

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION
NEW JERSEY ADMINISTRATIVE CODE
TITLE 7
CHAPTER 27
SUBCHAPTER 32

Diesel Retrofit Program

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Please note: The Department has made every effort to ensure that this text is identical to the official, legally effective version of this rule, set forth in the New Jersey Register. However, should there be any discrepancies between this text and the official version of the rule, the official version will prevail.

REGULATORY HISTORY

Filed: July 10, 2007
Effective: August 6, 2007
Operative: September 8, 2007
See: 39 N.J.R. 3352(a)

Administrative Change
Effective: September 6, 2011
Operative: August 12, 2011
See: 43 N.J.R. 2328(a)

7:27-32.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Authorized installer” means a person authorized, pursuant to a written agreement with a manufacturer of a retrofit device or closed crankcase ventilation system to represent the manufacturer for the purpose of the sale, installation, repair and/or dispersal of information regarding that retrofit device or closed crankcase ventilation system.

“Best available retrofit technology” or **“BART”** means an aftermarket particulate emissions control device that, as determined by the Department, can be used on or in a regulated vehicle or regulated equipment, at a reasonable cost to achieve substantial reduction of fine particulate diesel emissions, and is either a diesel emissions control strategy for which CARB has issued an Executive Order, or a verified retrofit technology for which the USEPA has issued a Verification Letter. “Best available retrofit technology” includes only those retrofit devices and fuel for which the retrofit device manufacturer or fuel manufacturer certifies that the installation and use would not jeopardize the original engine warranty in effect at the time of the installation or the commencement of use of the retrofit device or fuel, and for which the manufacturer has issued a warranty pursuant to N.J.A.C. 7:27-32.9.

“California Air Resources Board” or **“CARB”** means the agency or its successor agency established and empowered to regulate sources of air pollution in the State of California, including motor vehicles, pursuant to section 39003, California Health & Safety Code, 1999, as amended or supplemented.

“Certified configuration” means a heavy-duty engine design certified by either of the following agencies as meeting the applicable emission standards for motor vehicles manufactured in a given model year:

1. USEPA for model year 1968 or for a more recent model year; or
2. CARB for model year 1966 or for a more recent model year.

“Closed crankcase ventilation system” or **“CCVS”** means a system, installed upon an internal combustion engine, that is designed to capture all solids, liquids and gases that are emitted from the vent and to divert them to the engine intake air plenum for recombustion.

“Compliance form” means a form used for ascertaining compliance with the requirements of N.J.A.C. 7:27-32.4 and 32.7, or eligibility for reimbursement of costs associated therewith, and issued and completed pursuant to N.J.A.C. 7:27-32.20.

“Constitutionally-dedicated monies” means monies dedicated pursuant to Article VIII, Section II, paragraph 6, subparagraph (d) of the State Constitution.

“DEIC inspector” means a person who is trained to perform an inspection of a diesel-powered motor vehicle at a diesel emissions inspection center.

“Department” means the Department of Environmental Protection.

“Diesel commercial bus” means a diesel bus as defined pursuant to N.J.S.A. 39:8-60, except that “diesel commercial bus” includes only diesel commercial buses with a gross vehicle weight rating in excess of 14,000 pounds, and does not include school buses.

“Diesel emission inspection center” or “DEIC” means any person licensed by the MVC to perform a diesel vehicle inspection pursuant to N.J.S.A. 39:8-69 and N.J.A.C. 13:20-47.

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

“Diesel Risk Mitigation Fund” or “Fund” means the special, nonlapsing fund established pursuant to N.J.S.A. 26:2C-8.53.

“Diesel solid waste vehicle” means any on-road diesel vehicle with a gross vehicle weight rating in excess of 14,000 pounds that is used to collect or transport residential or commercial solid waste. “Diesel solid waste vehicle” includes a vehicle powered by a diesel engine, used for transporting removable waste containers, including, but not limited to, open boxes, dumpsters or compactors. “Diesel solid waste vehicle” includes a solid waste cab and solid waste single-unit vehicle.

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

“Fine particulate diesel emissions” means the emission of fine particles from an on-road diesel vehicle or from off-road diesel equipment.

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

“Fleet plan” means a fleet retrofit plan, combined fleet retrofit plan, combined fleet averaging plan or fleet averaging plan and any supplement or modification thereto.

“g/bhp-hr” means grams per brake-horsepower hour.

“Gross vehicle weight rating” or “GVWR” means the value specified by the vehicle manufacturer as the maximum loaded weight of a single or combination vehicle.

“MVC” means the New Jersey Motor Vehicle Commission.

“Notice of intent to comply” means notice by an owner of a regulated vehicle or piece of regulated equipment to the Department that he or she intends to apply best available retrofit technology to comply with this subchapter.

“Off-road diesel equipment” means any equipment or vehicle, powered by a diesel engine, that is used primarily for construction, loading, and other off-road purposes, and that is not commonly operated on a roadway except when used for roadway construction and repair. “Off-road diesel equipment” includes, but is not limited to, rollers, scrapers, excavators, rubber tire loaders, crawler/dozers, and off-highway trucks. “Off-road diesel equipment” also includes any equipment and vehicle that is not used primarily for transportation and is considered off-road equipment and vehicle, but are required to have “in-transit” plates issued by the MVC. “Off-road diesel equipment” does not include a boat or train, diesel construction truck, or any non-mobile equipment, such as a generator or pump.

“On-road diesel vehicle” means any vehicle, other than a private passenger automobile, that is powered by a diesel engine and operated on the roadways of the State, and includes, but is not limited to, a diesel bus, diesel-powered motor vehicle, and heavy-duty diesel truck as defined at N.J.S.A. 39:8-60.

“Owner” means any person who owns any on-road diesel vehicle or off-road diesel equipment subject to the provisions of this subchapter.

“Person” means an individual, public or private corporation, company, partnership, firm, association, society or joint stock company, municipality, state, interstate body, the United States, or any board, commission, employee, agent, officer or political subdivision of a state, an interstate body or the United States. “Person” expressly includes the Port Authority of New York and New Jersey, and the South Jersey Port Corporation.

“Private regulated commercial bus” means any regulated commercial bus not owned by the New Jersey Transit Corporation or any regulated commercial bus owned by the New Jersey Transit Corporation that is leased or operated by a provider of regulated commercial bus service other than the New Jersey Transit Corporation.

“Public regulated commercial bus” means a regulated commercial bus owned and operated by the New Jersey Transit Corporation.

“Regulated commercial bus” means a diesel bus, as defined at N.J.S.A. 39:8-60, that is registered and operating in the State, except that “regulated commercial bus” includes only regulated commercial buses with a gross vehicle weight rating in excess of 14,000 pounds, and does not include school buses.

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

“Regulated off-road diesel equipment” means any model year 1996 or newer off-road diesel equipment operated in the State that is owned by the State or any political subdivision thereof, or a county or municipality, or any political subdivision thereof, and that is equipped with a more than 175 horsepower engine.

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

“Regulated school bus” means an in-service school bus that is originally designed to carry 10 or more passengers, powered by a diesel engine and owned by a school district, nonpublic school, or school bus contractor who has entered into a contract with a school district or a nonpublic school to transport children to and from a primary or secondary school in the States.

“Regulated solid waste vehicle” means any diesel solid waste vehicle registered in the State, that is owned by the State, or any political subdivision thereof, or a county or municipality or any political subdivision thereof, or that is owned by a person providing solid waste services with the vehicle pursuant to a contract with the State or any political subdivision thereof, or a county or municipality or any political subdivision thereof.

“Regulated vehicle” means any regulated commercial bus, regulated on-road diesel vehicle, regulated solid waste vehicle, or any on-road diesel vehicle registered in the State that is required to use best available retrofit technology pursuant to an approved fleet averaging plan.

“Responsible official” means responsible official as defined at N.J.A.C. 7:27-1.4.

“Retirement” means the relegation of a vehicle to service of less than 1,000 miles per year, or the restriction of the use of a piece of off-road diesel equipment to less than 50 hours per year.

