accomplished by requiring the use of the best available retrofit technologies for the reduction of
44 fine particle emissions in diesel-powered commercial buses, school buses, solid waste vehicles,
45 and publicly owned on-road vehicles and off-road equipment.

46
47 Section 3. [*Definitions.*] As used in this Act:

48 “Best available retrofit technology” means the equipment, retrofit device, or fuel, or any
49 combination thereof, designated by the United States Environmental Protection Agency as a
50 verified technology for diesel retrofit programs, or by the California Air Resources Board as a
51 verified technology for diesel emissions control, for use on or in specific makes, model years,
52 types, and classes of on-road diesel vehicles or off-road diesel equipment, and that, as
53 determined by the [Department of Environmental Protection], may be used on or in regulated
54 vehicles or regulated equipment, at a reasonable cost, to achieve substantial reduction of fine
55 particle diesel emissions.

56 “Best available retrofit technology” may include, but is not limited to, particle filters,
57 diesel oxidation catalysts, flow through filters, and modified diesel fuel, provided that these
58 diesel retrofit devices and diesel emissions control strategies are verified technologies according
59 to the United States Environmental Protection Agency or the California Air Resources Board.

60 “Best available retrofit technology” shall include only those retrofit devices and fuel for
61 which the retrofit device manufacturer or fuel manufacturer agrees, in a manner determined
62 appropriate by the department, that the installation and use of the retrofit device or the use of the
63 special fuel would not jeopardize the original engine warranty in effect at the time of the
64 installation or the commencement of use of the retrofit device or fuel, and for which the retrofit
65 device manufacturer or fuel manufacturer has provided a warranty pursuant to the rules and
66 regulations adopted pursuant to [insert citation].

67 “Best available retrofit technology” shall not include repowering of any vehicle or piece
68 of equipment, or the use of ultra-low sulfur diesel fuel;

69 “Commission” means the state [Motor Vehicle Commission];

70 “Compliance form” means a form used for ascertaining compliance with the provisions
71 of [insert citation] or eligibility for reimbursement of costs associated therewith, and issued
72 pursuant to [insert citation];

73 “Constitutionally dedicated moneys” mean moneys dedicated pursuant to [insert citation],

74 “Department” means the [Department of Environmental Protection];

75 “Diesel commercial bus” means a diesel bus as defined pursuant to [insert citation],
76 except that “diesel commercial bus” shall include only diesel commercial buses with a gross
77 vehicle weight rating in excess of 14,000 pounds, and shall not include school buses;

78 “Diesel engine” means an internal combustion engine with compression ignition using
79 diesel fuel, including the fuel injection system but excluding the exhaust system;

80 “Diesel Risk Mitigation Fund” or “fund” means the fund established pursuant to [insert
81 citation];

82 “Diesel solid waste vehicle” means any on-road diesel vehicle with a gross vehicle
83 weight rating in excess of 14,000 pounds that is used for the purposes of collecting or
84 transporting residential or commercial solid waste, including vehicles powered by a diesel engine
85 used for transporting waste containers, including, but not necessarily limited to, open boxes,
86 dumpsters or compactors, which may be removed from the tractor. “Diesel solid waste vehicle”
87 shall include solid waste cabs and solid waste single-unit vehicles;

88 “Fine particle” means a particle emitted directly into the atmosphere from exhaust
89 produced by the combustion of diesel fuel and having an aerodynamic diameter of 2.5
90 micrometers or less;

91 “Fine particle diesel emissions” means emissions of fine particles from an on-road diesel
92 vehicle or from off-road diesel equipment;

93 “Fleet” means one or more on-road diesel vehicles or pieces of off-road diesel
94 equipment;

95 “Off-road diesel equipment” means any equipment or vehicle, other than a diesel
96 construction truck, powered by a diesel engine that is used primarily for construction, loading,
97 and other offroad purposes and, when in use, is not commonly operated on a roadway except
98 when used for roadway construction and repair, including, but not necessarily limited to, rollers,
99 scrapers, excavators, rubber tire loaders, crawler/dozers, and off-highway trucks. “Off-road
100 diesel equipment” shall include equipment and vehicles that are not used primarily for
101 transportation and are considered off-road equipment and vehicles but, for the purposes of
102 moving the equipment and vehicles from place to place on the roadways of the State, are
103 required to have “in-transit” plates issued by this state. “Off-road diesel equipment” shall not
104 include any non-mobile equipment, such as a generator or pump, and shall not include boats or
105 trains;

106 “On-road diesel vehicle” means any vehicle, other than a private passenger automobile,
107 that is powered by a diesel engine and operated on the roadways of the State, and shall include,
108 but need not be limited to, diesel buses, diesel-powered motor vehicles, and heavy-duty diesel
109 trucks as defined pursuant to [insert citation];

110 “Owner” means any person, the State, or any political subdivision thereof, that owns any
111 onroad diesel vehicle or off-road diesel equipment subject to the provisions of [insert citation];

112 “Private regulated commercial bus” means any diesel commercial bus as defined under
113 [insert citation];

114 “Public regulated commercial bus” means any diesel commercial bus owned and
115 operated by [state Transit Corporation];

116 “Regulated commercial bus” means any diesel commercial bus registered and operating
117 in the State;

118 “Regulated equipment” means any regulated off-road diesel equipment or any piece of
119 offroad diesel equipment that is required to use best available retrofit technology pursuant to an
120 approved fleet averaging plan;

121 “Regulated off-road diesel equipment” means any off-road diesel equipment operating in
122 the State that is owned by the State or any political subdivision thereof, or a county or
123 municipality, or any political subdivision thereof;

124 “Regulated on-road diesel vehicle” means any on-road diesel vehicle registered in the
125 State that is owned by the State or any political subdivision thereof, a county or municipality, or
126 any political subdivision thereof;

127 “Regulated school bus” means a school bus powered by a diesel engine, and owned by a
128 school district, nonpublic school, or school bus contractor who has entered into a contract with a
129 school district or a nonpublic school to transport children to and from a primary or secondary
130 school in the State, that was originally designed to carry 10 or more passengers, and is in service
131 on or after [insert date];

132 “Regulated solid waste vehicle” means any diesel solid waste vehicle registered in the
133 State that is owned by the State or any political subdivision thereof, or a county or municipality
134 or any political subdivision thereof, or that is owned by a person who has entered into a contract
135 in effect on or after [insert date], with the State or any political subdivision thereof, or a county
136 or municipality or any political subdivision thereof, to provide solid waste services;

137 “Regulated vehicle” means any regulated commercial bus, regulated on-road diesel
138 vehicle, regulated solid waste vehicle, or any regulated school bus required to comply with any
139 requirements pursuant to this Act from model year 2006 or a preceding model year and
140 registered in the State, or any on-road diesel vehicle registered in the State that is required to use
141 best available retrofit technology pursuant to an approved fleet averaging plan;

142 “Retrofit device” means a best available retrofit technology that is an after-market
143 apparatus installed on an on-road diesel vehicle or on a piece of off-road diesel equipment;

144 “School bus” means a school bus as defined under [insert citation];

145 “Technology” means any equipment, device, or fuel used alone or in combination to
146 achieve the reductions in emissions required for best available retrofit technology; and

147 “Ultra-low sulfur diesel fuel” means diesel fuel that the United States Environmental
148 Protection Agency designates or defines as ultra-low sulfur diesel fuel.

149

150 Section 4. [*DEP Rules, Regulations.*]

151 a. The state [Department of Environmental Protection], no later than [270 days] after the
152 effective date of this Act, shall adopt rules and regulations necessary to implement the provisions
153 of this Act.

154 b. The rules and regulations adopted pursuant to subsection a. of this section shall
155 include, but need not be limited to:

156 (1) the designation of the required reduction in fine particle diesel emissions and
157 choices of the best available retrofit technologies available to owners of regulated vehicles or
158 regulated equipment to meet the required reduction for each make, model or type of regulated
159 vehicles or regulated equipment, including, but not limited to, the description of the hierarchy
160 and levels of best available retrofit technologies as they correspond to the emissions reductions
161 anticipated from the use of each best available retrofit technology, and the requirements for
162 implementing the use of best available retrofit technologies by any owner of regulated vehicles
163 or regulated equipment who elects not to submit a fleet retrofit plan, combined fleet retrofit plan,
164 or fleet averaging plan pursuant to this Act;

165 (2) guidelines and requirements for developing fleet retrofit plans, combined fleet
166 retrofit plans, and fleet averaging plans, and any supplements or modifications thereto, including,
167 but not limited to:

168 (i) a description of the components that, at a minimum, are to be included
169 in a fleet retrofit plan;

170 (ii) guidelines for use by owners of regulated vehicles or regulated
171 equipment concerning how to develop an inventory of regulated vehicles or regulated equipment,
172 prepare the required fleet retrofit plan, and determine the technology required for each vehicle or
173 piece of equipment;

174 (iv) the choices of the best available retrofit technologies available to
175 owners of regulated vehicles or regulated equipment for each make, model or type of regulated
176 vehicle or regulated equipment to achieve reductions in fine particle emissions;

177 (v) information on how to select the specific best available retrofit
178 technologies and ensure the fleet retrofit plan, combined fleet plan, or fleet averaging plan
179 requirements are met;

180 (vi) procedures and provisions for the review and approval, and
181 enforcement of fleet retrofit plans, combined fleet retrofit plans, and fleet averaging plans for
182 regulated vehicles or regulated equipment; and

183 (vii) provisions ensuring, in the implementation requirements for fleet
184 retrofit plans, combined fleet plans, or fleet averaging plans, due consideration of the efforts of
185 owners of regulated vehicles or regulated equipment who voluntarily retrofit regulated vehicles
186 or regulated equipment prior to the required submittal of a fleet retrofit plan, combined fleet
187 retrofit plan, or fleet averaging plan;

188 (3) the procedures for contacting the department with questions about the
189 requirements of, and compliance with, the provisions of this Act, and for obtaining any technical
190 guidance needed in preparing the fleet retrofit plans, combined fleet retrofit plans, or fleet
191 averaging plans;

192 (4) in consultation with the [Department of Education, the Department of Health
193 and Human Services, the state Motor Vehicle Commission, and the Department of Law and
194 Public Safety], provisions concerning the idling and queuing of school buses and enforcement of
195 violations thereof, in accordance with this Act and no less stringent than restrictions on idling
196 pursuant to department rules and regulations in effect on the effective date of this Act; and

197 (5) any requirements or guidelines concerning the installation of closed crankcase
198 technology in regulated school buses or compliance with the provisions of this Act;

199 (6) warranty provisions for best available retrofit technologies and their
200 installation and use on regulated vehicles or regulated equipment; and

201 (7) any other provisions the department determines necessary for the
202 implementation of this Act.

