

Lower Hudson and Long Island  
Clean Air Legislation  
(Proposed and Existing)

Presented at the Hudson River Navigator's

**Air Quality Conference**

March 29, 2006

Pace Law School  
White Plains, NY

Including legislation from Nassau, Rockland,  
Suffolk, and Westchester Counties presented as  
a portion of the Legislators' Panel discussion  
(Session 3)

# Nassau County Legislation

Presented at the Hudson River Navigator's  
Conference on Air Quality

March 29, 2006

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Introduced by: Legislator David Denenberg

LOCAL LAW NO.3 2002

A LOCAL LAW in relation to the elimination of carbon dioxide emissions from power plants in Nassau County.

(Became a law on April 22, 2002 with the approval of the Chief Deputy County Executive. Passed by the Nassau County Legislature on April 15, 2002. Voting: ayes 18, naves 0, abstained 1).

BE IT ENACTED by the Nassau County Legislature as follows:

Section 1. A new Title 49 is hereby added to the Miscellaneous Laws of Nassau County in relation to the elimination of carbon dioxide emissions from power plants in Nassau County, as follows:

TTTLE 49

Carbon Dioxide Emissions Regulation

Section. 1 Legislative Intent

Section 2. Definitions

Section 3. Requirements

Section 4. Penalties

Section 5. Severability

Section 6. Applicability

*Handwritten signature*  
MAJORITY COUNSEL

### Section I. Legislative Intent,

This Legislature hereby finds and determines that the growing economy and the use of new electrical devices by Nassau County customers has dramatically driven up demand for electricity, potentially beyond the availability of our current power supply; that without comparable increases in power generation to meet the demand or increased emphasis on energy conservation, the County will face brownouts and blackouts as well as price spikes; and that energy experts have recommended several measures to address the potential power crisis, including the construction of new generating plants.

This Legislature further finds and determines that these concerns are occurring while the utility industry is being deregulated, e.g., in April 1996, The Federal Energy Regulatory Commission ("FERC") ordered utilities that own, control or operate facilities used for transmitting electric power to let other companies buy and sell power over their distribution systems and in May 1996, the New York State Public Service Commission ("PSC") issued an initial restructuring plan that permitted competition for the production and sale of electricity to begin in 1998. As a result, the production and sale of electricity is beginning to open to competition so that customers can decide from which company they will purchase electricity.

This Legislature further determines that deregulation of the industry and the high market demand for electricity by County consumers has resulted in a surge of entities applying for permits to build new generating plants within the county or to expand the output of existing ones, the proposed construction of which raises environmental concerns.

This Legislature also determines that many of the applicants seeking to run the proposed plants will continue to operate older less efficient, less environmentally sound plants in tandem with newer, more efficient, less polluting plants; that the cumulative impact of emissions from the clustering of plants is unknown; and that the amount of harmful emissions which new power plants will emit, in particular, the impact of -emissions such as carbon dioxide ("CO<sub>2</sub>"), responsible for such environmental hazards as global warming is of concern.

This Legislature finds that companies proposing the construction of new power plants or increased generation make numerous assurances that the new technologies will be utilized for new power plants, which will not only increase overall efficiency but will also reduce harmful emissions, even though many of these companies intend to continue to utilize older, less efficient polluting facilities.

This Legislature also determines that the need for expanding energy sources requires the implementation of a strategy that takes into account the protection of the environment as well as energy needs.

This Legislature finds that, over time, CO2 emissions rates will decrease, as more efficient power plants are installed and older power plants incorporate more efficient processes for generating greater levels of electricity without increasing the use of fossil fuels, the end result of which will be a cleaner, healthier environment for the County's citizens, without a sacrifice in energy demands.

Therefore, the purpose of this law is to encourage owners of existing power plants and steam generating facilities, as well as newcomers to the Nassau County electric and steam generating power industry, to maximize efficiency by incorporating technological advances in energy production that increase electricity generation through the establishment of a rate of allowable carbon dioxide emissions per megawatt-hour, or equivalent megawatt-hour of generated electricity, for all power plants and steam generating units located in the County to protect the health, safety, and well-being of Nassau County residents. This law would not require an increase in fossil fuel consumption, and, thus, do not increase carbon dioxide emissions.