“Retrofit device” means a best available retrofit technology for installation on an on-road diesel vehicle or on a piece of off-road diesel equipment.

“School bus” means a school bus as defined under N.J.S.A. 39:1-1.

“State Treasurer” means the Treasurer of the State of New Jersey.

“Technology” means any equipment, device, or fuel used alone or in combination to achieve the reductions in emissions required for best available retrofit technology under this subchapter.

“USEPA” means the United States Environmental Protection Agency.

7:27-32.2 Purpose

This subchapter establishes a diesel retrofit program for a variety of on-road diesel vehicles and off-road diesel equipment in order to reduce health risks by minimizing the amount of diesel exhaust in the cabins of school buses, and lowering the levels of fine particulate diesel emissions emitted from regulated vehicles. This program requires the installation and use of closed crankcase ventilation systems on school buses, and the installation and use of best available retrofit technologies in diesel-powered commercial buses, solid waste vehicles, and publicly-owned on-road vehicles and off-road equipment.

7:27-32.3 Applicability

- (a) This subchapter applies to any person who owns one or more regulated school buses, regulated vehicles or pieces of regulated equipment.
- (b) This subchapter does not apply to any vehicle or equipment used on, or in the course of the operation of a farm, or for any agricultural purpose.
- (c) This subchapter does not apply to any regulated on-road diesel vehicle or regulated school bus certified by the USEPA or CARB to meet a particulate emissions standard of 0.01 g/bhp-hr, or any off-road diesel equipment rated from 175 to 750 horsepower and certified by the USEPA or CARB to meet a particulate emissions standard of 0.015 g/bhp-hr, or any off-road diesel equipment rated above 750 horsepower and certified to a particulate emissions standard of 0.03 g/bhp-hr phased in from 2011 to 2015.
- (d) No authorized installer will be eligible for a reimbursement unless:
 - 1. The authorized installer complies with the procurement process under Title 52 of the Revised Statutes and is on a State contract issued specifically for the purposes of this subchapter; or
 - 2. The authorized installer is a State agency or political subdivision thereof, or a county or municipality, or political subdivision thereof, and has an agreement with the Department for reimbursement specifically for the purposes of this subchapter.

7:27-32.4 Installation of closed crankcase ventilation systems required on regulated school buses

- (a) This section does not apply to the owner of a regulated school bus that is scheduled to be retired from service pursuant to N.J.S.A. 39:3B-5.1 and 5.2 before (date two years after the Department publishes notice on its website that the Department has certified that sufficient monies are available in the Fund to reimburse for CCVSs).
- (b) The owner of a regulated school bus shall have installed on the regulated school bus a CCVS in conformance with N.J.A.C. 7:27-32.5 no later than (date two years after the

Department publishes notice on its website that the Department has certified that sufficient monies are available in the Fund to reimburse for CCVSs). No regulated school bus shall operate or transport children without complying with the provisions of this subchapter after (date two years after the Department publishes notice on its website that the Department has certified that sufficient monies are available in the Fund to reimburse for CCVSs).

- (c) If installation of a CCVS is incompatible with an individual regulated school bus, the owner shall notify the Department and include documentation detailing the reason why the CCVS cannot be installed on said school bus. If the Department determines that the owner's documentation supports the exemption of said school bus from the installation requirements of this section, it will issue a compliance form pursuant to N.J.A.C. 7:27-32.20 to the owner indicating the exemption. If the Department determines that the owner's documentation does not support the exemption of said school bus, the Department will issue a final determination requiring the installation of the CCVS.
- (d) The owner of a regulated school bus shall, prior to installation, submit to the Department, for its approval, a cost estimate, developed in conjunction with an authorized installer, detailing the cost of any CCVS to be installed and any cost associated with the installation of the CCVS. The estimate will be on a form or in a format supplied by the Department. The Department will make a determination as to the reasonableness of the estimated costs, based upon prevailing market rates and/or the acquisition cost to the State of comparable technology, and will notify the owner of its determination. If the Department determines the estimated costs to be reasonable, the Department will so notify the owner and approve the purchase and installation of the CCVS. If the Department determines the estimated costs to be unreasonable, the Department will work with the owner of the regulated school bus to identify a mutually acceptable CCVS at reasonable cost. If no mutually acceptable agreement is reached, the Department will issue a final determination, identifying an alternate CCVS of reasonable cost or providing for an exemption. Once the Department has approved the cost estimate, the owner shall proceed with the installation of the CCVS.
- (e) Within five business days after the installation of the CCVS, the owner of a regulated school bus shall, for each regulated school bus, complete the original and submit to the Department a copy of the compliance form in accordance with N.J.A.C. 7:27-32.20(f). In accordance with N.J.A.C. 7:27-32.20(g), no later than 30 days after presenting the regulated school bus for inspection of the installation of the CCVS, as provided at N.J.A.C. 7:27-32.6, the owner shall submit to the Department an updated copy of the compliance form reflecting the results of the inspection.

7:27-32.5 Standards for installation and maintenance of closed crankcase ventilation systems

- (a) The owner of a regulated school bus subject to N.J.A.C. 7:27-32.4 shall ensure that:
 - 1. The installation of the CCVS is performed by an authorized installer;

2. The installation results in a CCVS with no open tubing from the crankcase ventilation system and no exhausting of crankcase gases, liquids or solids to the atmosphere;
 3. Tubing or similar ducting material originates at the crankcase vent and is ducted to the engine air intake system or routed to an intermediary filtration system, and then to the engine air intake system; and
 4. Each tube, duct, or pipe, or connection, leading from the crankcase vent to the terminal point in the air intake system, is closed and secure, as is each connection to an intermediary filter or drain line and its terminal point.
- (b) The owner of a regulated school bus subject to N.J.A.C. 7:27-32.4 shall promptly repair any leak observed at any time during or after the installation of the CCVS. Such leaks may be indicated by oil residue at connection points or by visible emissions from the CCVS.
- (c) The owner of a regulated school bus subject to N.J.A.C. 7:27-32.4 shall ensure that the CCVS is maintained and used in accordance with the manufacturer's instructions and shall make all repairs needed, including replacement of the system, to ensure the proper use and operation of the CCVS.

7:27-32.6 Inspection of the closed crankcase ventilation system

- (a) After installation of a closed crankcase ventilation system, the owner of a regulated school bus subject to N.J.A.C. 7:27-32.4 shall present the school bus for inspection at the next regularly scheduled semi-annual in-terminal inspection by the MVC's School Bus Inspection Unit in accordance with N.J.A.C. 13:20-30.15. At this inspection, the owner shall make available to the MVC inspector a copy of the compliance form submitted to the Department pursuant to N.J.A.C. 7:27-32.4(e), for use by the inspector in verifying compliance with the CCVS requirements at N.J.A.C. 7:27-32.4 and 32.5.
- (b) As part of the semi-annual in-terminal inspection, an inspector from the MVC school bus inspection unit will determine whether the CCVS is properly installed and will so indicate on the compliance form.
- (c) If the inspector from the MVC school bus inspection unit is unable to confirm that a CCVS has been properly installed, the owner of the regulated school bus shall ensure the proper installation of a CCVS no later than (date two years after Department certifies sufficient monies are available in the Fund to reimburse for CCVSs), and shall have compliance verified at the next regularly scheduled semi-annual in-terminal inspection after the installation of the CCVS.