203 c. No provision of the rules and regulations adopted pursuant to subsection a. of this
204 section may:

205 (1) designate any other types, makes, models, or classes of vehicles or equipment
206 as regulated vehicles or regulated equipment other than regulated vehicles and regulated
207 equipment as defined in this Act;

208 (2) require the installation and use of a retrofit device on a private regulated
209 commercial bus earlier than [180 days] after the owners of public regulated commercial buses
210 have been required to install and have begun to use best available retrofit technologies that are
211 retrofit devices on public regulated commercial buses;

212 (3) require the installation or use of a retrofit device on a regulated vehicle or
213 piece of regulated equipment unless:

214 (i) the [state treasurer] certifies that the constitutionally dedicated moneys
215 have been deposited in a [Diesel Risk Mitigation Fund] for that year; and

216 (ii) the [Department of Environmental Protection] certifies that sufficient
217 moneys are available in the fund to pay for the cost of purchase and installation of the retrofit
218 device required to be installed or used in that given year, by rule or regulation or by a provision
219 of a plan submitted pursuant to this Act. Provided that the [State Treasurer] has issued the
220 certification required under this Act, the [Department] may determine the amount of moneys
221 available in the fund for that year, require the purchase and installation of those retrofit devices
222 in those regulated vehicles or pieces of regulated equipment for which sufficient moneys are

223 available, and certify that sufficient moneys are available for those retrofit devices in those
224 regulated vehicles or pieces of equipment.

225 d. The rules and regulations adopted pursuant to this section shall at a minimum require
226 that:

227 (1) the manufacturer of best available retrofit technology warrant to the owner of
228 any regulated vehicle or piece of regulated equipment the full repair and replacement cost of the
229 best available retrofit technology, including parts and labor, if the best available retrofit
230 technology fails to perform as verified;

231 (2) the manufacturer of best available retrofit technology warrant to the owner of
232 any regulated vehicle or piece of regulated equipment, if the installation or use of the best
233 available retrofit technology damages the engine or the engine components of the regulated
234 vehicle or piece of regulated equipment, the repair or replacement of engine components to
235 return the engine components of the regulated vehicle or piece of regulated equipment to the
236 condition they were in prior to damage caused by the best available retrofit technology;

237 (3) the manufacturers of best available retrofit technology authorize installers of
238 best available retrofit technology other than fuel as authorized installers of the best available
239 retrofit technology; and

240 (4) only authorized installers of best available retrofit technology install best
241 available retrofit technology other than fuel.

242 e. The specific provisions of these requirements and the specific provisions of any
243 warranty may be established by the department through rules and regulations adopted pursuant to
244 this Act or under separate rules and regulations adopted pursuant to the state ["Administrative
245 Procedure Act,"] including but not limited to, the period of time during which a warranty would
246 be in effect.

247
248 Section 5. [*State Department of Environmental Protection to Consult When Developing*
249 *Rules, Regulations Concerning Diesel Commercial Buses.*]

250 a. The [Department of Environmental Protection] shall consult with the [state Motor
251 Vehicle Commission and the state Transit Corporation] when developing the provisions of the
252 rules and regulations to be adopted pursuant to this Act concerning diesel commercial buses. No
253 later than [60 days] before any proposed rules or regulations are filed for publication in the state
254 Register, the [Department of Environmental Protection] shall submit for comment to any rules or
255 regulations concerning diesel commercial buses proposed for adoption pursuant to this Act.

256 b. The [Department of Environmental Protection], wherever possible, shall incorporate
257 into requirements imposed on the [state Transit Corporation] the use of improved pollution
258 control or fuels other than conventional diesel fuel used by the [state Transit Corporation], but
259 may require additional controls or fuel use for diesel commercial buses operated by, or under
260 contract to, the [state Transit Corporation]. The [Department of Environmental Protection] shall
261 give due consideration to the efforts and actions of the [state Transit Corporation] for any
262 reduction of fine particle diesel emissions that it has achieved by the installation of retrofit
263 equipment on on-road diesel vehicles in its fleet or the use of special fuels by its fleet to use prior
264 to the submittal of any fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan
265 required pursuant to this Act.

266
267 Section 6. [*Public Outreach Program to Owners of Affected Vehicles, Equipment.*] The
268 [Department of Environmental Protection] shall develop and implement, in consultation with the
269 [Motor Vehicle Commission], a public outreach program to notify and inform the owners of
270 regulated vehicles or regulated equipment affected by the provisions of this Act. In developing
271 and implementing the public outreach program, the [Department] shall make every effort to

272 reach those owners that can be identified with the information that is available to the
273 [department] and through other state agencies or departments, but the [Department] shall not be
274 responsible for notifying and informing owners that could not be identified, and not the [Motor
275 Vehicle Commission] nor any other state agency or department shall be required to identify
276 every owner.

277

278 Section 7. [*Closed Crankcase Technology for Regulated School Buses.*]

279 a. No later than [two years] after the effective date of this Act or [two years] after the date
280 on or by which both certifications required in this subsection have been made, whichever is later,
281 every owner of a regulated school bus shall have installed on the regulated school bus closed
282 crankcase technology as specified by the rules and regulations adopted pursuant to this Act. No
283 owner of a regulated school bus shall be required to install closed crankcase technology pursuant
284 to this subsection unless:

285 (1) the [State Treasurer] certifies in each of the [two years] after the effective date
286 of this Act that the constitutionally dedicated moneys have been deposited in the [Diesel Risk
287 Mitigation Fund]; and

288 (2) the [Department of Environmental Protection] certifies that sufficient moneys
289 are available in the fund to pay the cost of purchase and installation of the closed crankcase
290 technology required pursuant to this Act in that [two-year period]. Provided that the [State
291 Treasurer] has issued the certification for that year, the [Department] may determine the amount
292 of moneys available in the fund for that year, require the purchase and installation of those
293 retrofit devices in those regulated vehicles or pieces of regulated equipment for which sufficient
294 moneys are available, and certify that sufficient moneys are available for those retrofit devices in
295 those regulated vehicles or pieces of equipment.

296 b. The [Department of Environmental Protection] shall provide, and each owner of a
297 regulated school bus shall obtain from the [Department], a compliance form for each regulated
298 school bus. The owner of the regulated school bus shall complete the compliance form, retain a
299 copy for the owner's records, and return it to the department as soon as practicable after the
300 installation of the closed crankcase technology to verify compliance with the requirements of
301 subsection a. of this section and to seek reimbursement for the cost of the closed crankcase
302 technology. The compliance form shall include the cost of any retrofit device installed as part of
303 the closed crankcase technology and any cost associated with the installation of the closed
304 crankcase technology. After the installation of the closed crankcase technology on a regulated
305 school bus, a copy of the completed compliance form shall be kept on each regulated school bus
306 at all times.

307 c. The [Department] shall review the submitted compliance forms and forward them to
308 the [State Treasurer]. The [State Treasurer] shall reimburse each owner of a regulated school bus
309 the cost of any retrofit device installed as part of the closed crankcase technology requirement
310 and any cost associated with the installation of the closed crankcase technology indicated on the
311 compliance form, in accordance with the provisions of this Act.

312 d. The [Department of Environmental Protection] shall provide any training necessary to
313 implement the provisions of this section for any employees of, or persons contracted or licensed
314 by, the [Motor Vehicle Commission], as determined necessary by the [Chief Administrator of the
315 Motor Vehicle Commission].

316 e. The [Department of Environmental Protection and the Motor Vehicle Commission]
317 shall adopt jointly, pursuant to the state [“Administrative Procedure Act,”] rules and regulations
318 concerning the installation of the crankcase technology required pursuant to this section and
319 establishing the inspection requirements and procedures for verification of compliance with the
320 crankcase technology requirement established pursuant to this section, the use of the compliance

321 form in any inspection or as part of the inspection procedures and verification of compliance, any
322 training necessary for any employees of, or persons contracted or licensed by, the [Motor
323 Vehicle Commission], and the extent of that training to be provided by the [Department of
324 Environmental Protection], and in what manner that training shall be provided.

325 f. If for any reason, the owner of the regulated school bus is unable to comply with the
326 requirements specified in this section, the owner shall notify the [Department], as soon as
327 practicable, of the inability to comply. The [Department] shall resolve the situation with the
328 owner as soon as practicable, and the [Department] shall issue any necessary documentation and
329 other information to the owner of the regulated school bus.

330

331 Section 8. *[Study to Identify, Quantify Sources of Fine Particles in Cabin of Regulated*
332 *School Buses.]*

333 a. Within [two years] after the effective date of this Act, the [Department of
334 Environmental Protection] shall complete a study to identify and quantify the sources of fine
335 particles present in the cabin of a regulated school bus. The study shall:

336 (1) evaluate the relative contribution of emissions from both the crankcase and the
337 tailpipe to in-cabin levels of fine particles; and

338 (2) evaluate the feasibility of requiring, and the environmental and health benefits
339 of the reduction of fine particle levels from school bus tailpipe emissions through the use of
340 additional retrofit devices.