## Section 2. Definitions.

As used in this law, the following terms shall have the meanings indicated:

- A.) "Electric Generating Unit" shall mean any fossil fuel fired combustion unit or a combination of units at a single facility located in the County of Nassau with a single or aggregate nameplate capacity of more than 25 megawatts that serves as a generator which produces electricity for use or sale or any fossil fuel fired combustion unit located in the County of Nassau that produces steam for sale.

- B.) "Steam Generating Unit" shall mean any fossil fuel fired combustion unit or a combination of units at a single facility located in the County of Nassau with a capacity of more than 25 megawatts that serves as a generator that produces electricity for use or sale or any fossil fuel fired combustion unit located in the County of Nassau that produces steam for sale.

### Section 3. Requirements.

- A.) The provisions of this section shall apply to every electric generating unit and steam generating unit located within the County of Nassau.
- B.) Notwithstanding any other provision of law, the County Department of Health ("Department"), shall develop standards for reductions in emissions of carbon dioxide by electric generating units and steam generating units in accordance with the provisions of this section. The Department shall promulgate rules, including, but not limited to, a quarterly reporting requirement, no later than May 1, 2002, in relation to reducing such emissions of carbon dioxide. The Department shall require all electric generating units and steam generating units to comply with an emission standard expressed in pounds of carbon dioxide emitted per megawatt-hour of electricity generated.

1.) No later than July 1, 2002, The Department shall set an emissions rate for carbon dioxide emissions for all electric generating units and steam generating units at a level of one thousand eight hundred (1,800) pounds of carbon dioxide-per gross megawatt-hour (MWh) or equivalent MWh of electricity generated. Equivalent MWh is defined as one hundred percent of the gross electrical energy produced by a unit plus one half the gross useful thermal output energy of the unit converted to MWh according to the following equation:  $\text{total gross MWh} + (0.5)(\text{gross thermal output mmBtu}(3.413 \text{ mmBtu/MWh})=\text{equivalent MWh}$ . On July 1, 2002 and every July 1<sup>st</sup> thereafter, the allowable County-wide emissions rate for carbon dioxide shall be reduced by one percent (1%) for every one hundred megawatts of electric generating capacity installed within the County of Nassau during the previous year until such time as the allowable emissions rate for carbon dioxide has been reduced by twenty percent (20%). Any new capacity

above the baseline emission rate shall be excluded for the purpose of setting a lower emission rate. However, all new electric generating capacity shall be required to meet the lower emission rate. Generating facilities that could normally comply through a strategy of burning natural gas fuel shall not be subject to non-compliance enforcement for MWhs produced when they are compelled by established electric system reliability rules to burn fuel oil.

2.) The Department shall establish a carbon dioxide emission credit trading mechanism to be approved by the Nassau County Legislature and allow the operators of all electric generating units and steam generating units subject to this section to achieve compliance through the purchase of carbon dioxide emission credits through established carbon dioxide trading market or by acquiring the equivalent value of such carbon dioxide credits by investments it, or the electric distribution company to which it sells energy, makes in energy conservation, energy efficiency, research and development of alternative energy sources including, but not limited to, solar, wind, fuel cells, and other strategies that reduce carbon dioxide emissions. In addition, after approval by the Nassau County Legislature via duly enacted resolution of the County of Nassau, the Department may allow the operator of electric generating units and steam generating units (or the electric distribution company to which it sells energy) subject to this section to achieve compliance through donation of penalties to community environmental organizations for implementation of strategies that reduce carbon dioxide emissions in Nassau County. Credit shall be allowed for equivalent energy reductions made through investments since 2002.

3.) The emission standards for carbon dioxide required by this section shall not be construed to supersede more stringent emission standards, limitations, and/or practices that are applicable to electric generating units on the effective date of this law or may be applicable after such effective date.

#### Section 4. Penalties.

A.) Operators of electric generating units or steam generating units who fail to meet the obligations and requirements of Section 3 of this law shall be subject to civil fines after a due process hearing as follows:

- 1.) an amount equal to two dollars (\$2.00) for each ton of carbon dioxide emissions in the first year above the requirements set forth in this section.
- 2.) an additional one dollar (\$ 1.00) for each ton of carbon dioxide emissions above the requirements set forth in this section shall be imposed for each consecutive year thereafter that the electric generating unit or steam generating unit fails to meet its obligations pursuant to the requirements of this law.
- 3.) such amounts shall be collected by the appropriate agency designated by the Department.
- 4.) the Department shall submit an annual report (July 31 of each year) to the County Executive and the County Legislature and the County Comptroller regarding the amount of the fines collected pursuant to this section.

