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ENVIRONMENTAL REGULATION

AIR QUALITY MANAGEMENT

Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles

Air Administrative Procedures and Penalties

Adopted Amendments: N.J.A.C. 7:27-14.1 and 14.3, and 7:27A-3.10

Proposed: September 18, 2006 as 38 N.J.R. 3728(b)

Adopted: May 25, 2007 by Lisa P. Jackson, Commissioner, Department of Environmental Protection.

Filed: May 30, 2007 as R.2007 d.201, with substantive and technical changes not requiring additional public notice and comment (See N.J.A.C. 1:30-6.3).

Authority: N.J.S.A 13:1B-3(e), 13:1D-9, 26:2C-1 et seq., specifically 26:2C-8, 8.1 through 8.5 and 8.11, 26:2C-9.2, and 39:8-61

DEP Docket Number: 12-06-08/457.

Effective Date: July 2, 2007

Expiration Date: N.J.A.C. 7:27-14, Exempt;
N.J.A.C. 7:27A, April 21, 2010

The Department of Environmental Protection (Department) is adopting amended rules limiting the amount of time a diesel vehicle is allowed to idle. Specifically, the adopted amendments address the circumstances under which that limit can be exceeded, and the penalties associated with violations of the limits. The adopted amendments are being included in the State Implementation Plan (SIP), because the original idling rule was included in a previous SIP revision, and because the amendments will provide additional air quality benefits to the State.

The Department is adopting amendments to N.J.A.C. 7:27-14.1 and 14.3 of the Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles subchapter which describes the three-minute allowable idling duration for diesel-powered motor vehicles, and the exemptions to that maximum idling limit. The adopted amendments affect all diesel-powered motor vehicles, except United States Environmental Protection Agency (USEPA) regulated marine vessels and trains. The Department is adopting the amendments in order to reduce the number of exemptions to the three-minute diesel idling standard, and thereby reduce the amount of diesel exhaust released into the ambient air.

In addition, the Department is amending N.J.A.C. 7:27A, Air Administrative Procedures and Penalties, specifically N.J.A.C. 7:27A-3.10(m)14, which identifies penalties for violations of N.J.A.C. 7:27-14.

Summary of Hearing Officer's Recommendations and Agency Responses:

Chris Salmi, Assistant Director of the Department's Division of Air Quality, served as the Hearing Officer at the October 20, 2006 public hearing on the proposed rules and SIP revisions that the rules represent, held at the Department of Environmental Protection, East State Street, Trenton, New Jersey. The comment period for the proposal and proposed SIP revision closed on November 17, 2006. The Hearing Officer recommended that the Department adopt the amendments as proposed, with the changes described below. The Department has accepted the Hearing Officer's recommendations. A record of the public hearing is available for inspection in accordance with applicable law by contacting:

Department of Environmental Protection

Office of Legal Affairs

ATTN: Docket No. 12-06-08/457

401 East State Street

PO Box 402

Trenton, New Jersey 08625-0402

This adoption document can also be viewed or downloaded from the Department's website at www.nj.gov/dep/aqm, where the Department has posted Air Quality Management rules, proposals, adoptions and SIP revisions.

Summary of Public Comments and Agency Responses:

The Department received oral and/or written comments on its proposed amendments from the following persons:

1. Thomas J. Dugan, Greater New Jersey Motorcoach Association
2. Peter J. Pantuso, American Bus Association
3. Joe Licari, Shurepower, LLC
4. James V. Pickering, Township of Millstone
5. Thomas D. Sims, Department of the Air Force; Regional Environmental Office, Eastern Region
6. Gail E. Toth, New Jersey Motor Truck Association
7. Wayne R. Smith
8. Carol Katz, Katz Government Affairs, and Michael Horak, Academy Bus
9. Peggy Sturmfels, New Jersey Environmental Federation
10. Ethan Lavine, Environment New Jersey
11. Raymond Werner, United States Environmental Protection Agency

A summary of the comments and the Department's responses follows:

The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

1. **COMMENT:** It is necessary to idle in order to pump up the vehicle's air pressure systems to ensure brake performance as required by 49 CFR 393.52. (1, 8)

RESPONSE: If the vehicle's main engine is needed to power the air brakes to operating pressure, the vehicle would qualify for an exemption under existing N.J.A.C. 7:27-14(b)3 (which is amended N.J.A.C. 7:27-14(b)2). This exemption applies to "a motor vehicle whose primary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operations other than propulsion."