341 b. If the [Department of Environmental Protection] finds as a result of the study that
342 technologically feasible reductions in tailpipe emissions would significantly reduce the health
343 risks associated with exposure of children to fine particles in the cabin of a standard school bus,
344 the [Department] may require the use of additional best available retrofit technologies in or on
345 regulated school buses. If the [Department] makes such a finding pursuant to the study, the
346 [Department] shall adopt, pursuant to the [“Administrative Procedure Act,”] rules and
347 regulations establishing:

348 (1) the best available retrofit technologies that regulated school buses shall be
349 required to use, according to type, class, and other identifying vehicle information as designated
350 by the [department] in these rules and regulations; and

351 (2) the requirements for submitting a fleet retrofit plan, combined fleet retrofit
352 plan, or fleet averaging plan that are consistent with the requirements and provisions of this Act
353 and the requirements for implementing the use of best available retrofit technologies for any
354 owner who elects not to submit such a plan. No use of additional best available retrofit
355 technologies in or on regulated school buses may be required pursuant to this subsection for
356 regulated school buses scheduled to be in service for less than [two years] on or after the date of
357 notification pursuant to this Act. No provision of the rules and regulations may require an owner
358 of a regulated school bus to make a submittal to the [Department] except as provided by this
359 section.

360 c. No owner of a regulated school bus shall be required to install or use a retrofit device
361 on a regulated school bus as required pursuant to the rules and regulations adopted pursuant to
362 this Act or pursuant to any part of a plan submitted pursuant to this Act unless:

363 (1) the [State Treasurer] certifies that the constitutionally dedicated moneys have
364 been deposited in the [Diesel Risk Mitigation Fund] for that year; and

365 (2) the [Department of Environmental Protection] certifies that sufficient moneys
366 are available in the fund to pay for the cost of purchase and installation of the retrofit device
367 required to be used by rule or regulation or by a provision of a plan submitted pursuant to this
368 Act in that given year. Provided that the [State Treasurer] has issued the certification required
369 under this Act for that year, the [Department] may determine the amount of moneys available in

370 the fund for that year, require the purchase and installation of those retrofit devices in those
371 regulated school buses for which sufficient moneys are available, and certify that sufficient
372 moneys are available for those retrofit devices in those regulated school buses.

373 d. The [Department of Environmental Protection] shall notify each owner of a regulated
374 school bus of the adoption of the rules and regulations pursuant to this section and the provisions
375 of those rules and regulations. In establishing additional requirements pursuant to this section,
376 the [Department] shall require the compliance of regulated school buses before the compliance
377 of other vehicles and equipment required to use best available retrofit technologies pursuant to
378 this Act. The [State Treasurer] shall prioritize the use of dedicated moneys in the [Diesel Risk
379 Mitigation Fund] to allow for regulated school bus compliance with the provisions of this
380 section, and shall prioritize payments made from the fund for regulated school buses complying
381 with these additional requirements.

382 e. If rules and regulations are adopted pursuant to this section, each owner of a regulated
383 school bus shall submit to the [Department of Environmental Protection]:

384 (1) an inventory of the diesel-powered school buses that are owned by the owner;
385 (2) notice by the owner that the owner shall comply with the requirements of this
386 Act through the use of the best available retrofit technologies as designated and provided for
387 under the rules and regulations adopted pursuant to this section, or that the owner cannot comply
388 in that manner and is submitting a fleet retrofit plan, combined fleet retrofit plan, or fleet
389 averaging plan; and

390 (3) the fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan
391 being submitted in lieu of complying through the use of the best available retrofit technologies as
392 designated and provided for under the rules and regulations adopted pursuant to this Act, if the
393 owner has elected to do so. The owner shall make these submittals no later than [180 days] after
394 the effective date of the rules and regulations adopted pursuant to this section, or the date on or
395 by which both certifications required pursuant to this section have been made, whichever is later.

396 f. No later than [180 days] after the date of the submittals and notice pursuant to this
397 section, the [Department of Environmental Protection] shall review, approve, and resolve any
398 discrepancies concerning any submitted fleet retrofit plan, combined fleet retrofit plan, or fleet
399 averaging plan, and shall issue final approval of the submitted plan. Any supplements or
400 modifications to the fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan
401 submitted pursuant to this subsection shall be made pursuant to this Act.

402 g. The [Department] shall provide a one-page compliance form to each owner of a
403 regulated school bus that submits a notice to comply with this section for each regulated school
404 bus required to use best available retrofit technologies. The compliance form shall be similar to
405 the compliance form issued pursuant to this Act and shall be consistent with the provisions of
406 this Act. The [Department] shall issue with the compliance form a notice of instructions
407 describing the purpose of, and the procedures for completion of the compliance form, and the
408 requirement to keep the compliance form with the regulated vehicle, or other vehicle included in
409 a fleet averaging plan or modification thereto, for the life of the vehicle. The owner of the
410 regulated school bus shall complete the compliance form, retain a copy for the owner's records,
411 and return it to the [Department] as soon as practicable after the installation of, or
412 commencement of the use of, the best available retrofit technologies required pursuant to the
413 rules and regulations adopted pursuant to this section. The [Department] shall review the
414 compliance forms submitted and shall forward them to the [State Treasurer], who shall reimburse
415 each owner of a regulated school bus the cost of any retrofit device and the costs associated with
416 the installation thereof, in accordance with the provisions of this Act.

417
418

Section 9. *[Rules and Regulations Relative to Idling School Buses.]*

419 a. The rules and regulations adopted pursuant to this Act shall be consistent with any
420 rules and regulations adopted pursuant to the [insert citation] concerning the idling of vehicles
421 powered by diesel engines, shall be no less stringent than the restrictions on idling pursuant to
422 [department] rules and regulations in effect on the date of enactment of this Act, and shall
423 provide for the same penalties to be enforced for school bus idling as are enforced for the idling
424 of other motor vehicles pursuant to section this Act, except that:

425 (1) a warning shall be issued to the driver of the school bus operated in
426 violation of these provisions, to the school district if the school district is not the owner of the
427 school bus, and the principal or administrator of the school serviced by the school bus operated
428 in violation of these provisions, for the first violation;

429 (2) for a first violation, a notice of violation shall be issued to, and the
430 appropriate penalty imposed on, the owner of the school bus operated in violation of these
431 provisions; and

432 (3) subsequent violations shall be enforced against the owner of the
433 school bus operated in violation of these provisions, if other than the school district, and the
434 school district serviced by the school bus operated in violation of these provisions. No penalties
435 may be assessed against any driver of any school bus that is operated in violation of the rules and
436 regulations adopted pursuant to this Act.

437 b. The [Department of Environmental Protection] shall consult with the [Department of
438 Education], individual school districts and school administrators concerning the issue of school
439 bus idling, and develop and assist with the implementation of policies and procedures to achieve
440 compliance with the rules and regulations adopted pursuant to this Act.

441 c. The [Department of Law and Public Safety], in consultation with local law
442 enforcement, the [Department of Education, the Department of Environmental Protection, and
443 the state Motor Vehicle Commission], shall adopt any rules or regulations necessary to facilitate
444 and ensure the enforcement of the rules and regulations adopted pursuant to [insert citation].
445

446 Section 10. [*Submissions to DEP by Owner of Regulated Vehicle, Equipment.*]

447 a. Except as otherwise provided for in this section, any owner of a regulated vehicle or
448 regulated equipment shall submit to the [Department of Environmental Protection]:

449 (1) an inventory of all on-road diesel vehicles and off-road diesel equipment
450 owned, operated, or leased by the owner;

451 (2) notice by the owner that the owner shall comply with the requirements of this
452 Act through the use of the best available retrofit technologies as designated and provided for
453 under the rules and regulations adopted pursuant to this Act, or that the owner cannot comply in
454 that manner and is submitting a fleet retrofit plan, combined fleet retrofit plan, or fleet averaging
455 plan; and

456 (3) the fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan
457 being submitted in lieu of complying through the use of the best available retrofit technologies as
458 designated and provided for under the rules and regulations adopted pursuant to this Act, if the
459 owner has elected to do so.

460 b. Each owner of a regulated vehicle or regulated equipment shall make the submittals
461 required pursuant to subsection a. in accordance with the following schedule:

462 (1) for regulated solid waste vehicles, no later than [180 days] after the effective
463 date of the rules and regulations adopted pursuant to this Act;

464 (2) for public regulated commercial buses, no later than [one year] after the
465 effective date of the rules and regulations adopted pursuant to this Act;

466 (3) for private regulated commercial buses, no later than [one year and 180 days]
467 after the effective date of the rules and regulations adopted pursuant to this Act; and

468 (4) for regulated on-road diesel vehicles and regulated equipment other than
469 regulated solid waste vehicles and regulated commercial buses, no later than [two years] after the
470 effective date of the rules and regulations adopted pursuant to this Act.

471 c. No owner of a private regulated commercial bus shall be required to make any
472 submittal pursuant to subsection b. of this section until the owners of public regulated
473 commercial buses have made their submittals required pursuant to that subsection, and no
474 installation and use of a retrofit device on a private regulated commercial bus may be required
475 earlier than [180 days] after the owners of public regulated commercial buses have been required
476 to install and have begun the use of retrofit devices on public regulated commercial buses.

477 d. The owner of regulated vehicles or regulated equipment who commences operation of
478 a fleet after the effective date of the rules and regulations adopted pursuant to this Act shall make
479 the submittals required pursuant to subsection a. of this section within [180 days] after the date
480 on which they began operations, or the date provided in subsection b. of this section, whichever
481 is later.