#### Section 5. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

#### Section 6. Applicability

1. This **law** shall apply to all actions occurring on or after the effective date in



accordance with the phased in schedule set forth in Section 3 of this law.

2. This local law shall take effect immediately.

APPROVED

APR 22

**RESOLUTION NO. 97 -2004****RECOGNIZING THE CLEAN ENERGY LEADERSHIP TASK FORCE AND APPOINTING  
TWO PARTICIPANTS TO SUCH TASK FORCE.**

Passed by Nassau County Legislature on  
APR 26 2004 a vote was taken with  
19 Legislators present  
Voting: aye\_19\_, nay\_\_0\_  
Became a resolution on MAY 4 2004  
with the approval of the Deputy County  
Executive acting for the County Executive.

**WHEREAS**, a scientific consensus has developed that the Earth's climate is being profoundly affected by carbon dioxide (CO2) and other greenhouse gases being released into the atmosphere by humankind's burning of fossil fuels, e.g. coal, oil, and gas, for electricity and transportation; and

**WHEREAS**, climate change scientists predict as a result more intense and frequent storms and hurricanes, global temperature increases, and sea level rise which will cause costly damage to New York infrastructure; and

**WHEREAS**, Governor Pataki has issued Executive Order 111 which orders New York State agencies to "achieve a reduction in energy consumption by all buildings they own, lease, or operate, of 35% by 2010," and "shall procure increasing percentages of alternative fueled vehicles, including hybrid electric vehicles, as part of then- annual vehicle acquisition plans," of 50% by 2005 and 100% by 2010; and

**WHEREAS**, Governor Pataki's Executive Order 111 also encourages local government not subject to the Order to "review their-energy efficiency practices and procedures, institute appropriate operation and maintenance modifications, and to accelerate the implementation of energy efficiency projects;" and

**WHEREAS**, the county of Nassau is committed to showing leadership in preserving Long Island's unique environment and is dedicated to maintaining a healthy local quality of life including clean air for its residents to the extent possible; and

**WHEREAS**, local government action taken to reduce greenhouse gas emissions and increase energy efficiency provide multiple local benefits including reducing energy expenditures, and saving money for the County government, its businesses and its citizens, decreasing air pollution, and creating jobs by stimulating the Long Island supply of alternative

energy providers & installers; and

**WHEREAS**, the Clean Energy Leadership Task Force, facilitated by the NEIGHBORHOOD NETWORK will invite experts and utility representatives to educate municipal officials about clean energy efficient technologies and practices, share information with other Long Island municipalities about experiences and successes in employing these technologies and practices, work to identify grants and other financial incentives available for Long Island municipalities to convert to energy efficient technologies, conduct a greenhouse gas emissions inventory/audit to determine the source and quantity of greenhouse gas emissions by the municipality, work towards a goal of reducing greenhouse gas emissions related to the County's buildings and vehicle fleets by 25% over the next five years; and

**WHEREAS**, joining the **CLEAN ENERGY LEADERSHIP TASK FORCE** is not an action as defined by 6 N.Y.C.R.R. §617.2(b), therefore no farther SEQRA review is required; now, therefore, be it

**RESOLVED**, that the Legislature of the County of Nassau recognizes the Clean Energy Task Force as an entity committed to a leadership role in assisting the County to engage in energy conservation and clean energy alternatives; and be it further

**RESOLVED**, that the Legislature finds that the Clean Energy Task Force furthers the goals set forth in the Governor's Executive Order No. 11; and be it further

**RESOLVED**, that the Legislature finds it important that the County have representation on such Task Force in order that the County may participate in the review of energy efficiency practices and procedures, the institution of appropriate operational and maintenance modifications and the acceleration of the implementation of energy efficient projects; and

**RESOLVED FURTHER**, that the County Executive shall appoint, subject to confirmation by the County Legislature, two persons who serve in positions which are indicative of a commitment to environmental concerns to represent the County on such task force.