7:27-32.7 Retrofitting of regulated vehicles and regulated equipment

- (a) Except as provided in (b) below, the owner of a regulated vehicle or regulated off-road diesel equipment shall comply with the requirements of this subchapter by ensuring, by the dates set forth at N.J.A.C. 7:27-32.18, that the regulated vehicle or regulated off-road diesel equipment has been retrofitted using BART, at emission reduction levels as described at N.J.A.C. 7:27-32.8.
- (b) When the use of best available retrofit technology is not feasible for a particular regulated vehicle or regulated off-road diesel equipment, the owner of a regulated vehicle or regulated off-road diesel equipment shall comply with the requirements of this subchapter by developing:
 - 1. A fleet retrofit plan or combined fleet retrofit plan in accordance with N.J.A.C. 7:27-32.14; or
 - 2. A fleet averaging plan or combined fleet averaging plan in accordance with N.J.A.C. 7:27-32.15.
- (c) One or more owners of regulated vehicles or regulated off-road diesel equipment may develop and submit to the Department a combined fleet retrofit plan that includes all of their regulated vehicles and regulated off-road diesel equipment.
- (d) One or more owners of regulated vehicles or regulated equipment who qualify for the development of a fleet averaging plan pursuant to N.J.A.C. 7:27-32.15 may develop and submit to the Department a combined fleet averaging plan that includes all the vehicles and equipment in their fleets.
- (e) Only an authorized installer may install best available retrofit technology, other than fuel.
- (f) The owner of an on-road diesel vehicle or piece of off-road diesel equipment who installs a retrofit device under this subchapter shall ensure that the retrofit device is maintained and used in accordance with the manufacturer's instructions, including the use of ultra-low sulfur diesel fuel or other required fuels and shall make all repairs needed to ensure the proper use and operation of the retrofit device, including the replacement of the retrofit device.
- (g) The owner of a vehicle or equipment to be retrofitted under this section may choose any BART that achieves the emission reductions at N.J.A.C. 7:27-32.8, provided:
 - 1. The BART is appropriate for the equipment or vehicle to be retrofitted in that the equipment or vehicle has the characteristics described in the Executive Order or Verification Letter issued by CARB or the USEPA, respectively. These characteristics include, but are not limited to, required exhaust temperature profiles, existing emission controls installed upon the engine, engine model year,

engine family, general engine condition, and the use to which the vehicle or equipment is put, such as "urban bus." Where the Executive Order or Verification Letter specifies exhaust contaminant criteria, emissions testing data available for specific engine families from the USEPA is available at <http://www.epa.gov/otaq/certdata.htm> and may be used for this purpose; and

2. The proper installation of the BART, in accordance with the manufacturer's instructions and specifications, is not compromised by the design configuration of the vehicle or the equipment.
- (h) If successful installation or effective operation of BART is not possible due to deterioration, misuse or poor maintenance of the vehicle, engine or equipment, or modification of the vehicle, engine or equipment from the original equipment manufacturer's original configuration, then the owner shall, at his or her own expense, correct the condition that makes successful installation or effective operation impossible. Such conditions include, but are not limited to:
1. Excessive corrosion or debris;
 2. Deteriorated, damaged or modified exhaust system components;
 3. Modification of the fuel system or emissions control system;
 4. A dirty air filter;
 5. Excessive blue or black smoke in the exhaust;
 6. Excessive oil or coolant consumption; and
 7. Missing parts.

7:27-32.8 Emission reduction levels for regulated on-road diesel vehicles, regulated solid waste vehicles, regulated commercial buses and regulated off-road diesel equipment

- (a) Except as set forth in (b) below, the owner of a vehicle or equipment that is subject to N.J.A.C. 7:27-32.7(a) or (b)1 shall ensure that the vehicle or equipment is retrofitted using BART no less stringent than the minimum BART level for that vehicle or equipment, as set forth in Tables 1 and 2 below.

TABLE 1
BART Level by Vehicle and Equipment Type

<u>Vehicle or Equipment Type</u>	<u>Engine Model Year</u>	<u>Minimum BART Level</u>
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Commercial buses	1994-2006	BART 3
	1988-1993	BART 2
	1987 and older	BART 1
Solid waste vehicle	1988-2006	BART 2
	1987 and older	BART 1
On-road vehicle other than a commercial bus or solid waste vehicle	2006 and older	BART 2
Off-road equipment >175 horsepower	1996-2014*	BART 3

* BART installation requirements do not apply to engines in this category that are rated from 175-750 horsepower and were certified to a particulate emissions standard of 0.015 g/bhp-hr, or rated above 750 horsepower and were certified to a particulate emissions standard of 0.03 g/bhp-hr phased in from 2011 to 2015.

TABLE 2
Best Available Retrofit Technology Minimum Control
Minimum Control Efficiency
(particulate emission reduction by weight)

<u>BART Level</u>	<u>(particulate emission reduction by weight)</u>
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3	85 percent
2	50 percent
1	25 percent

- (b) The owner of a vehicle or equipment that is subject to N.J.A.C. 7:27-32.7(a) or (b)1 may repower or rebuild the engine in any on-road diesel vehicle or piece of off-road diesel equipment to achieve at least as great a particulate emission reduction by weight as the applicable BART level in Table 1. The repowered or rebuilt engine must be a certified configuration that meets a particulate emissions standard that is equal to or lower than the amount of diesel particulate emissions that would otherwise be emitted from the vehicle or equipment when using the required BART pursuant to N.J.A.C. 7:27-32.8(a). In the case of a repowered engine, the removed engine must be permanently placed out of service. Additionally, the manufacturer's brake horsepower rating for the repowered or rebuilt engine may exceed the brake horsepower rating of the existing engine by no more than 10 percent.

7:27-32.9 Warranty requirements for closed crankcase ventilation systems and retrofit devices

- (a) Each closed crankcase ventilation system or BART must be accompanied by a warranty whereby the manufacturer and the installer warrant, at a minimum:
 - 1. To the owner of the regulated vehicle or piece of regulated equipment, the full repair and replacement cost of the BART, including parts and labor, if the BART fails to perform as verified;
 - 2. To the owner of the regulated school bus, regulated vehicle or piece of regulated equipment, the full repair and replacement cost of the CCVS or BART, including parts and labor, if the CCVS or BART contains defects in material or workmanship; and
 - 3. To the owner of the regulated school bus, regulated vehicle or piece of regulated equipment, if the installation or use of the CCVS or BART damages the engine or the engine components of the vehicle or equipment, the cost to repair or replace engine components to return the engine components of the affected vehicle or equipment to the condition they were in prior to damage caused by the CCVS or BART.
- (b) The warranty for the CCVS or BART will run for the minimum periods shown in Table 3 below, provided the operation of and conditions of use for the vehicle, equipment, engine, and best available retrofit technology conform with the operation and conditions specified in the Executive Order issued by CARB or the Verification Letter issued by the USEPA.
- (c) The repair or replacement of any warranted part otherwise eligible for warranty coverage may be excluded from warranty coverage if the BART, vehicle, equipment or engine has been abused, neglected, or improperly maintained, and such abuse, neglect or improper maintenance directly caused the need for the repair or replacement of the part.
- (d) Failure of the owner of the vehicle, equipment or engine to perform scheduled maintenance or to keep maintenance records for the vehicle, equipment, engine or best available retrofit technology may, but shall not, per se, be grounds for disallowing a warranty claim.

TABLE 3

Minimum Warranty Periods		
<u>Engine Type</u>	<u>Engine Size</u>	<u>Minimum Warranty Period</u>
	70 to 170 horsepower, GVWR < 19,500 pounds	Five years or 60,000 miles
	170 to 250 horsepower, GVWR >= 19,500 pounds and <= 33,000 pounds	Five years or 100,000 miles
	>250 horsepower, GVWR > 33,000 pounds	Five years or 150,000 miles
On-road use	>250 horsepower, GVWR > 33,000 pounds, and the truck is: 1. Typically driven more than 100,000 miles per year and 2. Has fewer than 300,000 miles on the odometer at the time of installation	Two years, unlimited miles
Off-road use	>= 50 horsepower	Five years or 4,200 hours

- (e) The owner's manual for the CCVS or BART installed pursuant to the requirements of this subchapter must include a statement describing the warranty coverage required in this section. The owner's manual may also include a description of circumstances that may result in a denial of warranty coverage, but this description shall not be used to limit warranty coverage in any way.
- (f) The authorized installer of a CCVS or BART installed pursuant to the requirements of this subchapter shall provide the owner of the regulated vehicle, piece of regulated equipment or school bus with a copy of the installation warranty coverage.