482 e. The owner of regulated vehicles or regulated equipment may coordinate or combine
483 the development of a fleet retrofit plan with the development of a fleet retrofit plan of any other
484 owner, or a group of owners, of regulated vehicles or regulated equipment, and with the guidance
485 of the [Department of Environmental Protection] submit a combined fleet retrofit plan.

486 f. The fleet retrofit plan submitted pursuant to subsection a. of this section shall include a
487 description by the owner of the best available retrofit technology and the specific regulated
488 vehicle or piece of regulated equipment on which the specific best available retrofit technology
489 would be used, as determined by the owner pursuant to the rules and regulations adopted
490 pursuant to this Act.

491 g. If the owner of regulated vehicles or regulated equipment determines that the best
492 available retrofit technology as required under the rules and regulations adopted pursuant to this
493 Act is not feasible for a specific regulated vehicle or pieces of regulated equipment, the owner
494 may document this determination in the fleet retrofit plan and request the use of another level of
495 best available retrofit technology to meet the requirement for that specific regulated vehicle or
496 piece of regulated equipment, or provide documentation as to why the owner cannot use the best
497 available retrofit technology that is required. The owner may also propose and negotiate an
498 enforceable commitment to:

499 (1) retire the regulated vehicle or piece of regulated equipment and replace it with
500 a vehicle or piece of equipment certified to fine particle emission levels at or below the emission
501 levels that would have been achieved by the use of the required best available retrofit
502 technology; or

503 (2) replace the engine of the vehicle or the equipment with an engine certified to
504 that fine particle emissions level.

505 h. The owner of [75 or more] regulated vehicles or pieces of regulated equipment, or any
506 group of owners who elect to develop a combined fleet retrofit plan pursuant to subsection d. of
507 this section under which [75 or more] regulated vehicles or pieces of regulated equipment would
508 be regulated, may propose to the [Department of Environmental Protection] a fleet averaging
509 plan, in lieu of a fleet retrofit plan or a combined fleet retrofit plan, for the fleet or fleets affected.
510 The owner or owners may propose a fleet averaging plan provided that the total net percent
511 reductions in fine particle emissions under the proposed fleet averaging plan are equivalent to the
512 estimated reductions in fine particle emissions that would have been achieved by the owner if a
513 fleet retrofit plan were submitted and implemented for the regulated vehicles or regulated
514 equipment, or both, or by the owners if the owners had submitted and implemented a combined
515 fleet retrofit plan for their regulated vehicles or regulated equipment, or both, as calculated
516 pursuant to the provisions of the rules and regulations adopted pursuant to this Act. The owner or

517 group of owners may propose achieving fine particle emissions reductions from any on-road
518 diesel vehicle, off-road diesel equipment, regulated vehicle, or regulated equipment owned by
519 the owner or group of owners, or the retirement of any of those vehicles or equipment, and shall
520 submit the proposed fleet averaging plan to the [Department] as required by the rules and
521 regulations adopted pursuant to this Act.

522 i. A fleet averaging plan proposed pursuant to subsection g. of this section that proposes
523 the use of retrofit devices on any on-road diesel vehicle, off-road diesel equipment, regulated
524 vehicle, or regulated equipment shall include:

525 (1) a description by the owner of the best available retrofit technology and the
526 specific vehicle or equipment on which the specific best available retrofit technology would be
527 used, the specific vehicle or equipment to be retired, and how the required fine particle
528 reductions shall be achieved through a combination of the use of best available retrofit
529 technology on the specific vehicles or equipment; and

530 (2) other measures or applications of best available retrofit technology consistent
531 with the provisions of the rules and regulations adopted pursuant to this Act.

532 j. The [Department of Environmental Protection] shall give due consideration in the
533 application of the fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan
534 requirements to any efforts or actions by owners of regulated vehicles or regulated equipment
535 who voluntarily retrofit, retire, or repower vehicles or equipment prior to the adoption of rules
536 and regulations pursuant to this Act, and may modify any of the requirements of this section for
537 such an owner in order to provide such due consideration.

538 k. The [Department of Environmental Protection] shall provide any technical guidance
539 needed in preparing the fleet retrofit plans, combined fleet retrofit plans, and fleet averaging
540 plans required pursuant to this section and any revisions, supplements, or modifications thereto
541 required pursuant to this Act.

542 l. No owner of regulated vehicles or regulated equipment shall be required to install or
543 use a retrofit device on a regulated vehicle or regulated equipment as required pursuant to the
544 rules and regulations adopted pursuant to this Act or under a plan submitted pursuant to this
545 section in any year unless the [State Treasurer] certifies for that year that the constitutionally
546 dedicated moneys have been deposited in the [Diesel Risk Mitigation Fund] and the [Department
547 of Environmental Protection] certifies that sufficient moneys are available in the fund to pay the
548 cost of purchase and installation of the retrofit devices required to be used by rule and regulation
549 or under an approved fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan or
550 supplement or modification thereto, as applicable, by an owner in that year. Provided that the
551 [State Treasurer] has issued the certification that the constitutionally dedicated moneys have
552 been deposited in the [Fund] for that year, the [Department] may determine the amount of
553 moneys available in the fund for that year, require the purchase and installation of those retrofit
554 devices in those regulated vehicles or pieces of regulated equipment for which sufficient moneys
555 are available, and certify that sufficient moneys are available for those retrofit devices to be
556 purchased for, and installed in, those regulated vehicles or pieces of regulated equipment.

557

558 Section 11. *[Approval of Fleet Retrofit Plans.]*

559 a. The [Department] shall review, and approve or disapprove all parts of any fleet retrofit
560 plan, combined fleet retrofit plan, or fleet averaging plan submitted pursuant to this Act. The
561 [Department] may approve or disapprove any fleet retrofit plan, combined fleet retrofit plan, or
562 the fleet averaging plan in part, and:

563 (1) may direct the owner to comply with the approved part or parts of the fleet
564 retrofit plan, the combined fleet retrofit plan, or the fleet averaging plan, as applicable, prior to

565 final approval of other parts of the fleet retrofit plan, the combined fleet retrofit plan, or the fleet
566 averaging plan; or

567 (2) in the case of a fleet averaging plan, may determine that the owner or the
568 group of owners cannot comply with the requirements of this Act by implementing the proposed
569 fleet averaging plan, and may require the owner to submit a fleet retrofit plan, or the group of
570 owners of the fleets to submit a combined fleet retrofit plan or individual fleet retrofit plans. Any
571 determination made, or requirement established, pursuant to paragraph (2) of this subsection
572 shall be made in writing and shall be provided in writing to each owner affected by the
573 determination or requirement.

574 b. If the [Department] exercises its authority under paragraph (2) of subsection a. of this
575 section, the [Department] shall issue a modified timetable for submittal of a fleet retrofit plan for
576 the regulated vehicles or regulated equipment, a combined fleet retrofit plan for the group of
577 owners, or individual fleet retrofit plans for the owners in the group. The [Department] may
578 require the submittal of these plans no earlier than [180 days] after the date of the determination
579 pursuant to paragraph (2) of subsection a. of this section, or the date on or by which both of the
580 certifications required pursuant to this Act have been made, whichever is later. The [Department]
581 shall review, approve or disapprove any fleet retrofit plan or combined fleet retrofit plan
582 submitted in accordance with this modified timetable.

583 c. Whenever the [Department] disapproves a fleet retrofit plan, combined fleet retrofit
584 plan, or fleet averaging plan, or a part thereof, the [Department] shall provide a detailed
585 explanation to the owner indicating the deficiencies of the disapproved fleet retrofit plan,
586 disapproved combined fleet retrofit plan, or the disapproved fleet averaging plan, or part thereof,
587 and the recommendations of the [Department] to correct the deficiencies.

588 d. During the review process or prior to final approval of a fleet retrofit plan, combined
589 fleet retrofit plan, or fleet averaging plan, or the part thereof in question, the [Department] may
590 contact and enter into negotiations with the owner to resolve discrepancies between the rules and
591 regulations adopted pursuant to this Act, the submitted fleet retrofit plan, combined fleet retrofit
592 plan, or fleet averaging plan, and any requests by the owner for alternatives pursuant to this Act.

593 e. The owner or a group of owners whose fleet retrofit plan, combined fleet retrofit plan,
594 or fleet averaging plan, or any part thereof, is disapproved by the [Department] shall make the
595 recommended revisions to the disapproved fleet retrofit plan, combined fleet retrofit plan, or
596 fleet averaging plan, or the disapproved part thereof, within [60 days] after the receipt of the
597 disapproval notification from the [department], and shall submit to the [Department] the final
598 revised fleet retrofit plan, final revised combined fleet retrofit plan, or the final revised fleet
599 averaging plan, or the final revised part thereof that had been disapproved and revised. If the
600 [Department] does not take further action within [30 days] after receipt of the final revised fleet
601 retrofit plan, final revised combined fleet retrofit plan, the final fleet averaging plan, or the final
602 revised part that had been disapproved, the fleet retrofit plan, combined fleet retrofit plan, or fleet
603 averaging plan, or the part that had been disapproved and revised, shall be considered approved
604 and in effect. If the [Department] finds within [30 days] after the receipt of the final revised fleet
605 retrofit plan, final revised combined fleet retrofit plan, or the final revised fleet averaging plan,
606 that the owner has not complied with the recommended revisions, the [Department] may take
607 further action to require compliance with this subsection, but the plan shall be in effect as of the
608 date of the close of the [30-day period] following the submittal of the final revised plan, or part
609 thereof.