2. **COMMENT:** It is necessary to idle in order to utilize Americans with Disabilities Act mandated wheelchair lifts. (1, 2, 8)

RESPONSE: As explained in the Response to Comment 1 above, the use of the engine as the power source for necessary and definitively prescribed mechanical operations other than propulsion is within the exemption at adopted N.J.A.C. 7:27-14.3(b)2. The operation of a wheelchair lift would fall within this exemption.

3. **COMMENT:** It is necessary for a bus to idle in order to operate the heating or air conditioning system to warm up or cool down the interior of the vehicle. A new section should be inserted into the rules to protect the health and safety of a driver, allowing him or her to idle the vehicle during extreme temperatures, and to define the meaning of adverse weather conditions. (1, 6, 8)

RESPONSE: While passengers are in the process of loading or unloading, a bus would qualify for the 15-minute idling allowance at N.J.A.C. 7:27-14.3(a)2, which includes time to heat or cool the bus to safe conditions prior to passengers entering the bus. An engineering pull-down test

done for New Jersey Transit by Trans/Air Corporation (Test # 39 dated October 15, 1998) to determine bus cool-down times shows that a bus with a starting temperature of 100 degrees Fahrenheit can be cooled to 84 degrees within four minutes, 80 degrees in six minutes, and 76 degrees by 10 minutes. Any driving to the first stop would give additional opportunity for heating or cooling the vehicle. Furthermore, there are alternatives to idling the main engine to affect cabin temperature, such as direct-fired heaters that will heat the interior of the cabin. Because these idling alternatives are readily available, a bus driver may not idle the vehicle for more than three minutes for his or her own comfort, such as when idling at the bus yard prior to beginning a route. A definition of “adverse weather condition” is, therefore, not necessary.

4. **COMMENT:** All local and State ordinances should be modified to allow a motorcoach operator latitude to idle a bus to comply with Federal statutes and regulations and to ensure the safety, health and comfort of its passengers. New statutory language is necessary along with modifications to the Federal Motor Carrier Safety Regulations to allow a motorcoach operator sufficient time to idle to ready vehicle systems. Rather than complying with a specific time limit, an operator should be allowed a reasonable and prudent idling time to allow for safety systems to be in an operating condition that provides for the safety of his or her passengers. Furthermore, motorcoach operators should have access to parking facilities to ensure that drivers are not forced to circulate (drive around the block) and that idle times are kept to a minimum. (1, 2)

RESPONSE: Any issue regarding local ordinances should be raised directly with the locality. Similarly, those regarding Federal law should be raised with Federal authorities.

With regard to the idling times specified in the adopted amendments, the Department has adopted idling limitations and exemptions that take into account the safety of passengers and operators, while improving air quality. The adopted rules are consistent with Federal and scientific guidelines.

As discussed in the Response to Comment 3 above, it is possible to adjust the temperature of a vehicle's passenger compartment to an acceptable temperature within the permitted idling time. Accordingly, it should not be necessary for a motorcoach operator to drive around the block or idle for an additional period in order to maintain passenger comfort.