**APPROVED MAY 4 2004**

County Executive

DEPUTY CTY. EXEC. ANTHONY CANCELLIERI

## RESOLUTION NO. 31-2005

A RESOLUTION DIRECTING THAT NASSAU COUNTY CHANGE ITS PURCHASE OF ELECTIC ENERGY TO INCLUDE A GROWING PROPORTION OF NON-POLLUTING "GREEN" POWER WITH A GOAL OF NO LESS THAN 25% BY 2010 IN ORDER TO BENEFIT THE HEALTH AND WELFARE OF COUNTY RESIDENTS AND TO PROMOTE CLEAN ENERGY PRODUCTION AND CLEAN AND RENEWABLE ENERGY MARKETS.

Finid by Nassau County Legislature on  
March 7 2005 a voice vote was taken with 19  
Legislatures present.  
Voting : aye 18, nay 0, abstained 0, recused 1  
Became a resolution on March 11 2005

With the approval of the Deputy County Executive acting for the County Executive

WHEREAS, The County of Nassau finds that power generation from polluting, non-renewable resources such as oil and coal has resulted in serious human health impairments such as heart and lung disease and negative impacts on wildlife, plants and the natural environment including acid rain and urban smog. Fossil fuel dependence has become a factor in conflicts over the world's dwindling supply of non-renewable resources; and

WHEREAS, The County of Nassau acknowledges that due to its location down wind from numerous New York City, New York State and out of state power plants, the air quality for ozone and for particulate matter in the County periodically fails to meet the standards set by the Environmental Protection Agency. Furthermore, ozone pollution and fine particulate pollution pose serious health risks to County residents including respiratory problems and cardiovascular disease.

WHEREAS, The County of Nassau acknowledges that in the aftermath of the large scale blackout during the summer of 2003, the public has become more aware of energy issues and the consequences resulting from our energy choices; and

WHEREAS, The County of Nassau recognizes that energy conservation has not been used to its fullest as a strategy to reduce the serious negative impacts caused by fossil fuels used for energy generation; and

WHEREAS, The cost of clean, renewable energy, such as wind, solar and hydro electric power, has declined steadily relative to fossil fuel based energy and is expected to remain stable into the future, and, therefore, decline even farther relative to non-renewable sources, and

WHEREAS, The County of Nassau recognizes further that the use of electric energy generated from clean, renewable energy from sources such as wind, solar, photovoltaics, ocean, geothermal and hydro, has many benefits including in-state and in-county production opportunities such as local use of wind and solar technology, minimal environmental impacts, increased income from local producers including in-state small farm interests, economic development support and dramatic air quality

improvements; and

WHEREAS, increasing local demand for clean, renewable energy production helps to redirect regional, state and national energy policies; and

WHEREAS, leadership at the local municipal level is essential in achieving fundamental policy change; and

NOW THEREFORE BE IT RESOLVED, That the Nassau County Legislature will continue to be a leader in the effort to improve the quality of the local environment and redirect energy policy, and therefore adopts the following policy priority to protect the health of its residents, promote energy efficiency, clean energy production and clean and renewable energy markets:

1. County agencies and departments with responsibility for purchasing electric energy shall increase their purchase of electric energy generated from the following technologies: wind, solar, photovoltaics, tidal, geothermal, hydro and fuel cells. County agencies and departments shall seek to purchase sufficient quantities of electric energy from these technologies so that twenty five (25%) percent of the overall annual electric energy requirements of the County will be met through these technologies by the year 2010, provided however, that the total additional cost of the electric energy purchased from such technologies shall not exceed Five Hundred Thousand (\$500,000.00) Dollars per year.
2. Not later than one year following the enactment of this Resolution and each year thereafter there shall be reported to the Planning, Development and the Environment Committee of the Nassau County Legislature the amount of electric energy generated from wind, solar, photovoltaics, tidal, geothermal, hydro and fuel cells which has been purchased by the County. Said report shall include an accounting of the percentage of the County's overall purchase of electric energy represented by electric energy generated from the sources listed herein and the total cost thereof. Said report shall also set forth the amount of electric energy generated from the sources listed herein which the County intends to purchase for the following year.