610 f. Upon the date of final approval of the fleet retrofit plan, combined fleet retrofit plan, or
611 fleet averaging plan, or any part thereof, the owner shall be subject to the provisions of the fleet
612 retrofit plan, combined fleet retrofit plan, fleet averaging plan, or that part thereof, and shall be

613 required to comply with these provisions on or after the final approval date or the date on or by
614 which both certifications required pursuant to this Act have been made, whichever is later.

615
616 Section 12. [*Anniversary Date of Plans, Submissions Required from Owner.*]

617 a. The date on which all parts of a fleet retrofit plan, combined fleet retrofit plan, or fleet
618 averaging plan have been approved and are in effect shall serve as the anniversary date of the
619 fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan approval for the purposes
620 of this subsection. On each [annual] anniversary of the date of the fleet retrofit plan, combined
621 fleet retrofit plan, or fleet averaging plan approval, or [90 days] after the date of the fleet retrofit
622 plan, combined fleet retrofit plan, or fleet averaging plan approval, or the approval of the most
623 recent supplement or modification thereto, as applicable, whichever is later, each owner of
624 regulated vehicles or regulated equipment shall submit a supplement to the fleet retrofit plan or
625 combined fleet retrofit plan, or a modification of the fleet averaging plan, as applicable,
626 indicating any changes to the fleet that have been made.

627 b. A supplement submitted pursuant to subsection a. of this section shall include:

628 (1) a description of any on-road diesel vehicles or off-road diesel equipment
629 owned, operated, or leased by the owner added or removed from the fleet since the submission of
630 the fleet retrofit plan or combined fleet retrofit plan, or the last supplement thereto; and

631 (2) for the regulated vehicles or regulated equipment added to the fleet, a
632 description of the best available retrofit technology and the specific vehicle or piece of
633 equipment on which the specific best available retrofit technology would be used.

634 c. A modification to a fleet averaging plan submitted pursuant to subsection a. of this
635 section shall include:

636 (1) a description of any on-road diesel vehicles or off-road diesel equipment
637 owned, operated, or leased by the owner or removed from the fleet since the submission of the
638 fleet averaging plan or the last modification, thereto;

639 (2) for the regulated vehicles or regulated equipment added to the fleet, a
640 description of the best available retrofit technology and the specific vehicle or piece of
641 equipment on which the specific best available retrofit technology would be used that was not
642 described in the fleet averaging plan or the last modification thereto; and

643 (3) a description of how the required fine particle reductions shall be achieved
644 through a combination of the use of best available retrofit technology on specific regulated
645 vehicles and other on-road diesel vehicles, or on specific regulated equipment and other off-road
646 diesel equipment, and other measures or applications of best available retrofit technology
647 consistent with the provisions of the rules and regulations adopted pursuant to this Act.

648 d. The [Department] shall review, and approve or disapprove all parts of the supplement
649 or the modification no later than one year after its submittal date. The [Department] may approve
650 or disapprove any supplement or modification to any plan in part, and require the owner of the
651 regulated vehicles or regulated equipment to comply with the approved part or parts of the
652 supplement or modification prior to final approval of other parts of the supplement or the
653 modification.

654 e. Whenever the [Department] disapproves a supplement to a fleet retrofit plan, combined
655 fleet retrofit plan, or a modification to a fleet averaging plan, or a part thereof, the [Department]
656 shall provide a detailed explanation to the owner or operator of the fleet indicating the
657 deficiencies of the disapproved supplement or modification, or part thereof, and the
658 recommendations of the [Department] to correct the deficiencies. The owner or a group of
659 owners who receive disapproval of a supplement to a fleet retrofit plan or combined fleet retrofit
660 plan, or of a modification to a fleet averaging plan, or a part thereof, shall make the
661 recommended revisions to the supplement or the modification within [60 days] after the receipt

662 of the disapproval notification from the [Department], and submit the final revised supplement or
663 modification, or the revised part that had been disapproved, to the [Department]. If the
664 [Department] does not take further action within [30 days] after receipt of the final revised
665 supplement or modification, or the revised part that had been disapproved, the revised
666 supplement to the fleet retrofit plan or combined fleet retrofit plan, or modification to the fleet
667 averaging plan, or the revised part that had been disapproved shall be considered approved and in
668 effect. If the [Department] finds within [30 days] after the receipt of the final revised supplement
669 or modification or the final revised part that had been disapproved, that the owner has not
670 complied with the recommended revisions, the [Department] may take further action to require
671 compliance with this subsection, but the supplement or modification shall be in effect as of the
672 date of the close of the [30-day period] after the receipt of the final revised supplement or
673 modification.

674 f. Upon the date of final approval of the applicable part, and the date the final
675 supplement or modification is in effect, the owner shall be subject to the provisions of the fleet
676 retrofit plan or combined fleet retrofit plan, and the supplement thereto, or the fleet averaging
677 plan and the modification thereto, except as may otherwise be provided pursuant to subsection e.
678 of this section.

679 g. No owner of a regulated vehicle or regulated equipment shall be required to install or
680 use a retrofit device on a regulated vehicle or piece of regulated equipment as required pursuant
681 to a supplement to a fleet retrofit plan or combined fleet retrofit plan, or a modification to a fleet
682 averaging plan or, any part of such a supplement or a modification, in any year unless the [State
683 Treasurer] certifies for that year that the constitutionally dedicated moneys have been deposited
684 in the [Diesel Risk Mitigation Fund], and the [Department of Environmental Protection] certifies
685 that sufficient moneys are available in the fund to pay the cost of purchase and installation of the
686 retrofit devices required to be used by an owner by rule or regulation or by the supplement to a
687 fleet retrofit plan or combined fleet retrofit plan or the modification to a fleet averaging plan in
688 that year. Provided that the [State Treasurer] has issued the certification that the constitutionally
689 dedicated moneys have been deposited in the fund for that year, the [Department] may determine
690 the amount of moneys available in the fund for that year, require the purchase and installation of
691 those retrofit devices in those regulated vehicles or pieces of regulated equipment for which
692 sufficient moneys are available, and certify that sufficient moneys are available for those retrofit
693 devices to be purchased for, and installed in, those regulated vehicles or pieces of regulated
694 equipment.

695
696 Section 13. [*Inapplicability Relative to Vehicles, Equipment Meeting Federal Standard.*]
697 Notwithstanding the provisions of this Act, or any rule or regulation adopted pursuant thereto, to
698 the contrary, no best available retrofit technology shall be required by the [department] to be
699 used on any regulated on-road diesel vehicle manufactured and certified to meet a federal
700 standard of 0.01 grams per brake-horsepower-hour of fine particle emissions, or on any regulated
701 off-road diesel equipment manufactured and certified to meet a federal standard of 0.015 grams
702 per brake-horsepower-hour of fine particle emissions.

703
704 Section 14. [*Voluntary Repowering, Replacing, or Rebuilding of Equipment.*]
705 Notwithstanding the provisions of this Act, or any rule or regulation adopted pursuant thereto, to
706 the contrary, no owner of any on-road diesel vehicle or piece of off-road diesel equipment may
707 be required by the [Department] to repower any on-road diesel vehicle or piece of off-road diesel
708 equipment, or to replace or rebuild an engine in any onroad diesel vehicle or piece of off-road
709 diesel equipment, unless the owner has voluntarily agreed to do so. The owner of any on-road
710 diesel vehicle or piece of off-road diesel equipment may repower the on-road diesel vehicle or

711 piece of off-road diesel equipment, or replace or rebuild its engine, to comply with the
712 requirements of this Act.

713

714 Section 15. [*Record Listing for Each Regulated Vehicle, Piece of Equipment.*]

715 a. Each owner of regulated vehicles or regulated equipment shall keep, at the place of
716 business of the owner a record listing for each regulated vehicle or piece of regulated equipment
717 the following identifying information and records for the regulated vehicle or piece of regulated
718 equipment:

719 (1) the compliance form issued for each regulated vehicle or piece of regulated
720 equipment provided pursuant to this Act or any other document for the verification of
721 compliance that may be issued or required pursuant to this Act;

722 (2) maintenance records for the emissions control system or best available retrofit
723 technology;

724 (3) the records of the [two most recent calendar years] of fuel purchases for each
725 vehicle or piece of regulated equipment required to use modified fuel or fuel additives pursuant
726 to rules and regulations adopted pursuant to this Act, or the approved fleet retrofit plan,
727 combined fleet retrofit plan, or fleet averaging plan, or approved supplement or approved
728 modification thereto, as applicable;

729 (4) the original, approved fleet retrofit plan, combined fleet retrofit plan, or fleet
730 averaging plan, any exemption requests, and approvals or disapprovals of the requests, plans,
731 supplements, or modifications, as applicable; and

732 (5) any other documentation pertinent to fleet averaging plans that may be
733 otherwise required under rules or regulations adopted pursuant to this Act. The [Department of
734 Environmental Protection] shall have the authority to inspect these records upon request. The
735 [Department of Environmental Protection] may call upon the [Superintendent of State Police and
736 the State Police] to assist with inspections pursuant to this subsection if necessary.

737 b. The owner of the fleet shall keep on each regulated vehicle or piece of regulated
738 equipment, and on each vehicle or piece of equipment that is required to use best available
739 retrofit technologies pursuant to an approved fleet averaging plan, or modification thereto, the
740 current, updated compliance form issued pursuant to this Act, and a copy thereof with the
741 records required pursuant to subsection a. of this section.

742

743 Section 16. [*Labeling of Retrofit Devices.*] Each retrofit device that is installed in this state
744 shall be labeled with a legible and durable label affixed to the device. The label shall provide a
745 unique identification number to be matched to the specific retrofit device and the specific vehicle
746 required to use the retrofit device. No retrofit device may be sold or installed for use in this state
747 unless it complies with the requirements of this section.