5. **COMMENT:** With respect to the proposed changes pertaining to idling in an electrified parking space, if idling is completely restricted in any parking spaces that have been electrified, drivers may avoid these spaces if they will be forced to use the electrification equipment instead of idling. With the general lack of available parking in most of the northeast and mid-Atlantic states, drivers will be forced into these electrified spaces. This can result in a captive consumer of these services allowing the service provider to charge non-competitive rates. They could actually charge anything they wanted. This clause could have unintended consequences. (3)

RESPONSE: The Department promotes the use of cleaner technologies, and wants drivers to use the electrified spaces, rather than more polluting alternatives. The commenter suggests that a diesel vehicle should be allowed to idle in an electrified space, if there is a shortage of other spaces. However, this would defeat the purpose of having the electrified space. If a driver parks in an electrified space without using the technology, and opts instead for more polluting options such as idling, other drivers who could make use of the technology in that space would not be

able to utilize it. The Department anticipates that the marketplace will rectify any pricing issues.

6. **COMMENT:** Concerning the new subsection limiting idling at parking spaces with available electrification technology, parking spaces with available electrification technology should be fully utilized. However, the Department should identify the generic types of electrification technologies that would be covered under the adopted provision, and clarify that a truck parked at such an electrified space due to a lack of available non-electrified parking spaces is subject to this provision only if the truck is compatible with the available technology. In other words, if a truck does not possess the adaptations needed to hook up to the type of electrification available, it should be allowed to idle in that space.(11)

RESPONSE: The marketplace for electrification technology is constantly changing. If specific electrification technologies were to be identified in the adopted rules, the language of the rules could be interpreted as precluding later-developed technologies. Instead, the Department defined “electrification technology” to include general guidelines for what qualifies as an appropriate technology.

In the circumstance where a truck is not compatible with the type of electrification technology provided, the Department does not agree that a truck should be allowed to idle in that space. There are a wide variety of cost-effective technologies to reduce idling (either permanently installed on the vehicle or available to allow a truck to use the electrification technology), one or more of which should be appropriate for the individual vehicle.

Truck stop electrification is a cost-effective technology that is available for a nominal fee to truck drivers. At present, the electrification technology available in New Jersey (provided by

IdleAire) requires only a window adapter, which costs approximately \$10.00 per truck. The equipment necessary to allow a truck to connect to the technology is generally available and would cost the driver/owner less than the cost of the fuel that the vehicle would use to idle for the same period of time. Adapters for other technology not yet present in the State could cost more. In addition, on-board idling alternatives, such as auxiliary power units (APUs), are also cost effective and pay for themselves in a year or less. Under the adopted rules, an operator may use an APU instead of land-based electrification technology when parked in an electrified space. It is up to the individual truck stop owners if they would wish to further restrict electrified parking spaces only to those trucker drivers who are going to use the technology.

7. **COMMENT:** Would this regulation affect the trucks that utilize diesel fuel in the Department of Public Works? (4)

RESPONSE: The adopted rules apply to all diesel-powered motor vehicles except those vehicles that meet all of the following: the vehicles are being used for emergency, first aid, rescue, ambulance, or fire-fighting purposes; the vehicles are owned by a county or municipality; and the vehicles are over 18,000 pounds. N.J.A.C. 7:27-14.2 identifies the vehicles to which the adopted rules apply.

8. **COMMENT:** The emergency vehicle exemption should be amended to include military tactical vehicles used in emergency situations. (5)

RESPONSE: The examples in the adopted exemption at N.J.A.C. 7:27-14.3(b)4 are meant to be illustrative, and are not intended to be a complete listing of the vehicles that would qualify for the exemption. However, since military tactical vehicles can be used as an emergency vehicle in

an emergency situation, the Department is modifying the rule on adoption to identify such vehicles in the list of examples.

9. **COMMENT:** There should be a separate exemption for military tactical vehicles used strictly for military training operations. Subjecting military tactical vehicles used in military training operations to the three-minute idling limit would hinder our ability to achieve military readiness. (5)

RESPONSE: The Department recognizes the importance of military readiness to national security. However, an exemption for a particular sector, with no conditions attached, could result in increased emissions, contrary to the Department's intention in adopting the within rules. To balance these two needs, the Department will use its enforcement discretion to allow idling during training exercises when necessary, while enforcing the idling regulation during non-training situations.