7:27-32.10 Labeling of retrofit devices

- (a) Each retrofit device sold or installed pursuant to this subchapter must be labeled with a legible and durable label affixed to a conspicuous location on the engine or engine compartment and on the retrofit device so that it can be easily read and understood during daylight without the assistance of artificial lighting or reflective devices. The label must provide a unique identification number to be matched to the specific retrofit device and the specific vehicle required to use the retrofit device.
- (b) At a minimum, any retrofit label affixed pursuant to (a) above must include:
 - 1. The name, address, and phone number of the manufacturer;
 - 2. A unique serial number;

3. The month and year of manufacture. The month and year of manufacture are not required on the label if the manufacturer of the retrofit device provides or encodes this information in the serial number; and
 4. The retrofit device family name, as described at (c) below.
- (c) The installer of a retrofit device installed pursuant to this subchapter shall assign a retrofit device family name to each retrofit device in the following format:

CA or US/MMM/YYYY/BART#/APP/XXXXX;

Where:

CA designates a retrofit device verified solely by CARB or by both CARB and the USEPA, and US designates a retrofit device verified solely by the USEPA;
MMM designates and is to be replaced by the manufacturer code. For a retrofit device verified by CARB, MMM will be replaced by the manufacturer code assigned by the CARB Executive Officer; for a retrofit device verified by the USEPA, the MMM will be replaced by three zeroes (000);
YYYY designates and is to be replaced by the year of verification;
BART# designates and is to be replaced by the BART level of the retrofit device by replacing the pound sign (#) with the number of the BART level;
APP designates and is to be replaced by the application for which the retrofit device has been verified by CARB or the USEPA. The verified application may include a combination of on-road (ON), off-road (OF) or stationary (ST); and
XXXXX designates and, for a retrofit device verified by CARB, is to be replaced by the five alphanumeric character code issued by the CARB Executive Officer; for a retrofit device verified by the USEPA, the XXXXX will be replaced by five zeroes (00000).

7:27-32.11 Best available retrofit technology eligible for reimbursement

- (a) In order to be eligible for purchase and installation cost reimbursement, a CCVS or retrofit device must be:
1. Covered by a warranty in accordance with N.J.A.C. 7:27-32.9;
 2. Labeled in accordance with N.J.A.C. 7:27-32.10; and
 3. Installed by an authorized installer.
- (b) In addition to the cost of purchasing and installing a CCVS or retrofit device, the following costs are eligible for reimbursement:
1. The initial purchase and installation costs of ancillary components necessary for the daily operation of the retrofit device; and

2. The cost of rebuilding or repowering the engine of a regulated vehicle or piece of regulated off-road diesel equipment in lieu of using BART pursuant to N.J.A.C. 7:27-32.8(b), up to an amount equal to the cost of purchase and installation of the required BART pursuant to N.J.A.C. 7:27-32.8(a), but only to the extent that money has been appropriated by the New Jersey Legislature for the purpose of reimbursing such rebuilding or repowering.
- (c) Costs that are ineligible for reimbursement include the costs of fuel, fuel additives and other expenses not necessary to the daily operation of the retrofit device including periodic maintenance costs, external regeneration systems, and facility upgrades. The cost of replacing or repairing a CCVS or retrofit device is ineligible for reimbursement.

7:27-32.12 Required submissions by owner of regulated vehicles and regulated off-road diesel equipment

- (a) Except as otherwise provided in this section, the owner of a regulated vehicle or a piece of regulated off-road diesel equipment shall, prior to purchasing and installing a retrofit device in compliance with N.J.A.C. 7:27-32.7, complete and submit electronically to the Department, on a form supplied by the Department, the following:
1. An inventory of all on-road diesel vehicles and off-road diesel equipment owned, operated, or leased by the owner;
 2. Identification of the chosen method of compliance for the vehicles and equipment in the inventory that are subject to the retrofit requirements at N.J.A.C. 7:27-32.7 by the following:
 - i. Including on the inventory, for each regulated vehicle or regulated piece of equipment, a notice of intent to comply; or
 - ii. Submitting a fleet plan, for review and approval by the Department, if one or more of the regulated vehicles or regulated equipment in the fleet cannot comply through the use of the best available retrofit technologies as designated and provided for at N.J.A.C. 7:27-32.8. A fleet plan must include a justification for each regulated vehicle or regulated equipment not meeting the minimum BART level requirements of N.J.A.C. 7:27-32.8. A fleet plan shall be developed in accordance with N.J.A.C. 7:27-32.14 and 15, as applicable; and
 3. A cost estimate, developed in conjunction with an authorized installer, detailing the cost of any retrofit device and any cost associated with the installation of that retrofit device for review and approval or disapproval in accordance with N.J.A.C. 7:27-32.17(d). The estimate will be on a form or in a format supplied by the Department.

- (b) The owner of a regulated vehicle or regulated equipment shall make the submittals required pursuant to (a) above in accordance with the following schedule:
1. For regulated solid waste vehicles, no later than March 6, 2008;
 2. For public regulated commercial buses, no later than September 8, 2008;
 3. For private regulated commercial buses, no later than March 7, 2009, except that no owner of a private regulated commercial bus will be required to comply with this deadline until the owner of public regulated commercial buses has made its submittal. The Department will, on or before January 6, 2009, place notice on its website at <http://www.state.nj.us/dep/stopthesoot/> of any change to the March 7, 2009 deadline and shall extend the deadline by no fewer than 60 days; and
 4. For regulated on-road diesel vehicles and regulated equipment, other than regulated solid waste vehicles and regulated commercial buses, no later than September 8, 2011.
- (c) The owner of a regulated vehicle or regulated equipment who commences operation of a fleet after September 8, 2007 shall submit the documents in (a) above, within 180 days after the date on which operation commenced, or by the applicable date in (b)1 through 4 above, whichever is later.
- (d) Forms and information may be obtained by contacting the Department at (609) 292-7953 or visiting the Department's website at <http://www.state.nj.us/dep/stopthesoot/>.
- (e) The owner of a regulated vehicle or piece of regulated off-road diesel equipment shall also submit annual supplements and modifications to notices of intent to comply and fleet plans, pursuant to N.J.A.C. 7:27-32.19, and, after the installation of the retrofit device, a copy of the compliance form, pursuant to N.J.A.C. 7:27-32.20.

7:27-32.13 Required contents of an inventory

- (a) An inventory submitted pursuant to N.J.A.C. 7:27-32.12 must include, for each on-road diesel vehicle and off-road diesel piece of equipment:
1. The name of the owner or owners;
 2. The owner's address;
 3. The base of operations for the regulated equipment or regulated vehicle;
 4. The owner's telephone number;
 5. The VIN/serial number of the vehicle or piece of equipment;

6. The license plate number of the vehicle;
7. The model year of the chassis;
8. The USEPA engine family, obtained from the Vehicle Emissions Control Information label in the engine compartment;
9. The engine manufacturer;
10. The model year of the engine;
11. The engine horsepower;
12. The description of the on-road diesel vehicle or off-road diesel equipment;
13. The GVWR of the vehicle;
14. Whether the vehicle or piece of equipment will be retired within the next five years;
15. Whether the vehicle or piece of equipment is a regulated vehicle, regulated equipment, on-road vehicle, off-road equipment;
16. The method of compliance (notice of intent to comply, fleet plan or other method);
17. Whether the owner retrofitted the vehicle or piece of equipment before required to do so by this subchapter; and
18. The minimum applicable BART level at N.J.A.C. 7:27-32.8.

7:27-32.14 Required elements of a fleet retrofit plan and combined fleet retrofit plan

- (a) An owner submitting a fleet retrofit plan or combined fleet retrofit plan pursuant to N.J.A.C. 7:27-32.7(b) shall include, for each regulated vehicle or piece of regulated equipment, either:
1. A description of the best available retrofit technology that will be used, as determined by the owner pursuant to N.J.A.C. 7:27-32.8; or
 2. Documentation indicating that the BART level indicated at N.J.A.C. 7:27-32.8 is not feasible for the specific regulated vehicle or piece of regulated equipment. The owner shall request approval from the Department to use the next most stringent level of best available retrofit technology feasible to meet the requirement for that vehicle or piece of equipment. Where the owner has determined that no BART level is feasible for the specific regulated vehicle or

piece of regulated equipment, the owner may provide justification and request approval by the Department to be exempted from the retrofit requirements of this subchapter for that vehicle or piece of equipment.