748

749 Section 17. [*Compliance Forms for Regulated Equipment.*]

750 a. The [Department of Environmental Protection] shall develop and issue to each owner of
751 regulated equipment compliance forms for the regulated equipment no later than [180 days] after
752 the submittal of a notice to comply or [180 days] after the date of the final approval of the fleet
753 plan, combined fleet plan, fleet averaging plan, or supplement or modification thereto, as
754 applicable. The compliance form shall include a section for providing the cost of any retrofit
755 device installed and any cost associated with the installation of the required best available retrofit
756 technology for the regulated equipment.

757 b. As soon as practicable after the required best available retrofit technologies have been
758 installed on the regulated equipment, the owner of regulated equipment shall complete the
759 compliance form, retain a copy of the owner's records, and return it to the [Department of

760 Environmental Protection]. Thereafter, a current copy of the completed compliance form shall be
761 kept on each piece of regulated equipment at all times.

762 c. Each owner of regulated equipment seeking reimbursement for the cost of any retrofit
763 device installed and any cost associated with the installation of the required best available retrofit
764 technology for the regulated equipment shall submit a copy of the completed compliance form to
765 the [Department of Environmental Protection]. The [Department] shall review the submitted
766 compliance form and forward it to the [State Treasurer], who shall reimburse the owner the costs
767 indicated on the completed compliance form.

768

769 Section 18. *[Issuance of One-Page Compliance Forms.]*

770 a. No later than [180 days] after the date on which the owner of regulated vehicles or
771 regulated equipment submits a notice to comply pursuant to this Act, the date on which the fleet
772 retrofit plan, the combined fleet retrofit plan, or the fleet averaging plan is in effect, the date on
773 which the fleet retrofit plan, the combined fleet retrofit plan, or the fleet averaging plan is in
774 effect, or the date on which any supplement to the fleet retrofit plan or the combined fleet retrofit
775 plan, or modification to the fleet averaging plan is in effect, the [Department] shall issue to the
776 owner of a regulated vehicle or piece of regulated equipment a one-page compliance form for
777 each regulated vehicle or piece of regulated equipment required to use best available retrofit
778 technologies pursuant to the approved fleet retrofit plan or combined fleet retrofit plan, or the
779 approved supplement thereto. In the case of an approved fleet averaging plan, the [Department]
780 shall also issue a one page compliance form for each regulated vehicle, piece of regulated
781 equipment, and other onroad diesel vehicle or piece of off-road diesel equipment that is required
782 to use best available retrofit technologies pursuant to the approved fleet averaging plan, or the
783 approved modification thereto.

784 b. The compliance form issued by the [Department of Environmental Protection] shall be
785 no longer than one page and shall have printed on the form:

786 (1) the name and business address of the owner of the regulated vehicle or piece
787 of regulated equipment;

788 (2) the vehicle identification number for the regulated vehicle or the serial number
789 for the piece of regulated equipment that is required to use best available retrofit technologies, or
790 the approved fleet retrofit plan, combined fleet retrofit plan, or the fleet averaging plan;

791 (3) a description of the best available retrofit technologies that may be used by the
792 specific regulated vehicle or piece of regulated equipment and the requirement under the
793 approved fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan;

794 (4) a description of the best available retrofit technology required for the vehicle
795 or piece of equipment pursuant to the rules and regulations, the fleet retrofit plan, combined fleet
796 retrofit plan, or fleet averaging plan, as the case may be;

797 (5) an identified space for the label number for a required retrofit device to be
798 entered into the form;

799 (6) an identified space for the owner responsible for the submittal of the notice to
800 comply by rules and regulations or the submittal and update of the fleet retrofit plan, combined
801 fleet retrofit plan, or fleet averaging plan to certify that any required retrofit devices have been
802 installed, and the date of that compliance;

803 (7) an identified space for the examiner of the regulated vehicle to certify that the
804 vehicle identification number that appears on the form corresponds to the vehicle on which the
805 required retrofit device has been installed, and that the label identification number on the
806 required retrofit device corresponds to the label identification number entered on the form of the
807 regulated on-road diesel vehicle or other on-road diesel vehicle on which the required retrofit
808 device has been installed; and

809 (8) an identified space for the owner to record the cost of the retrofit device and
810 its installation.

811 c. The [Department of Environmental Protection] shall issue with the forms sent to the
812 owner of the fleet a notice of instructions describing the purpose of, and the procedures for
813 completion of the compliance form, and the requirement to keep the compliance form with the
814 regulated vehicle, or another vehicle included in a fleet averaging plan or modification thereto,
815 for the life of the vehicle.

816

817 Section 19. [*Retaining Form on Vehicle, Piece of Equipment; Record Copies.*]

818 a. Upon receipt of the compliance form for a vehicle or piece of equipment required to
819 use best available retrofit technology, an approved fleet plan, combined fleet plan, fleet
820 averaging plan, or supplement or modification thereto, as applicable, the owner of the vehicle or
821 piece of equipment shall retain the form on the vehicle or piece of equipment for which it was
822 issued, and a copy of the current form in the business records of the owner, at all times.

823 b. As soon as practicable after the requirement to implement the use of best available
824 retrofit technologies for a specific vehicle or piece of equipment as provided in department rules
825 and regulations, the approved regulated fleet retrofit plan, combined regulated fleet retrofit plan,
826 or fleet averaging plan, or supplement or modification thereto, as applicable, has been complied
827 with, the owner shall complete the appropriate portion of the form provided pursuant to this Act.
828 The owner shall:

829 (1) indicate the choice of best available retrofit technology that has been used to
830 fulfill the requirement;

831 (2) enter into the identified space on the compliance form the label identification
832 number for any retrofit device that has been installed on the regulated vehicle or regulated
833 equipment;

834 (3) certify that the requirement on the form has been met for the regulated vehicle
835 or piece of regulated equipment whose vehicle identification number or serial number, as
836 applicable is printed on the form; and

837 (4) provide and certify the date that the installation was done or compliance began
838 on the compliance form.

839 c. For any regulated vehicle that is not required to be inspected under the periodic
840 inspection program established pursuant to [insert citation], the owner shall have the regulated
841 vehicle inspected by a diesel emissions inspection center licensed pursuant to [insert citation] for
842 the presence of the required retrofit device and compliance with the requirement described on the
843 compliance form issued pursuant to this Act as soon as practicable after the requirements of
844 subsection b. of this section have been met for the regulated vehicle.

845 d. For any regulated vehicle that is subject to inspection under the periodic inspection
846 program pursuant to [insert citation], the owner, after complying with the provisions of
847 subsection b. of this section, shall have the regulated vehicle inspected for compliance with the
848 requirement printed on the form at the next annual periodic inspection scheduled for the vehicle,
849 or as soon as practicable after complying with the provisions of subsection b. of this section. No
850 provision of this subsection shall be construed as requiring the owner to have any vehicle subject
851 to a periodic inspection to have that vehicle registered at any scheduled periodic inspection.

852 e. A diesel emissions inspection center licensed pursuant to [insert citation] shall inspect
853 any regulated vehicle presented to it for inspection for compliance with the requirement on the
854 form issued for the regulated vehicle. The person performing the inspection shall verify the
855 presence of the required retrofit device, the match of the label identification number on the form
856 with the device in the vehicle, and shall certify that the requirement has been met based on the
857 presence of the required retrofit device and the match of the label identification number on the

858 form to the label identification number on the retrofit device on the vehicle, and the correct
859 vehicle identification number on the form. No provision of this subsection shall be construed to
860 require the diesel emissions inspection center to verify the functioning or the correct installation
861 of the retrofit device, or to test for the level of emissions reduction attributed to the use of the
862 retrofit device.

863 f. If the owner of the regulated vehicle is a licensed diesel inspection center or is
864 otherwise authorized to self-inspect the vehicles owned by the owner, the owner may perform
865 the inspection and provide the certification required pursuant to subsections d. and e. of this
866 section.

867 g. Only one inspection per vehicle is required pursuant to this section.

868
869 Section 20. [*Rules, Regulations Relative to One-Time Confirmation of Compliance With*
870 *Plans.*]

871 a. No later than [two years] after the effective date of this Act, the state [Motor Vehicle
872 Commission] shall adopt, any rules or regulations necessary for the provision of a one-time
873 confirmation of compliance with approved regulated fleet retrofit plans, combined fleet retrofit
874 plans, or fleet averaging plans, or supplements or modifications thereto, as applicable. As
875 necessary, the [state Motor Vehicle Commission] shall provide for the inspection of regulated
876 vehicles, including, but not limited to, the inspection of regulated vehicles that were not required
877 to be inspected on the date of enactment of this Act, and the verification of compliance and
878 completion of the compliance form by examiners, mechanics, technicians, or other
879 knowledgeable persons involved in the maintenance and repair of the regulated vehicles.

880 b. The [Commission] shall include, in its inspection of a diesel commercial bus pursuant
881 to [insert citation], an inspection of any regulated commercial bus required to install a retrofit
882 device pursuant to a regulated fleet retrofit plan, combined regulated fleet retrofit plan, or fleet
883 averaging plan, after the retrofit device has been installed, to determine that the installation of the
884 required best available retrofit technology has occurred as required pursuant to the approved
885 regulated fleet retrofit plan, combined regulated fleet retrofit plan, or fleet averaging plan for the
886 diesel commercial bus being inspected, or shall provide for such an inspection at a separate time
887 requested by the owner, operator, or lessee of the regulated fleet of which the diesel commercial
888 bus is a part. This inspection is required to be performed only once and after the required retrofit
889 device has been installed. The owner, operator, or lessee of the regulated fleet containing the
890 diesel commercial buses shall notify the [state Motor Vehicle Commission] that the required
891 installation has been done for the diesel commercial bus being inspected as required pursuant to
892 this subsection.