APPROVED

County Executive

MAR 11 2005

Proposed

Rockland County Legislation

Presented at the Hudson River Navigator's  
Conference on Air Quality

March 29, 2006

**Page 2: 5A1 Referral No. 5426**

**Page 10: 5A2 Referral No. 5426**

**Referral No. 5426**

**February 21, 2006**

**LOCAL LAW NO.        OF 2006  
COUNTY OF ROCKLAND  
STATE OF NEW YORK**

**(Sponsor: Hon. Harriet D. Cornell,  
Co-Sponsors: Hon. Roman Rodriguez, Hon. Philip Soskin)**

**CORNELL/THE ENTIRE LEGISLATURE: UNAN.**

A local law relating to the county’s purchase of cleaner (hybrid or alternative fuel) light-duty and medium-duty motor vehicles and requiring annual reports to the county executive and legislature of Rockland county.

Be it enacted by the legislature of the county of Rockland as follows:

**Section 1.    Name of local law**

This law shall be known as “the Rockland county fuel efficient vehicle act”

**Section 2.    Legislative findings and intent**

a.        The cost of fuel in the United States, especially in New York state and Rockland county, continues to rise.

b.        It is well-documented that fossil fuel consumption by motor vehicles is one of the greatest contributing factors to many environmental problems facing us today.



c. One of the ways that government can help reduce costs and help the environment at the same time is through the purchase and use of hybrid and alternative fuel motor vehicles.

d. Hybrid gas-electric and alternative fuel motor vehicles, including electric only, ethanol, and compressed natural gas, are already available and being commercially marketed.

e. With rising fuel costs and better technology in the near future, such purchases of alternative fuel motor vehicles will become cost effective as estimated miles-per-gallon for these vehicles greatly exceed gasoline-only vehicles.

f. It is important that Rockland county remain committed to saving the environment and taxpayer dollars.

g. Governor George Pataki's executive order 111 requires 50% of light duty vehicles purchased by agencies and authorities to be cleaner fueled vehicles by 2005, increasing to 100% by 2010, with the exception of specialty, police or emergency vehicles. There is no reason for Rockland county not to aspire to those goals.

h. As of July, 2005, there are 19 hybrid or alternative fuel motor vehicles in service in the Rockland county light duty fleet of approximately 240 motor vehicles. This local law mandates that county government formulate a plan that requires the county to purchase highly efficient fuel vehicles for its light duty fleet.

i. Therefore, the legislature of Rockland county wishes to express its concrete desire to pursue hybrid and alternative fuel motor vehicle purchases as soon as such become feasible, so that by 2008 50% of light duty and medium duty vehicles purchased by the county are cleaner fueled vehicles, increasing to 100% by 2010, with the exception of specially equipped vehicles.

**Section 3. Purchase of cleaner light-duty and medium-duty vehicles.**

a. Definitions. When used in this law:

(1) "Alternative fuel" means a substantially non-petroleum fuel, such as compressed or liquified natural gas, liquefied petroleum gas (propane), hydrogen, coal-derived liquid fuels, electricity (including electricity from solar energy), mixtures containing by volume 85% or more of alcohol fuel (including, singly or in combination, methanol, ethanol, or any other alcohol or ether), and any other fuels derived from biological (non-petroleum) materials other than alcohol.

(2) "Alternative fuel motor vehicle" means a motor vehicle that is propelled using solely an alternative fuel or is propelled using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(3) "Average fuel economy" means the sum of the fuel economies of all motor vehicles in a defined group divided by the number of motor vehicles in such group.

(4) "Bi-fuel motor vehicle" means a motor vehicle that is capable of being propelled by both an alternative fuel and gasoline or diesel fuel, but may be propelled exclusively by any one of such fuels.

(5) "County agency" means a department, division, bureau, board, commission or agency of county government, the expenses of which are paid in whole or in part from the county treasury.

(6) "Fuel economy" means the United States environmental protection agency city mileage published label value for a particular motor vehicle, pursuant to section 32908(b) of title 49 of the United States code.

(7) "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

(8) "Hybrid" means any motor vehicle that combines two or more fuels or sources of energy or power that can directly or indirectly provide propulsion power.

(9) "Light-duty vehicle" means any motor vehicle having a gross vehicle weight rating of 8,500 pounds or less.

(10) "Medium-duty vehicle" means any motor vehicle having a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

(11) "Motor vehicle" means a vehicle propelled or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices propelled or driven by a person with a disability, provided, however, that this term shall not include specially equipped vehicles.

(12) "Purchase" means buy, lease, borrow, obtain by gift, or otherwise (except by forfeiture) acquire.