- (b) As an alternative to seeking approval from the Department to install a retrofit device at a lower BART level or to be exempted from the retrofit requirement as provided at (a) above, the owner of a regulated vehicle or piece of regulated equipment who has determined that the BART as required under N.J.A.C. 7:27-32.8 is not feasible for the regulated vehicle or piece of regulated equipment may, but is not required to:
 - 1. Retire through reduced usage or removal from service the regulated vehicle or piece of regulated equipment and replace it with a vehicle or piece of equipment certified to particulate emission levels at or below the emission level that would have been achieved by the use of the required best available retrofit technology; or
 - 2. Repower or rebuild the engine of the vehicle or the equipment in accordance with N.J.A.C. 7:27-32.8(b) for the vehicle.
- (c) An owner who acts in accordance with (b) above shall maintain records of the retirement of the vehicle or equipment or permanent removal of the engine, in accordance with the recordkeeping requirements of N.J.A.C. 7:27-32.22. Any exceedance in usage of a retired vehicle or equipment will require additional control measures in the fleet plan or the application of best available retrofit technology to the retired vehicle or equipment.
- (d) A combined fleet plan must include a statement, certified in accordance with N.J.A.C. 7:27-1.39, from the responsible official at each organization participating in the combined fleet plan, acknowledging that the responsible official is jointly and severally liable with each other party to the combined fleet plan if any party fails to comply with the combined fleet plan.

7:27-32.15 Use of a fleet averaging plan

- (a) The owner of 75 or more regulated vehicles or pieces of regulated equipment, or any group of owners who elect to develop a combined fleet retrofit plan pursuant to N.J.A.C. 7:27-32.7(b) that would include 75 or more regulated vehicles or pieces of regulated equipment, may propose to the Department a fleet averaging plan, in lieu of a fleet retrofit plan or a combined fleet retrofit plan, for the fleet or fleets affected, subject to (b) below.
- (b) The owner or group of owners described in (a) may propose a fleet averaging plan, provided that the total net percent reductions in diesel particulate emissions under the proposed fleet averaging plan are greater than or equal to the estimated reductions in particulate emissions that would have been achieved by the owner or group of owners if a fleet retrofit plan or combined fleet retrofit plan were submitted and implemented for the regulated vehicles or regulated equipment, or both, as calculated pursuant to N.J.A.C.

7:27-32.16. The owner or group of owners may propose to achieve particulate emissions reductions from any on-road diesel vehicle, off-road diesel equipment, regulated vehicle, or regulated equipment owned by the owner or group of owners, or the retirement of any of those vehicles or equipment, and shall submit the proposed fleet averaging plan to the Department in accordance with N.J.A.C. 7:27-32.16.

7:27-32.16 Required elements of a fleet averaging plan

- (a) A fleet averaging plan must contain documentation demonstrating that use of BART to meet N.J.A.C. 7:27-32.8 is not feasible for one or more regulated vehicles or pieces of regulated equipment in the fleet or combined fleet. Such documentation must be provided for each vehicle or piece of equipment for which it is infeasible to meet the required emission reduction at N.J.A.C. 7:27-32.8.
- (b) A fleet averaging plan may contain a proposal to install and use one or more retrofit devices, or to retire, or repower through replacement or rebuild the engine to a certified configuration that meets a more stringent particulate emission standard, any regulated vehicle or piece of regulated equipment, or any on-road diesel vehicle or off-road diesel equipment not otherwise required to be retrofitted by the provisions of this subchapter.
- (c) A fleet averaging plan or combined fleet averaging plan must describe:
 - 1. How the plan will achieve the required particulate reductions through a combination of the use of best available retrofit technology, retirement, and engine repower or rebuilding, of the specific vehicles or equipment;
 - 2. The alternative measures or applications, if any, of best available retrofit technology including, but not limited to, use of a less stringent best available retrofit technology level, repowering or rebuilding pursuant N.J.A.C. 7:27-32.8(b), or the retiring of vehicles or equipment; and
 - 3. The remedial measures the owner will take if the total actual diesel particulate emissions reduction is less than the particulate emissions reduction in the approved fleet averaging plan.
- (d) A fleet averaging plan or combined fleet averaging plan must include:
 - 1. The inventory of all on-road diesel vehicles, off-road diesel equipment, regulated vehicles, or regulated equipment owned by the owner or group of owners to be included in the plan;
 - 2. A description of the retrofit device to be installed and used on each on-road diesel vehicle, off-road diesel equipment, regulated vehicle, or regulated equipment owned by the owner or group of owners;

3. An estimate, developed in conjunction with an authorized installer, of the cost of any retrofit device and any cost associated with the installation of that retrofit device;
 4. A demonstration that the fleet averaging plan will yield an annual diesel particulate emissions reduction that is equal to or greater than the reductions that would be achieved if the regulated vehicles or regulated equipment complied with the requirements set forth in 7:27-32.7(b)1. This demonstration will be based on:
 - i. A calculation of the reduction of fine particulate diesel emissions from the regulated vehicles and regulated off-road equipment in the fleet that would have occurred through the implementation of a fleet retrofit plan. This calculation must be conducted using the most recent guidance from the USEPA for quantifying and using the benefits of diesel retrofits. The calculations must clearly list the regulated vehicle or regulated equipment's annual fine particulate diesel emissions as the result of operating with and without best available retrofit technology for the calendar year when the plan is required to be submitted to the Department. Emissions reductions shall be reported in pounds of fine particulate diesel emissions reduced per calendar year; and
 - ii. A calculation of the reduction of fine particulate diesel emissions from the vehicles and equipment subject to the fleet averaging plan. This calculation must be conducted using the most recent guidance from the USEPA for quantifying and using the benefits of diesel retrofits and must clearly list the on-road vehicle or off-road equipment's annual fine particulate diesel emissions as result of operating with and without the strategies identified in the fleet averaging plan for the calendar year when the plan is required to be submitted to the Department. Emissions reductions shall be reported in pounds of fine particulate diesel emissions reduced per calendar year; and
 5. A demonstration that the reimbursement cost associated with the fleet averaging plan would not exceed the cost associated with retrofitting the regulated vehicles or regulated equipment in compliance with the requirements set forth at N.J.A.C. 7:27-32.7(b)1.
- (e) Any of the following emission control strategies can be used as an element of a fleet averaging plan:
1. A retrofit device or fuel strategy that the USEPA lists as a Verified Retrofit Strategy under the Voluntary Diesel Retrofit Program;
 2. A retrofit device or fuel strategy that CARB lists as a verified Diesel Emissions Control Strategy;

3. Repowering of a vehicle or equipment engine with a replacement or rebuilding to a different configuration that the USEPA or CARB has certified to a more stringent particulate emissions standard than the existing engine; or
 4. Entering into an enforceable agreement with the Department to retire an on-road diesel vehicle or off-road diesel equipment.
- (f) A fleet averaging plan cannot limit the use of a vehicle or equipment, other than by retirement, as a means of reducing emissions.
- (g) A combined fleet averaging plan must include a statement certified in accordance with N.J.A.C. 7:27-1.39 from the responsible official within each organization, responsible for the activities of the fleet, acknowledging that the responsible official is jointly and severally liable for the failure to comply with the combined fleet averaging plan of any other party or parties to the combined fleet averaging plan.