10. **COMMENT:** Add new definition for "Idle Reduction Technologies" to clarify the different types of technology that may be used. "Idle Reduction Technologies" should mean operating an auxiliary power unit, generator set, bunk heater or other mobile idle reduction technology used as a means to provide heat, air conditioning, or electrical power as an alternative to idling the main engine. In addition, the Department should allow idling technologies to be used on all 2006 and older engines. Last, the Department should amend N.J.A.C. 7:27-14.3(b)6 to clarify that the use of idling technologies is permitted. (6)

RESPONSE: The Department does not intend that the adopted rules would limit the use of idle reduction technologies, such as auxiliary power units and bunk heaters. In order to provide

clarity to the regulated community and encourage the use of such technologies, the Department is modifying N.J.A.C. 7:17-14.3(b)8 on adoption to provide that the three-minute idling limit of N.J.A.C. 7:27-14.3(a) does not apply to a vehicle equipped with, and the operation of, such technology.

11. **COMMENT:** “Tow trucks” should be added to the list of exempted vehicles at N.J.A.C. 7:27-14.3(b)4. (6)

RESPONSE: The examples are not meant to be an exclusive list, but instead to illustrate the types of vehicles that may typically fall under this category. If a tow truck is actively performing emergency services, it would qualify for the exemption.

12. **COMMENT:** The Department is commended on its efforts, and actions taken, to reduce toxic diesel emissions within New Jersey. The amendments are much needed. Legislation that provides for cleaner air, with minimal costs and effects on the economy, is a win for everyone living in New Jersey. (7)

13. **COMMENT:** The commenter credits the Department with tightening these rules and supports the changes. (9)

14. **COMMENT:** The commenter supports the Department’s regulations to eliminate a number of exemptions to the three-minute diesel idling standard. This move would reduce the amount of hazardous diesel exhaust released into the air and would have a positive effect on air quality within New Jersey. The State has taken a positive step in enacting anti-idling measures and the proposed regulations will help to cut down on the tons of soot emitted as a result of needlessly running a diesel engine when a vehicle is not in use. (10)

15. **COMMENT:** The USEPA has reviewed the proposal and would like to commend New Jersey for taking further steps to reduce unnecessary idling of diesel engines. The rules are consistent with USEPA's goals of reducing harmful diesel emissions while also reducing fuel consumption. (11)

RESPONSE TO COMMENTS 12 THROUGH 15: The Department acknowledges the commenters' support for the amendments.

16. **COMMENT:** The Department should require, not merely suggest, the posting of no-idle signage at any commercial/industrial sites that are frequented by diesel trucks, as well as at all bus terminals within the State. (7)

RESPONSE: The voluntarily program that encourages facilities to post no-idling signs is working well, with more than 3,000 signs going up throughout the State so far during the program. The Department will continue to work with State agencies and cooperative private partners to promote the use of no-idle signs.

In accordance with N.J.A.C. 7:27A-3.10(m)14, the Department has the authority to issue a violation to the property owner if a diesel vehicle violates the idling restrictions of N.J.A.C. 7:27-14.3(a). the Department is encouraging property owners to post no-idling signs to encourage operators of diesel vehicles to comply with the rules.

17. **COMMENT:** The Department should require on-site electrification technology for all future warehouse complexes within the State, so that significant emissions (and noise levels) from diesel engine idling would be substantially reduced at these sites. (7)

RESPONSE: Electrification technology is just one of a number of strategies that warehouse complexes can employ to promote shutting off vehicles' main diesel engines. All vehicles are equipped with on-board technology that can eliminate unnecessary idling. Other strategies may include providing on-site facilities for drivers, such as waiting rooms, or appointment-scheduling of deliveries and pick-ups. Different facilities may benefit from some of these other options more than they would benefit from electrification technology, which can be costly to install and does not necessarily work well for smaller businesses. The Department continues to promote a wide range of idling alternatives, and believes that individual businesses should have input into what solutions work best for their particular needs, rather than mandate a blanket approach for all. Enforcement of the adopted amendments promotes the use of idling alternatives, and the regulated community should be allowed to use the alternative that works best in each marketplace.