893 c. The owner of a regulated vehicle subject to inspection pursuant to subsection a. or
894 subsection b. of this section shall present to the person performing the inspection the form for the
895 regulated vehicle. The person performing the inspection pursuant to subsection a. or subsection
896 b. of this section shall check for the presence of the required retrofit device, the match of the
897 label identification number in the form and or the device in the vehicle, and shall certify that the
898 requirement has been met based on the presence of the required retrofit device and the match of
899 the label identification number to the form for the vehicle with the vehicle identification number
900 on the form.

901 d. The [Department of Environmental Protection] shall provide any training necessary to
902 implement the provisions of this section for any employees of, or persons contracted or licensed
903 by, the [state Motor Vehicle Commission], as determined necessary by the [Chief Administrator
904 of the state Motor Vehicle Commission].

905 e. No provision of this section shall be construed to require the [state Motor Vehicle
906 Commission] to verify the functioning of the retrofit device, or its correct installation, or to test

907 the function of the retrofit device for any level of emissions reduction attributed to the use of the
908 retrofit device.

909

910 Section 21. [*Alternative Approach for Reimbursement of Cost for Retrofit Devices.*]

911 a. The [Department of Environmental Protection] may develop an alternative approach
912 for reimbursement of the provisions of this Act affecting the reimbursement of owners of
913 regulated vehicles or regulated equipment for the costs associated with the purchase and
914 installation of retrofit devices if the [Department] determines that an alternative approach is
915 feasible, cost-effective, and efficient. The alternative approach may include, but shall not be
916 limited to, directly reimbursing the entity performing the actual installation of the retrofit device
917 in lieu of reimbursing the owner of the regulated vehicle or regulated equipment. If the
918 [department] determines that an alternative approach is feasible, cost-effective, and efficient and
919 chooses to implement the alternative approach, the [Department] shall establish and implement
920 the alternative approach pursuant to rules and regulations adopted pursuant to the state
921 [“Administrative Procedure Act.”] No such rule or regulation may modify any procedure
922 performed by, or any responsibility or requirement imposed on, the [state Motor Vehicle
923 Commission], its employees, or any persons licensed or contracted by the [state Motor Vehicle
924 Commission], unless the rule or regulation is adopted jointly by the [state Motor Vehicle
925 Commission and the state Department of Environmental Protection] pursuant to the state
926 [“Administrative Procedure Act.”]

927 b. No entity performing the actual installation of a retrofit device who is reimbursed for
928 the costs associated with the purchase and installation of retrofit devices pursuant to rules and
929 regulations adopted pursuant to subsection a. of this section may impose any charge on any
930 owner of a regulated vehicle or piece of regulated equipment for any cost associated with the
931 purchase and installation of retrofit devices required pursuant to this Act. No state agency,
932 department, or political subdivision thereof may impose any charge on any owner of a regulated
933 vehicle or piece of regulated equipment for any cost associated with the purchase and installation
934 of retrofit devices required pursuant to this Act if entities performing the actual installation of a
935 retrofit device are reimbursed for the costs pursuant to rules and regulations adopted pursuant to
936 subsection a. of this section.

937

938 Section 22. [*Joint Rules, Regulations Relative to Training.*] The [Department of
939 Environmental Protection] and the [state Motor Vehicle Commission] shall adopt jointly rules
940 and regulations providing for the training with respect to emissions testing and inspection
941 required for persons who inspect or reinspect a vehicle pursuant to the periodic inspection
942 program or the roadside inspection program established pursuant to this Act, or who repair any
943 vehicle because of its failure of emissions testing under the periodic inspection program or
944 roadside inspection program, including, but not limited to, the extent of the training, standards
945 with respect to emissions testing and inspection for the training and certification of mechanics
946 employed for the purposes of inspecting vehicles under the periodic inspection program or the
947 roadside inspection program, or for the repair of vehicles that fail inspections under the periodic
948 inspection program and the roadside enforcement program, and the training to meet these
949 standards, including but not limited to, the length, convenience and affordability to the trainee,
950 and the cost, if any of that training.

951

952 Section 23. [*Consultation to Ensure Coordination Between Agencies When Adopting*
953 *Rules, Regulations.*] The [state Motor Vehicle Commission] shall consult with the [Department
954 of Environmental Protection] and the [Department of Law and Public Safety] when adopting
955 rules and regulations pursuant to this Act to ensure the proper coordination between the periodic

956 inspection program and the roadside enforcement program and the implementation and
957 enforcement of the provisions of this Act.

958

959 Section 24. [*Ultra-Low Sulfur Diesel Fuel Required On-Road.*]

960 a. No on-road diesel vehicle may operate in the State using any fuel other than ultra-low
961 sulfur diesel fuel, on or after [October 15, 2006], or the date set by the United States
962 Environmental Protection Agency as the retail compliance date for the sale of ultra-low sulfur
963 diesel for use in on-road diesel vehicles pursuant to federal law and regulation.

964 b. No sooner than [July 15, 2006], and following a public hearing held by the
965 [Department of Environmental Protection] on the availability of ultra-low sulfur diesel fuel in the
966 state, the [Department] shall determine and issue a written notice of its determination as to
967 whether sufficient supplies of ultra-low sulfur diesel fuel are available in the state to require only
968 ultra-low sulfur diesel fuel to be sold in the state on and after [January 15, 2007], without
969 significant disruption of, or significant price increases in, the wholesale and retail fuel market. If
970 the department determines that supplies would be sufficient, no diesel fuel other than ultra-low
971 sulfur diesel fuel may be sold in the state on or after the [180th day] after the date on which the
972 [Department] issues a written determination that supplies would be sufficient, or three months
973 after the retail compliance date for the sale of ultra-low sulfur diesel fuel for use in on-road
974 diesel vehicles implemented by the United States Environmental Protection Agency, whichever
975 is later.

976 c. If the [Department] determines that sufficient supplies are not available pursuant to
977 subsection b. of this section, the requirement to sell only ultra-low sulfur diesel fuel in the state
978 shall take effect only [180 days] after the [Department] issues a written determination that the
979 supplies are sufficient.

980 d. The [Department of Environmental Protection], in consultation with the [Department
981 of Law and Public Safety, the Department of Labor and Workforce Development, and the
982 Attorney General], shall adopt rules and regulations necessary for the implementation of this
983 section.

984

985 Section 25. [*Inapplicability Relative to Farm Vehicles, Equipment.*] No provision of this
986 Act shall be construed to apply to any vehicle or equipment used on, or in the course of the
987 operation of, a farm or to any vehicle or equipment used for any agricultural purposes.

988

989 Section 26. [*Violations, Penalties.*]

990 a. Whenever the [Commissioner of Environmental Protection] finds that a person has
991 violated a provision of this Act, or any rule or regulation adopted pursuant thereto, the
992 [Commissioner] may:

993 (1) Levy a civil administrative penalty in accordance with subsection b. of this
994 section; or

995 (2) Bring an action for a civil penalty in accordance with subsection c. of this
996 section.

997 b. Recourse to any of the remedies available under this section shall not preclude
998 recourse to any of the other remedies prescribed in this section or by any other applicable law.

999 c. The [Commissioner] is authorized to assess a civil administrative penalty of not more
1000 than [\$5,000] for each violation of this Act, or any rule or regulation adopted pursuant thereto. In
1001 adopting rules and regulations establishing the amount of any penalty to be assessed, the
1002 [Commissioner] may take into account the type, seriousness, and duration of the violation and
1003 the economic benefits from the violation gained by the violator. No assessment shall be levied

1004 pursuant to this section until after the party has been notified by certified mail or personal
1005 service. The notice shall:

1006 (1) identify the section of the law, rule, regulation, approval, or authorization
1007 violated;

1008 (2) recite the facts alleged to constitute a violation;

1009 (3) state the amount of the civil penalties to be imposed; and

1010 (4) affirm the rights of the alleged violator to a hearing.

1011 d. The ordered party shall have [20 days] from receipt of the notice within which to
1012 deliver to the [commissioner] a written request for a hearing. After the hearing and upon finding
1013 that a violation has occurred, the [commissioner] may issue a final order after assessing the
1014 amount of the fine specified in the notice. If no hearing is requested, the notice shall become a
1015 final order after the expiration of the [20-day] period. Payment of the assessment is due when a
1016 final order is issued or the notice becomes a final order. The authority to levy an administrative
1017 penalty is in addition to all other enforcement provisions in this Act and in any other applicable
1018 law, rule, or regulation, and the payment of any assessment shall not be deemed to affect the
1019 availability of any other enforcement provisions in connection with the violation for which the
1020 assessment is levied. Any civil administrative penalty assessed under this section may be
1021 compromised by the [Commissioner] upon the posting of a performance bond by the violator, or
1022 upon such terms and conditions as the commissioner may establish by regulation.

1023 e. A person who violates any provisions of this Act or any rule or regulation adopted
1024 pursuant thereto, or who fails to pay a civil administrative penalty in full pursuant to subsection
1025 b. of this section, shall be subject, upon order of a court, to a civil penalty for such violation of
1026 not more than [\$5,000]. Any civil penalty imposed pursuant to this subsection may be collected
1027 with costs in a summary proceeding pursuant to the [insert citation]. In addition to any penalties,
1028 costs or interest charges, a court may assess against the violator the amount of actual economic
1029 benefit accruing to the violator from the violation. The [Superior Court] and the [municipal
1030 court] shall have jurisdiction to enforce the provisions of [insert citation] in connection with the
1031 provisions of this Act.

1032 f. Any person who knowingly, recklessly, or negligently makes a false statement,
1033 representation, or certification in any application, record, or other document filed or required to
1034 be maintained under this Act shall be in violation of this Act, and shall be subject to the penalties
1035 assessed pursuant to subsections b. and c. of this section.