7:27-32.17 Department review of fleet plans and notice of intent to comply

- (a) The Department will use its best efforts to give the highest priority to the review of fleet retrofit plans for fleets that service or have a base of operation within two miles of an urban center or urban complex, as designated by the State Planning Commission.
- (b) The Department will review, and either approve or disapprove, each part of any fleet plan submitted pursuant to N.J.A.C 7:27-32.14, 32.16 and (c)2 below. If the Department determines that parts of a fleet plan are severable, it shall approve those portions of the fleet plan that comply with this subchapter.
- (c) In such a case, the Department shall, prior to the final approval of the other parts of the fleet plan, require the owner of the regulated vehicles or regulated equipment to comply with the approved part or parts of the fleet plan, and:
1. Direct the owner to comply with the approved part or parts of the fleet plan prior to final approval of other parts of the fleet plan; or
 2. In the case of a fleet averaging plan, determine that the owner or the group of owners cannot comply with the emission reduction requirements of N.J.A.C. 7:27-32.15 by implementing the proposed fleet averaging plan, and shall require the owner to submit a fleet retrofit plan, or the group of owners of the fleets to submit a combined fleet retrofit plan or individual fleet retrofit plans.
- (d) The Department will make a determination as to the reasonableness of the estimated costs submitted to the Department pursuant to N.J.A.C. 7:27-32.12(a)3 or 32.16(d)3, based upon prevailing market rates and/or the acquisition cost to the State of comparable technology, and will notify the owner of its determination. If the Department determines the estimated costs to be reasonable, the Department will so notify the owner and approve the purchase and installation of the retrofit device. If the Department determines the

estimated costs to be unreasonable, the Department will negotiate with the owner to identify a mutually acceptable retrofit device of reasonable cost. If no mutually acceptable agreement is reached, the Department will issue a final disapproval of the notice of intent to comply or the fleet plan.

- (e) The Department will provide each affected owner with a written copy of any determination made or requirement established pursuant to (b) above.
- (f) If the Department requires submission of a fleet retrofit plan or plans as provided by (c)2 above, it will issue a modified timetable for the submittal of a fleet retrofit plan for the regulated vehicles or regulated equipment, a combined fleet retrofit plan for the group of owners, or individual fleet retrofit plans for the owners in the group. The submittal date will be no earlier than 180 days after the date of the determination pursuant to (c)2 above. The Department will review, approve or disapprove any fleet retrofit plan or plans or combined fleet retrofit plan in accordance with (b) above, submitted in accordance with this modified timetable.
- (g) The Department will provide an explanation to the owner indicating the deficiencies of any disapproved fleet plan, or part thereof, and the Department's recommendations regarding the correction of the deficiencies.
- (h) During the review process or prior to final approval of a fleet plan, or the part thereof in question, the Department may contact and negotiate with the owner to resolve discrepancies between the requirements of this subchapter, the submitted fleet plan, and any requests by the owner for alternatives pursuant to N.J.A.C. 7:27-32.16.
- (i) The owner or a group of owners whose fleet plan or any part thereof is disapproved by the Department shall make the recommended revisions to the disapproved fleet plan, or the disapproved part thereof, and submit a final revised fleet plan, or the final revised part thereof to the Department within 60 days after the receipt of the disapproval notification from the Department.
- (j) If the Department takes no further action within 30 days after receipt of the final revised fleet plan, or the final revised part that the Department previously disapproved, the fleet plan, or the part that had been disapproved and revised, will be deemed approved and in effect.
- (k) If the Department finds within 30 days after the receipt of the final revised fleet plan that the owner has not complied with the recommended revisions, the Department will take such further action necessary to obtain compliance with this subchapter, but the plan will be in effect 30 days following the receipt of the final revised plan, or part thereof.
- (l) In applying the fleet plan requirements of this subchapter, the Department will deem compliant with the retrofit installation requirements of this subchapter any regulated school bus, regulated vehicle or regulated equipment for which an owner had, before September 8, 2007, acted, under the terms of a grant or an enforceable agreement from

the Department or the USEPA, to voluntarily retrofit, retire, or repower the regulated vehicle or regulated off-road equipment.

- (m) In applying the fleet plan requirements of this subchapter to any actions or efforts by the New Jersey Transit Corporation, prior to the submittal of a fleet plan to reduce fine particulate diesel emissions by voluntarily retrofitting, retiring, or repowering any regulated vehicle or regulated off-road equipment in its fleet, the Department will deem as compliant with the retrofit installation requirements of this subchapter any such actions or efforts by the New Jersey Transit Corporation.
- (n) Upon the date of the Department's final approval of the fleet plan, or any part thereof, the owner will be subject to the provisions of the approved fleet plan, or any approved part thereof, and will be required to comply with these provisions on or after the final approval date or the date on or by which certification of funds in accordance with N.J.S.A. 26:2C-8.34 has occurred, whichever is later.
- (o) The Department will notify the owner of a regulated vehicle or regulated equipment in writing of its approval of a fleet plan or parts thereof.

7:27-32.18 Deadline for the installation of retrofit technology

- (a) The owner of a regulated on-road diesel vehicle, regulated solid waste vehicle, regulated commercial bus or piece of regulated off-road diesel equipment, or any combination thereof, shall ensure the installation and use of a retrofit device on each vehicle and equipment as required by a notice of intent to comply, or a fleet plan, as applicable, as follows:
 - 1. For a fleet of fewer than 75 vehicles or pieces of equipment to be retrofitted, within 120 days of notice of receipt by the Department of the notice of intent to comply, approval of the fleet plan or the certification of funds in accordance with N.J.S.A. 26:2C-8.34, whichever is later;
 - 2. For a fleet of at least 75 but no more than 150 vehicles or pieces of equipment to be retrofitted, within 180 days of notice of receipt by the Department of the notice of intent to comply, approval of the fleet plan or the certification of funds in accordance with N.J.S.A. 26:2C-8.34, whichever is later; and
 - 3. For a fleet of more than 150 vehicles or pieces of equipment to be retrofitted, within 270 days of notice of receipt by the Department of the notice of intent to comply, approval of the fleet plan or the certification of funds in accordance with N.J.S.A. 26:2C-8.34, whichever is later.
- (b) The owner of a regulated vehicle or piece of regulated equipment subject to the installation timeframes in this section may request an extension of time within which to comply by notifying the Department in writing at least 10 business days prior to the installation deadline as determined pursuant to (a) above. This request must include the

reasons for the delay in compliance and specify a date certain for the completion of the installation. The Department shall approve or disapprove the extension request and will notify the owner in writing of its decision. The Department will consider extending timeframes for delays beyond the control of the owner such as supply issues, scheduling issues, correction of defects in vehicle and data logging collection.

- (c) The owner of a private regulated commercial bus shall install and begin using retrofit devices on a private regulated commercial bus no later than 180 days after the owners of public regulated commercial buses have been required to install and have begun using retrofit devices on public regulated commercial buses.
- (d) Within five business days after the installation of the retrofit device, the owner shall, for each regulated on-road diesel vehicle, regulated solid waste vehicle, regulated commercial bus or regulated off-road diesel equipment or any combination thereof, complete the original and submit to the Department a copy of the compliance form in accordance with N.J.A.C. 7:27-32.20. Submission of the compliance form shall precede the inspection of the installation of the retrofit device addressed at N.J.A.C. 7:27-32.21 and the application for reimbursement of the installer addressed at N.J.A.C. 7:27-32.24.