18. **COMMENT:** The Department should mandate that all school bus operators maintain a set, minimum distance between buses, whether in queue or in traffic. (7, 9)

RESPONSE: A minimum distance between idling buses is a requirement that would be very difficult for the regulated community to follow, and it would be a difficult regulation to enforce. An alternative is the voluntary "No-Idling Pledge," which promotes shutting the engine off as a way to improve the health of the drivers and passengers of the school buses. The No-Idling Pledge is not part of the within adopted amendments, but is a program aimed at reducing emissions from school buses, and thereby reducing the amount of emissions that bus drivers and passengers are exposed to. Already 70 percent of school districts in the State participate in the

No-Idling Pledge program. Information regarding the program is available at <http://www.stopthesoot.org>.

19. **COMMENT:** In 10-degree weather an engine can take significant time to warm up, even if it has been turned off for less than three hours. (8)

RESPONSE: Even in cold weather, electronically-controlled engines take no more than 30 seconds to warm up, and most engine manufacturers' warranties guarantee that their engines will warm up in three minutes or less. In colder temperatures, engines that are not electronically controlled warm up within 5 minutes. For these vehicles, the 15-minute limit at N.J.A.C. 7:27-14.3(a)1 allows enough time for this to occur.

20. **COMMENT:** Municipalities should pass their own idling laws and do their own enforcement. (9)

RESPONSE: N.J.S.A. 39:3-70.2 gives State and local police departments full authority to enforce the State regulation pertaining to idling. A local ordinance may, in addition, raise local awareness and place a priority on enforcement of idling at the local level. The Department has a model ordinance available for this purpose.

21. **COMMENT:** The Department should make a concerted effort to work with State and local police departments in order to ensure that they are vigilant in enforcing the anti-idling standard. (10)

RESPONSE: The Department has produced and distributed informational packets to State and local police departments, detailing the idling limits and how to enforce them. Further, the

Department will be producing additional training materials, and will be participating in various police training programs to ensure that the idling regulation is enforced accurately.

22. **COMMENT:** There should not be a 15-minute allowance for queuing in front of schools. (9)

RESPONSE: The adopted amendments do not extend the idling limit based on proximity to a school. In order for any vehicle, including a school bus, to qualify for a 15-minute exemption under adopted N.J.A.C. 7:17-14.3(a) the bus would have to be stopped for three or more hours in an ambient temperature of below 25 degrees Fahrenheit, or be actively picking up or discharging passengers. The Department recognizes that school children represent one of the most sensitive populations to the adverse health effects of diesel emissions. To promote the reduction of emissions to this group, school districts are encouraged to consider taking the Department's "No-Idling Pledge" and require that school bus operators turn off engines while loading and unloading students. This practice will improve air quality for the passengers, driver, children, and residents of the State who live or work in the vicinity of places where buses load and unload students.

23. **COMMENT:** There should be a school bus drivers' education program, which would include mandatory training and perhaps reminders on the school buses. (9)

24. **COMMENT:** It is supposedly against the law now to put any kind of stickers or plaques inside the school buses. The law should be amended so that school bus operators have a visual "No Idling" sign in front of them. (9)

RESPONSE TO COMMENTS 24 AND 25: The Department does not have authority to require placards to be placed inside a school bus. What can and cannot be placed in or on a school bus is specified in the rules of the Motor Vehicle Commission, at N.J.A.C. 13:20-31, 49 through 49H, 50 through 50C, and 51 through 53C, which the Department does not have authority to amend.