1036

1037 Section 27. [*Diesel Risk Mitigation Fund.*]

1038 a. There is established in the [Department of the Treasury] a special, nonlapsing fund to
1039 be known as the [Diesel Risk Mitigation Fund.] The fund shall be administered by the [State
1040 Treasurer] and shall be credited with:

1041 (1) constitutionally dedicated moneys;

1042 (2) such moneys as are appropriated by the [Legislature]; and

1043 (3) any return on investment of moneys deposited in the fund.

1044 b. Moneys in the fund may be used by the [Department of the Treasury] solely for:

1045 (1) reimbursements to owners of regulated vehicles or regulated equipment to
1046 reimburse the cost of required retrofit devices and the installation thereof;

1047 (2) the administrative costs incurred by the [Department of Environmental
1048 Protection] to implement the provisions of this Act up to [\$900,000 per year]; and

1049 (3) the administrative costs incurred by the [state Motor Vehicle Commission] to
1050 implement the provisions of this Act up to [\$250,000 per year].

1051 c. No moneys in the fund may be made available for any costs associated with
1052 requirements imposed by this Act unless the [State Treasurer] certifies that the constitutionally

1053 dedicated moneys have been deposited in the fund in that year. If the moneys provided for the
1054 administrative costs of the [state Motor Vehicle Commission] are not required by the
1055 commission in a given year because they exceed the amount of the administrative costs of the
1056 commission in that year, the [State Treasurer] shall provide those moneys unexpended for that
1057 purpose to the [Department of Environmental Protection] for administrative costs, provided that
1058 the administrative costs paid from the constitutionally dedicated moneys deposited in the fund do
1059 not exceed [\$1,150,000].

1060 d. Any owner of a regulated vehicle or piece of regulated equipment is eligible for
1061 reimbursement from the fund. A county, municipality, or an authority as defined in [insert
1062 citation] must comply with the this Act and may anticipate in its annual budget or any
1063 amendments or supplements thereto those sums to be reimbursed from the fund for the costs of
1064 retrofit devices and their installation that are required to be used in or on any regulated vehicle or
1065 piece of regulated equipment in a given year in which the county, municipality, or authority
1066 incurs the cost. The costs of retrofit devices and their installation shall be considered an amount
1067 to be received from state funds in reimbursement for local expenditures and therefore exempt
1068 from the limitation on local budgets imposed pursuant to [insert citation].
1069

1070 Section 28. [*Allocation of Moneys in Fund, Application for Reimbursement.*]

1071 a. Moneys in the fund shall be allocated and used to provide reimbursement to the owners
1072 of regulated vehicles or regulated equipment for [100%] of the costs of the purchase and
1073 installation of the retrofit device pursuant to this Act, other than fuel.

1074 b. The owner or operator of a regulated vehicle or piece of regulated equipment seeking
1075 the reimbursement authorized in subsection a. of this section shall file an application on a form
1076 to be developed by the [State Treasurer] and the [Department of Environmental Protection], with
1077 the [Department], with the documentation required by the [Department] and the [State Treasurer]
1078 pursuant this Act. Neither the [State Treasurer] nor the [Department of Environmental
1079 Protection] may charge an application fee.

1080 c. Upon a determination that an application for reimbursement meets all established
1081 criteria for an award from the fund, the [Department of Environmental Protection] and the [State
1082 Treasurer] shall approve the application. Upon the [Department] approval of an application for
1083 reimbursement from the fund, the [State Treasurer] shall award the reimbursement to an owner
1084 upon the availability of sufficient moneys in the fund. If moneys in the fund are not sufficient at
1085 any point to fund all applications for reimbursement that have been approved by the [State
1086 Treasurer], the [State Treasurer] shall award reimbursement to approved owners based upon the
1087 date of approval of the application.
1088

1089 Section 29. [*Rules, Regulations Relative to Filing Requirements for Reimbursement.*]

1090 a. The [State Treasurer] shall adopt, in consultation with the [Department of
1091 Environmental Protection] rules and regulations:

1092 (1) establishing the filing requirements for a complete application for
1093 reimbursement from the fund; and

1094 (2) to require an owner:
1095 (i) to submit documentation or other information demonstrating that the
1096 retrofit device has been purchased and installed on a regulated vehicle, which shall include the
1097 vehicle identification number of the vehicle, or on regulated equipment the serial number;

1098 (ii) to submit documentation of the actual costs incurred for the purchase
1099 of the retrofit device required to be installed, the nature and scope of work performed to install
1100 the retrofit device, and the actual costs incurred to install the technology;

1101 (iii) to submit a certification that the owner has not engaged in any of the
1102 conduct described in subsection a. of section 31 of this Act;

1103 (iv) to submit a certification that the retrofit device installed on a
1104 regulated vehicle or regulated equipment is in conformance with rules and regulations of the
1105 [Department of Environmental Protection]; and

1106 (v) to provide access at reasonable times to the regulated vehicles or
1107 regulated equipment to determine compliance with the terms and conditions of the
1108 reimbursement award.

1109 b. In establishing requirements for applications for reimbursement, the [State Treasurer]:

1110 (1) may not impose conditions that interfere with the everyday normal operations
1111 of an owner's business activities, except to the extent necessary to ensure the owner has complied
1112 with the provisions of this Act;

1113 (2) shall strive to minimize the complexity and costs to owners of complying with
1114 such requirements; and

1115 (3) shall expeditiously process all applications in accordance with a schedule
1116 established, in consultation with the [Department of Environmental Protection], for the review
1117 and the taking of final action within [30 days] after the receipt of the completed application.

1118

1119 Section 30. [*Denial of Application for Reimbursement.*]

1120 a. The [State Treasurer] may deny an application for reimbursement from the fund, and
1121 any reimbursement from the fund may be recoverable by the [State Treasurer], upon a finding
1122 that:

1123 (1) the owner of a regulated vehicle or regulated equipment failed to commence or
1124 complete the purchase or installation of best available retrofit technology on the vehicle or
1125 equipment for which an application for reimbursement was filed in accordance with the
1126 applicable rules and regulations; or

1127 (2) the owner of a regulated vehicle or regulated equipment provided false
1128 information or withheld information on an application that would render the owner ineligible for
1129 reimbursement from the fund, that resulted in the owner receiving a larger reimbursement than
1130 the owner would otherwise be eligible, or that resulted in payments from the fund in excess of
1131 the actual costs incurred by the owner or the amount to which the owner is legally eligible.

1132 b. Nothing in this section shall be construed to require the [State Treasurer], the
1133 [Department of Environmental Protection], or any other state agency or department, to undertake
1134 an investigation or make any findings concerning the conduct described in subsection a. of this
1135 section.

1136

1137 Section 31. [*Standards and Requirements for Control of Air Contaminants, Motor*
1138 *Vehicles Without Air Pollution Control Devices.*] Except as otherwise required pursuant to this
1139 Act or other laws, codes, rules, and regulations concerning motor vehicles registered in the State,
1140 the codes, rules and regulations shall establish standards and requirements for control of air
1141 contaminants which can reasonably be attained by properly functioning motor vehicles without
1142 the addition of any air pollution control devices, systems, or engine modifications provided such
1143 vehicles were not manufactured with pollution control devices, systems or engine modifications
1144 in accordance with the "Motor Vehicle Air Pollution Control Act" (77 Stat. 392, 42 U.S.C.
1145 s.1857), the federal "Clean Air Act," (42 U.S.C. s.7401 et seq.), and any subsequent federal laws
1146 controlling air contaminants from motor vehicles.

1147

1148 Section 32. [*Air Pollution Penalty.*]

1149 a. Any person who operates a motor vehicle or owns a motor vehicle, other than a school

1150 bus, which the person permits to idle in violation of rules and regulations, or to be operated upon
1151 the public highways of the State when the motor vehicle is emitting smoke and other air
1152 contaminants in excess of standards adopted by the [Department of Environmental Protection]
1153 shall be liable to a penalty of not less than [\$250 nor more than \$1,000 per day, per vehicle],
1154 which shall be enforced in accordance with the provisions of this Act.

1155 b. The owner of any school bus that is operated or is permitted to idle in violation of rules
1156 and regulations adopted pursuant to the [Department of Environmental Protection] pursuant to
1157 any applicable rules and regulations adopted pursuant to this Act shall be liable for a penalty of
1158 not less than [\$250 nor more than \$1,000 per day, per vehicle], which shall be enforced in
1159 accordance with the [insert citation] except that no penalty may be assessed against any driver of
1160 a school bus who is not the owner of the school bus.

1161 c. The provisions of this section shall not apply to a motor vehicle idling in traffic, or a
1162 motor vehicle other than a school bus idling in a queue of motor vehicles, that are intermittently
1163 motionless and moving because the progress of the motor vehicles in the traffic or the queue has
1164 been stopped or slowed by the congestion of traffic on the roadway or other conditions over
1165 which the driver of the idling motor vehicle has no control.

1166
1167 Section 33. [*Provision of State Police Officers.*] The [Superintendent of the State Police],
1168 in consultation with and subject to the approval of the [Attorney General], shall provide [State
1169 Police] officers to assist the commission in conducting the roadside enforcement program and
1170 the pilot roadside enforcement program. The [State Police officers] shall have authority to direct
1171 diesel buses, heavy-duty diesel trucks, or other diesel-powered motor vehicles from the roadway
1172 for the purpose of inspection, and shall perform other police duties necessary for or helpful to the
1173 implementation of the programs. The [State Police officers] shall maintain records of these
1174 inspections and shall forward the information concerning the number of inspections, and the type
1175 of violations and the number of each type of violation to the [Department of Environmental
1176 Protection].

1177
1178 Section 34. [*Severability.*] [Insert severability clause.]

1179
1180 Section 35. [*Repealer.*] [Insert repealer clause.]

1181
1182 Section 36. [*Effective Date.*] [Insert effective date.]