7:27-32.19 Annual supplements and annual modifications

- (a) The date on which all parts of a fleet plan have been approved and are in effect will serve as the anniversary date of the fleet plan approval.
- (b) The date on which the Department receives a notice of intent to comply will serve as the anniversary date of the notice.
- (c) Every year, each owner of a regulated vehicle or regulated equipment shall submit a supplement to the notice of intent to comply, fleet retrofit plan or combined fleet retrofit plan, or a modification of the fleet averaging plan or combined fleet averaging plan, as applicable, indicating any changes made to the fleet not reflected in the preceding plan, modification or supplement or indicating that there have been no such changes to the fleet. The owner shall submit this supplement or modification on whichever of the following events occurs later:
 - 1. The anniversary date of the notice of intent to comply or fleet plan; or
 - 2. Ninety days after the Department approves the notice of intent to comply, fleet plan, or most recent supplement or modification thereto, as applicable.
- (d) A supplement or modification submitted pursuant to (c) above must include:
 - 1. An update of the material and information required at N.J.A.C. 7:27-32.12(a), including relevant supporting documentation, as described at (d)2, 3 and 4 below, submitted electronically on forms supplied by the Department;

2. Inventory information pursuant to N.J.A.C. 7:27-32.13 for any on-road diesel vehicles or off-road diesel equipment owned, operated, or leased by the owner added to or removed from the fleet since the submission of the notice of intent to comply, fleet plan, or the most recent supplement or modification thereto;
 3. For any regulated vehicles or regulated equipment added to the fleet, a description of the method of compliance consistent with N.J.A.C. 7:27-32.7 to indicate what best available retrofit technology will be used and the specific vehicle or piece of equipment on which the specific best available retrofit technology will be used or, to indicate that the best available retrofit technology will not be used and that the owner will submit a fleet plan; and
 4. For any regulated vehicles or regulated equipment removed from the fleet:
 - i. An explanation of how the change to the fleet will affect the fleet averaging plan; or an explanation of how the change to the fleet will allow the owner to submit a notice of intent to comply instead of a fleet plan, or a fleet retrofit plan instead of a fleet averaging plan; and
 - ii. An indication that the owner will accordingly submit a notice of intent to comply or a fleet retrofit plan.
- (e) An owner who originally submitted a notice of intent to comply, and who adds a vehicle or equipment to the fleet for which the use of BART is not feasible, shall submit a fleet plan for review and approval by the Department, in accordance with N.J.A.C. 7:27-32.14 or 32.16, as applicable.
- (f) A modification to a fleet averaging plan submitted pursuant to (c) above must also include:
1. A demonstration in accordance with N.J.A.C. 7:27-32.16(d)4;
 2. In the event the fleet averaging plan has not been completely implemented, a demonstration of the actual environmental benefit obtained by the part of the plan that was implemented, using the methodology in N.J.A.C. 7:27-32.16(d)4. This demonstration must include a calculation of the difference between the predicted and actual environmental benefit; and
 3. The remedial measures the owner will take if the actual particulate emissions reduction demonstrated pursuant to (f)2 above is less than the particulate emissions reduction in the approved fleet averaging plan, including a timetable for the completion of the remedial measures.
- (g) The Department will review and approve or disapprove each part of the supplement to a fleet plan or the modification of a fleet averaging plan no later than one year after the Department receives it. If the Department determines that parts of a supplement or

modification are severable, it shall approve those portions of the supplement or modification that comply with this subchapter. In such a case, the Department shall, prior to the final approval of the other parts of the supplement or the modification, require the owner of the regulated vehicles or regulated equipment to comply with the approved part or parts of the supplement or modification.

- (h) The Department will provide a detailed explanation to the fleet owner or operator indicating the deficiencies of a disapproved supplement or modification, or part thereof, including the Department's recommendations as to how the deficiencies could be corrected.
- (i) The owner or group of owners who receive disapproval of a supplement, modification, or a part thereof, submitted pursuant to (c) above, shall, within 60 days of receiving the notice of disapproval, revise the supplement, modification, or part thereof, and submit the final revised supplement, modification, or part.
- (j) If the Department does not take further action within 30 days after receipt of the final revised supplement, modification, or part thereof submitted pursuant to (i) above, the supplement, modification, or revised part shall be deemed approved and in effect.
- (k) If within 30 days after receipt of the final revised supplement, modification, or part thereof submitted pursuant to (i) above the Department finds that that the owner or group of owners has not corrected the deficiencies in the disapproved supplement, modification or part thereof, the Department will take such further action as is necessary to obtain compliance with this subchapter, but the supplement or modification will be in effect 30 days after receipt of the final revised supplement or modification.
- (l) Except as is provided at (i) above, the owner shall be subject to the provisions of the fleet retrofit plan or combined fleet retrofit plan, and the supplement thereto, or the fleet averaging plan and the modification thereto, upon the date of final approval of the applicable part, and the effective date of the final supplement or modification.

7:27-32.20 Issuance and completion of compliance forms

- (a) The Department will notify the owner of a regulated school bus, regulated vehicle or piece of regulated equipment of the availability of a one-page compliance form for each vehicle or piece of equipment for which the installation of a CCVS or BART is required. The compliance form will be available through the Department's website at <http://www.state.nj.us/dep/stopthesoot>.
- (b) The Department will make the compliance form for regulated school buses available after it has certified, pursuant to N.J.S.A. 26:2C-8.28c(3)(b), that sufficient funds are available for the installation of the required CCVSs.

- (c) The Department will make the compliance form for an on-road diesel vehicle other than a regulated school bus or piece of off-road diesel equipment available no later than 180 days after:
1. The date on which the owner submits a notice of intent to comply pursuant to N.J.A.C. 7:27-32.7;
 2. The effective date of the fleet plan pursuant to N.J.A.C. 7:27-32.17; or
 3. The effective date of any supplement or modification submitted pursuant to N.J.A.C. 7:27-32.19 for those vehicles that are added to the fleet, or for which the notice of intent to comply or fleet plan has been modified.
- (d) The owner of a regulated school bus shall provide the following information on the compliance form:
1. The owner's name and business address;
 2. The vehicle identification number (VIN);
 3. A statement by the owner, certified in accordance with N.J.A.C. 7:27-1.39, that any required CCVS has been installed and the installation date;
 4. The purchase and installation cost of the CCVS and a statement by the owner explaining any difference between this cost and the estimated cost provided pursuant to N.J.A.C. 7:27-32.4(d); and
 5. A statement by the inspector, certified in accordance with N.J.A.C. 7:27-1.39, that the CCVS installation requirement has been met in accordance with the inspection procedure at N.J.A.C. 7:27-32.6.
- (e) The owner of a regulated vehicle or piece of regulated equipment shall provide the following information on the compliance form:
1. The owner's name and business address;
 2. The vehicle identification number (VIN) for the regulated vehicle or the serial number for the piece of regulated equipment required to install BART;
 3. A description of the BART to be used by the specific regulated vehicle or piece of regulated equipment or the corresponding requirements of the approved fleet plan;
 4. The retrofit device family name and serial number;
 5. A statement by the owner, certified in accordance with N.J.A.C. 7:27-1.39, that any required retrofit devices have been installed, and the installation date;

6. The purchase and installation cost of the retrofit device and a statement by the owner explaining any difference between this cost and the estimated cost provided pursuant to N.J.A.C. 7:27-32.12(a)3 or 32.16(d)3; and
 7. A statement by the inspector, certified in accordance with N.J.A.C. 7:27-1.39, that the retrofit requirement has been met in accordance with the inspection procedure at N.J.A.C. 7:27-32.21.
- (f) Within five business days after installing a CCVS or retrofit device, the owner of a regulated school bus, regulated vehicle or piece of regulated equipment shall complete the original and submit to the Department a copy of the compliance form for the vehicle or piece of equipment, as described at (d)1 through 4 and (e)1 through 6 above, to demonstrate compliance with the requirements of this subchapter.
- (g) No later than 30 days after the one-time compliance inspection required by N.J.A.C. 7:27-32.21, or the inspection of the CCVS pursuant to N.J.A.C. 7:27-32.6, the owner shall add the information required by (d)5 or (e)7 above, as applicable, to the compliance form and submit a copy of the updated form to the Department.
- (h) The owner shall keep a copy of the compliance form, completed in accordance with (f) and (g) above, with the vehicle or piece of equipment for which it was issued and shall maintain the original updated compliance form at the owner's place of business, as provided at N.J.A.C. 7:27-32.22(d).