With regard to training school bus drivers, the Department is authorized under N.J.S.A. 26:2C-8.33(b) to consult with the Department of Education, individual school districts and school administrators concerning the issue of school bus idling, and develop and assist with the implementation of policies and procedures to achieve compliance with the rules. Under this statutory mandate, the Department has implemented a voluntary “No-Idling Pledge” program for school districts, which includes a driver training component. However, mandatory training for school bus drivers is beyond the authority of the Department. Rather, such authority lies with the Motor Vehicle Commission, which is in charge of requirements for licensing of drivers.

25. **COMMENT:** Electrified truck stops should be encouraged and supported. Where will the next wave of stations be located? (9)

RESPONSE: Currently in New Jersey there is an electrified truck stop in Paulsboro. A new electrified truck stop in Bordentown is scheduled to open in June 2007. An electrified truck stop at the Vince Lombardi Rest Area in Ridgefield, New Jersey, on the New Jersey Turnpike, is scheduled to begin construction within the next 12 months. The Department is considering other locations for electrification, as well.

26. **COMMENT:** When will the school bus study be completed, and will it focus on crank-case, tailpipe, or both? (9)

RESPONSE: The school bus study required by P.L. 2005, c.219 will be completed by the end of 2007, and will focus on both crank-case systems and tailpipe retrofits. The study will evaluate whether tailpipe retrofits will significantly reduce the levels of particulates that children are exposed to in the cabin of the school bus.

27. **COMMENT:** The Department and the State should take additional steps to reduce diesel soot pollution, including promptly introducing regulations to guide the installation of diesel pollution reduction technologies for school buses and garbage trucks, and other measures that will help to ensure that New Jersey achieves a health-based standard for regulating soot pollution. (10)

28. **COMMENT:** The Department should speed up the introduction of regulations for the installation of crank-case filters for school buses and the installation of clean up technology for garbage trucks to keep the State in line with the timeline envisioned in recent diesel legislation (P.L. 2005, c.219). (10)

RESPONSE TO COMMENTS 27 AND 28: The Department proposed amendments and new rules regarding a Diesel Retrofit Program on December 18, 2006 (38 N.J.R. 5244(a)) The proposed amendments and new rules, which include amendments to the rules for Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles (N.J.A.C. 7:27-14), if adopted, will result in the retrofitting of a significant number of diesel vehicles in the State. The Department anticipates adopting the amendments and new rules during Summer 2007.

29. **COMMENT:** To help New Jersey reach a health-based standard, the State can mandate that off-road diesel vehicles used in public contracts (such as public construction projects) be retrofitted with pollution controls. Governor Jon Corzine should enact an Executive Order to retrofit publicly contracted off-road vehicles, especially at the State's ports. (10)

30. **COMMENT:** There should be a strong polluter pays principle, which requires that the private trucking industry pay to clean up their engines through a small increase in the diesel fuel tax. These engine clean-ups would target the most long-term polluting vehicles and would represent a significant reduction of diesel soot pollution. (10)

RESPONSE TO COMMENTS 29 AND 30: These recommendations are beyond the scope of the adopted amendments. However, the USEPA has adopted standards that would require heavy duty off road vehicles to meet stricter standards beginning in 2008. Information on the USEPA's off road vehicle standards is available at <http://www.epa.gov/nonroad-diesel/basicinfo.htm>.

The Department's recent rule proposal regarding the retrofit of diesel vehicles, discussed in the Response to Comments 27 and 28 above, will address publicly owned off-road vehicles. The legislation that enabled the Diesel Retrofit Program did not authorize the Department to include off-road equipment (other than publicly owned) in the Diesel Retrofit Program. (See N.J.S.A. 26:2C-8.6.)

The USEPA has also adopted rules that require on-road diesel engines, such as those that are used throughout the private trucking industry, to meet strict new pollution standards beginning with model year 2007. This program is called the Heavy-Duty Highway Diesel

Program. Information on the program is available at <http://www.epa.gov/otaq/highway-diesel/index.htm>.