7:27-32.21 One-time compliance inspection

- (a) As soon as practicable, but no later than 90 days after meeting the requirements of N.J.A.C. 7:27-32.18, the owner of any vehicle retrofitted under the provisions of this subchapter that is not required to be inspected under the periodic inspection program shall have the vehicle inspected by a licensed diesel emissions inspection center for the presence of the required retrofit device and compliance with the requirement described on the compliance form issued pursuant to N.J.A.C. 7:27-32.20. In the case of an owner who is authorized under N.J.A.C. 39:8-69 to self-inspect his or her vehicles, the owner shall perform this inspection no later than one year after installation of the retrofit device and provide the certification required on the compliance form.
- (b) For any retrofitted vehicle that is subject to inspection under the periodic inspection program, the owner, after complying with the installation provisions of this subchapter, shall have the regulated vehicle inspected for compliance with this subchapter as soon as practicable after completing and submitting the compliance form pursuant to N.J.A.C. 7:27-32.20, but no later than the next scheduled annual periodic inspection.
- (c) The person performing the inspection shall verify:
1. The presence of the required retrofit device;

2. That the label identification number on the form matches the number on the device in the vehicle; and
 3. That the vehicle identification number on the vehicle is the same as is entered on the form.
- (d) The person performing the inspection shall certify on the compliance form, in accordance with N.J.A.C. 7:27-1.39, whether the retrofit requirement has or has not been met, based on verification of (c)1 through 3 above.
- (e) If the owner of the regulated vehicle is a licensed diesel emissions inspection center or is otherwise authorized to self-inspect his or her vehicles, the owner may perform the inspection and provide the certification required pursuant to (d) above.
- (f) Each regulated vehicle must be inspected one time, in accordance with this section, to confirm installation of the required best available retrofit technology. If the inspector is unable to confirm that the required best available retrofit technology has been installed, the owner of the regulated vehicle shall ensure the installation of the required best available retrofit technology no later than the installation deadline established for the owner of the regulated vehicle in accordance with N.J.A.C. 7:27-32.18(a) and shall have compliance verified in accordance with this section within 30 days after installation.

7:27-32.22 Recordkeeping requirements

- (a) Each owner of a regulated school bus, regulated vehicle or regulated equipment shall keep in a single location at his or her place of business, available for Department inspection, the following:
1. The current and completed original compliance form pursuant to N.J.A.C. 7:27-32.20 for each vehicle or piece of equipment, or any other document that may be issued or required pursuant to N.J.S.A. 26:2C-8.45 to verify compliance;
 2. Maintenance records for the CCVS or best available retrofit technology;
 3. For each vehicle or piece of equipment required to use modified fuel or fuel additives pursuant to N.J.A.C. 7:27-32.8, or the approved fleet plan or approved supplement or approved modification thereto, as applicable, records of fuel purchases since the use of the retrofit and fuel additive or fuel began, or for the two preceding calendar years, whichever is of shorter duration;
 4. The original, approved fleet plan, any supporting documentation submitted to the Department, and approvals or disapprovals of the requests, plans, supplements, or modifications, as applicable;

5. Maintenance records of the usage or documentation demonstrating permanent removal of the engine from service of any vehicle or piece of equipment retired from the fleet and included in a fleet retrofit plan, combined fleet retrofit plan, fleet averaging plan or combined fleet averaging plan; and
 6. Any other documentation pertinent to fleet averaging plan approvals.
- (b) The Department may call upon the State Police to assist with inspections pursuant to this section, if necessary.
- (c) The owner of a regulated school bus, regulated vehicle or regulated equipment shall retain the records listed in (a) above for a minimum of five years.

7:27-32.23 Program support

- (a) Any person seeking further information concerning this program or specific technical guidance for the preparation of fleet retrofit plans, combined fleet retrofit plans, and fleet averaging plans required pursuant to this section and any revisions, supplements, or modifications thereto may contact the Department as follows:
1. Visit the Diesel Risk Reduction Program's website at <http://www.nj.gov/dep/stopthesoot/>;
 2. Write the Department at:

Department of Environmental Protection
Bureau of Mobile Sources
Diesel Risk Reduction Program
401 E. State Street
Mail Code 401-03G
P.O. Box 420
Trenton, NJ 08625-0420; or
 3. Call the Diesel Risk Reduction Program at (609) 292-7953.

7:27-32.24 Application for reimbursement

- (a) The State Treasurer will reimburse the authorized installer of a retrofit device or closed crankcase ventilation system for the purchase and installation costs incurred in installing the retrofit device or closed crankcase ventilation system pursuant to the requirements of this subchapter.
- (b) The authorized installer will be responsible for the purchase and installation of the retrofit devices or closed crankcase ventilation systems. An authorized installer who is reimbursed for the costs associated with the purchase and installation of a closed crankcase ventilation system or retrofit device may not impose any charge on any owner

of a regulated vehicle or piece of regulated equipment for any cost associated with the purchase and installation of said device.

- (c) To receive reimbursement, the authorized installer shall complete and submit to the Department a reimbursement application on a form or in a format supplied by the Department. The Department will make the reimbursement application available electronically on the Department's website at <http://www.state.nj.us/dep/stopthesoot/>. The authorized installer shall include the following information and support documentation in the reimbursement application:
1. Proof of purchase, such as purchase order, receipt or invoices for the retrofit device or closed crankcase ventilation system, that demonstrates actual costs incurred. The authorized installer shall also include the vehicle identification number or serial number of the regulated vehicle or regulated equipment;
 2. Proof of installation to include an itemized listing or work order of the parts, materials, labor and actual costs, and written authorization by the vehicle owner indicating the vehicle owner's approval to perform the specified work;
 3. The authorized installer certification that purchase and installation were in accordance with the manufacturer's instructions and N.J.A.C. 7:27-32.5, if applicable, and warranty requirements at N.J.A.C. 7:27-32.9;
 4. The vehicle owner's certification that the installation was completed and that access will be provided to vehicles or equipment to determine compliance with the terms and conditions of the reimbursement award;
 5. The authorized installer certification that he or she did not provide false information or withhold information on the application for reimbursement such that the processing of the application based on the false or withheld information could result in the reimbursement of the authorized installer:
 - i. Where the authorized installer was ineligible for reimbursement;
 - ii. In an amount greater than that for which the authorized installer would otherwise be eligible; or
 - iii. In an amount in excess of the actual costs of the installation or the amount to which the authorized installer is legally eligible; and
 6. Justification for any difference between the actual cost provided pursuant N.J.A.C. 7:27-32.20(d) or (e) and the estimated cost provided pursuant to N.J.A.C. 7:27-32.4(d), 32.12(a)3 or 32.16(d)3.
- (d) The Department will review and approve or deny each application for reimbursement and will forward the approved applications for reimbursement to the State Treasurer for

payment. The State Treasurer will pay the reimbursement to the authorized installer only after the installation of the retrofit device or closed crankcase ventilation system, as approved by the Department.

- (e) The Department will deny an application for reimbursement upon a finding that the applicant for reimbursement:
 - 1. Provided false information on an application in support of reimbursement from the fund for which he or she was not otherwise eligible; or
 - 2. Withheld information on an application that renders the applicant ineligible for reimbursement from the fund or ineligible for the amount of reimbursement applied for.
- (f) Nothing in this section shall be construed to require the Department, the State Treasurer, or any other State agency or department, to undertake an investigation or make any findings concerning the conduct described in (e) above.
- (g) During the review of the application, the Department may request additional information related to the purchase and installation cost estimates, and any support documentation needed from the applicant to warrant and support payment in accordance with Treasury Circular Letter No. 98-17-OMB, as supplemented or amended, available at <http://www.state.nj.us/infobank/circular/circindx.htm>.
- (h) The State Treasurer shall pay the reimbursement amount within 30 days after receipt of the approved application for reimbursement from the Department.

7:27-32.25 Recovery of reimbursement

- (a) The State Treasurer may recover any reimbursement from the fund, upon a finding that:
 - 1. The purchase or installation of a CCVS or BART on the vehicle or equipment for which the application for reimbursement was filed was not completed; or
 - 2. The applicant for reimbursement:
 - i. Provided false information or withheld information on an application that renders the applicant ineligible for reimbursement from the fund;
 - ii. Received a larger reimbursement from the fund than the applicant would otherwise be eligible; or
 - iii. Received payments from the fund in excess of the actual costs incurred by the applicant or received reimbursement in excess of the amount for which the applicant is legally eligible.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

- (b) Nothing in this section shall be construed to require the State Treasurer, the Department, or any other State agency or department, to undertake an investigation or make any findings concerning the conduct described in (a) above.