31. **COMMENT:** If New Jersey is considering submitting these revised idling rules as a control strategy for attaining the PM_{2.5} National Ambient Air Quality Standard as part of a SIP revision, the Department should clarify the enforcement provisions of the rules. Additionally, New Jersey will need to submit adequate documentation detailing how the emissions reductions were quantified. (11)

RESPONSE: The Department is planning to submit the diesel idling rule as a SIP revision. As discussed in the Response to Comment 20, the Legislature clarified that both State and local law enforcement personnel have authority to enforce the within adopted rules.

To increase driver awareness, the Department is spearheading multiple outreach efforts, which include panel discussions, installation of idling alternatives such as Advanced Truck Stop Electrification systems across the State, funding of idling reduction technologies through a partnership with the New Jersey Motor Truck Association, distribution of literature that discusses the hazards of idling and ways to avoid idling, and the production and sale of more than 3,000 No Idling in order that the public is aware of the restrictions on idling. In addition, the Department has increased compliance by targeting enforcement at areas at which diesel vehicles frequently idle for an extended period.

The Department also intends to include these adopted rules in the 8-hour ozone attainment demonstration and the PM 2.5 attainment demonstrations for the SIP. As part of

those SIP demonstrations, the Department will include documentation on emission benefits of the diesel idling rule.

Summary of Agency-Initiated Change:

The Department is modifying note 1 to the table of violations at N.J.A.C. 27A-3.10(m)14, to better reflect the intent of the Legislature, as set forth at N.J.S.A. 26:2C-8.33a(1). N.J.A.C. 7:27A-3.10(m)14, which includes violations to be issued to school bus drivers, school districts, and administrator/principals, as proposed did not make it clear that the bus driver, school districe, and the principal or administrator of the school that the bus services would ot be penalized, but would be issued a notice of the violation.

Federal Standards Statement

Executive Order No. 27(1994) and P.L. 1995, c.65 require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. The adopted amendments to N.J.A.C. 7:27-14 are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. Moreover, there is no comparable Federal standard exceeded by this rulemaking and no Federal regulatory

scheme which might be perceived to be duplicated or overlapped by this rulemaking.

Accordingly, Executive Order No. 27(1994) and P.L. 1995, c.65 do not require a Federal standards analysis.

Full text of the adoption follows (additions to proposal indicate in boldface with asterisks ***thus***; deletions indicated in brackets with asterisks ***[thus]***):

7:27 14.1 Definitions

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

...

“Diesel particulate filter” means an exhaust emissions aftertreatment device that physically entraps and prevents from being emitted into the air at least 85 percent of the particulate matter contained in the full exhaust stream emitted by the engine.

...

“Electrification technology” means a technology that harnesses an off-vehicle electrical system to provide a vehicle with climate control and other needs.

...

“idle” means an operating mode where the vehicle engine is in operation while the vehicle is stationary at any location.

7:27-14.3 General Prohibitions

(a) No person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes if the vehicle is not in motion, except:

1. A motor vehicle that has been stopped for three or more hours may idle for up to 15 consecutive minutes when the ambient temperature is below 25 degrees Fahrenheit; and
2. A diesel bus while it is actively discharging or picking up passengers may idle for 15 consecutive minutes in a 60-minute period.

(b) The provisions of (a) shall not apply to:

1. Any motor vehicle idling in traffic, or a motor vehicle other than a school bus idling in a queue of motor vehicles, that are intermittently motionless and moving because the progress of the motor vehicles in the traffic or the queue has been stopped or slowed by the congestion of traffic on the roadway or by other conditions over which the driver of the idling motor vehicle has no control;
2. A motor vehicle whose primary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion. This use includes, but is not limited to, operating lift gate pumps and controlling cargo temperature. This exemption does not apply to passenger compartment heating or passenger compartment air conditioning;
3. (No change in text.)

4. Vehicles that are actively performing emergency services. Examples include fire vehicles, police vehicles, public utility vehicles, ***military tactical vehicles*** and snow removal vehicles, during the time that such vehicles are actively performing emergency services;
5. A motor vehicle while it is being repaired or serviced, provided that operation of the engine is essential to the proper repair or service;
6. Subject to (b)7i below, on or before April 30, 2010, a motor vehicle, manufactured with a sleeper berth, while it is being used, in a non-residentially zoned area, by the vehicle's operator for sleeping or resting, unless the vehicle is equipped with a functional auxiliary power system designed in whole or in part to maintain cabin or sleeper berth comfort or to mitigate cold weather start-up difficulties; ***[or]***
7. Beginning May 1, 2010, a vehicle equipped with a sleeper berth, which vehicle is equipped with a model year 2007 or newer engine, or has been retrofitted with a diesel particulate filter that is connected and properly functioning.
 - i. If the Commissioner, after consulting with the New Jersey Department of Transportation and the State Police, determines that public safety would be adversely affected if the exemption in (b)7 were to take effect on May 1, 2010, the Commissioner may, by notice published in the New Jersey Register on or before May 1, 2010, delay the operative date of the exemption in (b)7 above, and extend the exemption in (b)6 above, for up to one year, but in no case may the exemption of (b)6 above be extended beyond April 30, 2011***[.]****; **or**

8. The operation of technology designed to reduce engine idling, such as auxiliary or alternate power units (APUs), generator sets, and bunk heaters, provided the vehicle's main engine is not operating.*

- (c) Beginning May 1, 2008, no person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes when that vehicle is parked in a parking space with available electrification technology.
- (d) In no case shall the provisions of (a) and (b) above relieve any person from compliance with N.J.A.C. 7:27-5, Prohibition of Air Pollution, or any other applicable local, State or Federal law.
- (e) No person shall cause, suffer, allow or permit any emission control apparatus or element of design installed on any diesel-powered motor vehicle or diesel engine to be disconnected, detached, deactivated, or in any other way rendered inoperable or less effective, in respect to limiting or controlling emissions than it was designed to be by the original equipment or vehicle manufacturer, except for the purposes of diagnostics, maintenance, repair or replacement and only for the duration of such operations.

CHAPTER 27A

AIR ADMINISTRATION PROCEDURES AND PENALTIES

SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR

ADJUDICATORY HEARINGS

7:27A-3.10 Civil administrative penalties for violation of rules adopted pursuant to the Act

(a)-(l) (No change.)

(m) The violations of N.J.A.C. 7:27, whether the violation is minor or non-minor in accordance with (q) through (t) below, and the civil administrative penalty amounts for each violation are as set forth in the following Civil Administrative Penalty Schedule. The numbers of the following subsections correspond to the numbers of the corresponding subchapter in N.J.A.C. 7:27. The rule summaries of the requirements set forth in the Civil Administrative Penalty Schedule in this subsection are provided for informational purposes only and have no legal effect.

CIVIL ADMINISTRATIVE PENALTY SCHEDULE

1. - 13. (No change.)

14. The violations of N.J.A.C. 7:27-14, Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles, and the civil administrative penalty amounts for each violation, per vehicle, are as set forth in the following table:

Citation	Class	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-14.3(a)	Passenger Vehicle Registration	NM	\$100	\$200	\$500	\$1,500

School Bus Owner	NM	\$250	\$500	\$1,000	\$1,000
School District, if the School District Does not Own the Bus ¹	NM	\$0	\$500	\$1,000	\$1,000
Commercial Vehicle Registration	NM	\$250	\$500	\$1,000	\$1,000
Property Owner	NM	\$250	\$500	\$1,000	\$1,000

¹ The driver of a school bus is not subject to penalty under N.J.A.C. 7:27-14.3(a). The bus driver, school district, and the principal or administrator of the school serviced by the bus will be notified of all violations. ***After the first violation, the school district, if it is not also the owner of the bus, will be subject to both notice and penalty.***

15.-31. (No change.)

(n)-(t) (No change.)