(13) "Specially equipped vehicle" means a motor vehicle defined as specially equipped pursuant to rules and regulations developed and approved by an appropriate county agency designated by the county executive, and adopted by the legislature of Rockland county.

b.

(1) Except as provided for in paragraphs two and three of this subdivision, beginning January 1, 2006, each light-duty vehicle and medium-duty vehicle that the county purchases shall achieve the highest of the following ratings, with subparagraph one of this paragraph being the highest vehicle rating, applicable to motor vehicles certified to California LEV II standards (as set forth in New York state's revised state implementation plan contained in title 6 of the official compilation of codes, rules and regulations of the state of New York and approved on January 31, 2005 by the United States environmental protection agency at pages 4773-4775 of volume 70, number 19 of the federal register [and as may from time to time hereafter be amended]) and available within the applicable model year for a light-duty vehicle or medium-duty vehicle that meets the requirements for the intended use by the county of such vehicle:

- (i) zero emission vehicle (ZEV)
- (ii) advanced technology partial zero emission vehicle (ATPZEV)
- (iii) partial zero emission vehicle (PZEV)
- (iv) super ultra low emission vehicle (SULEV)
- (v) ultra low emission vehicle (ULEV)
- (vi) low emission vehicle (LEV)

(2) The county shall not be required to purchase a zero emission vehicle (ZEV), advanced technology partial zero emission vehicle (ATPZEV), or partial zero emission vehicle (PZEV) in accordance with paragraph one of this

subdivision if the only available vehicle or vehicles that achieve such a rating cost greater than fifty percent more than the lowest bid as determined by the applicable procurement process for a vehicle available in the next highest rating category that meets the requirements for the intended use by the county of such vehicle.

(3) Notwithstanding the requirements of paragraph one of this subdivision, such requirements need not apply to a maximum of five percent of the light-duty vehicles and medium-duty vehicles purchased within each fiscal year.

(4) Each light-duty vehicle and medium-duty vehicle purchased by Rockland county shall be a hybrid or alternative fuel motor vehicle. This shall be accomplished in accordance with the following purchase schedule:

- |       |                                 |                     |
|-------|---------------------------------|---------------------|
| (i)   | 10% of all such motor vehicles  | by May 1, 2006;     |
| (ii)  | 20% of all such motor vehicles  | by October 1, 2006; |
| (iii) | 30% of all such motor vehicles  | by May 1, 2007;     |
| (iv)  | 50% of all such motor vehicles  | by January 1, 2008; |
| (v)   | 70% of all such motor vehicles  | by January 1, 2009; |
| (vi)  | 90% of all such motor vehicles  | by January 1, 2010; |
| (vii) | 100% of all such motor vehicles | by July 1, 2010.    |

c. The county shall not purchase additional bi-fuel motor vehicles.

d. As practicable, using an appropriate fuel economy inventory process, the county shall achieve the following minimum percentage increases in the average fuel economy of all light-duty vehicles purchased by the county during the following fiscal years, relative to the average fuel economy of all such vehicles purchased by the county during the fiscal year beginning January 1, 2005:

- (1) For the fiscal year beginning January 1, 2006, five percent;
- (2) For the fiscal year beginning January 1, 2007, eight percent;

- (3) For the fiscal year beginning January 1, 2008, ten percent;
- (4) For the fiscal year beginning January 1, 2009, twelve percent;
- (5) For the fiscal years beginning January 1, 2010, and January 1, 2011, fifteen percent per fiscal year;
- (6) For the fiscal years beginning January 1, 2012, January 1, 2013, and January 1, 2014, eighteen percent per fiscal year; and
- (7) For every subsequent fiscal year beginning on or after January 1, 2015, twenty percent per fiscal year.

e. Waivers. During any fiscal year beginning on or after January 1, 2006, the county executive, having determined at the request or recommendation of any county agency or on his own initiative that good cause exists to do so, may issue a waiver from the purchase schedule requirements of subsection d of section 3 of this local law for such fiscal year; provided, that no such waiver shall become effective, and no purchases pursuant to such waiver shall be permitted, unless and until such waiver and the reasons constituting good cause to issue such waiver shall have been submitted in writing to, and by resolution approved by, the legislature of Rockland county.

f. Not later than January 1, 2007, and not later than January 1 of each year thereafter, the fleet manager shall submit a report to the county executive and to the legislature of Rockland county regarding, among other things, the use of hybrid and alternative fuel motor vehicles in the county fleet. The information contained in this report shall include, but not be limited to, for each department of county government:

(1) the total number of light-duty vehicles and medium-duty vehicles purchased in the year to which the report pertains;

(2) the total number of light-duty vehicles and medium-duty vehicles owned or operated by each department at the end of the year to which the report pertains;

(3) the total number of such light-duty vehicles and medium-duty vehicles purchased in the year to which the report pertains that are hybrid vehicles and the total number that are alternative fuel motor vehicles (including a breakdown of the types of alternative fuel used);

(4) the total number of such light-duty vehicles and medium-duty vehicles owned or operated by each department at the end of the year to which the report pertains that are hybrid vehicles and the total number that are alternative fuel motor vehicles (including a breakdown of the types of alternative fuel used); and

(5) all waivers (including related determinations of good cause, and renewals of such determinations of good cause), issued pursuant to this local law.

#### **Section 4. Separability.**

If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

#### **Section 5. Effective date.**

This local law shall take effect immediately upon filing in the office of the secretary of state pursuant to section 27 of the municipal home rule law.

JLW  
09/27/05  
2/22/06  
CS

**LOCAL LAW NO.        OF 2006  
COUNTY OF ROCKLAND  
STATE OF NEW YORK**

(Sponsor: Hon. Harriet D. Cornell;  
Co-Sponsors: Hon. Roman Rodriguez, Hon. Philip Soskin)

**JAFFEE/WOLFE: UNAN.**

A local law relating to the reduction of the emission of pollutants from the county's on-road, diesel fuel-powered motor vehicles and requiring annual reports to the county executive and legislature of Rockland county.

Be it enacted by the legislature of the county of Rockland as follows:

**Section 1. Name of local law**

This law shall be known as “the Rockland county ultra low sulfur diesel fuel and best available retrofit technology act”

**Section 2. Definitions.**

When used in this law:

(1) “Best available retrofit technology” means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies,



as set forth in section 5 of this local law, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "County department" means any department of Rockland county government that uses diesel-powered vehicles in any capacity. It does not include contract agencies.

(3) "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

(4) "Motor vehicle" means a vehicle owned by the county and operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the office of fire and emergency management, or the sheriff's office.

(5) "Person" means any individual, partnership, firm, company, association, joint stock association, corporation or other like organization.

(6) "Reasonable cost" means that such technology does not cost greater than forty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission

control strategies, as set forth in section 5 of this local law, when considering the cost of the strategies, themselves, and the cost of installation.

(7) "Specially equipped vehicle" means a motor vehicle defined as specially equipped pursuant to rules and regulations developed and approved by an appropriate department of county government designated by the county executive, and adopted by the legislature of Rockland county.

(8) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

**Section 3. Use of ultra low sulfur diesel fuel required.**

(1) Each diesel fuel-powered motor vehicle owned, leased, or operated by a county department shall be powered by ultra low sulfur diesel fuel.

(2) Diesel fuel-powered motor vehicles having a gross vehicle weight rating of more than 8,500 pounds that are owned or operated by county departments shall utilize the best available retrofit technology or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, pursuant to the following schedule:

- |                                |                     |
|--------------------------------|---------------------|
| 10% of all such motor vehicles | by January 1, 2007; |
| 20% of all such motor vehicles | by January 1, 2008; |
| 30% of all such motor vehicles | by January 1, 2009; |

|                                 |                     |
|---------------------------------|---------------------|
| 50% of all such motor vehicles  | by January 1, 2010; |
| 70% of all such motor vehicles  | by January 1, 2011; |
| 90% of all such motor vehicles  | by January 1, 2012; |
| 100% of all such motor vehicles | by July 1, 2012.    |

**Section 4. County executive discretion regarding technology**

(1) The county executive shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered motor vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than annually.

(2) The county executive may determine that a technology, whether or not it has been verified by the United States environmental protection agency or the California air resources board, may be appropriate to test, on an experimental basis, on a particular type of diesel fuel-powered motor vehicle owned or operated by a county department. The county executive may authorize such technology to be installed on up to three of such type of motor vehicle. Any motor vehicle on which such technology is installed may be counted for the purpose of meeting the requirements of section 3(2) of this local law. Such technology shall not be required to be installed on other motor vehicles of the same type and shall be subject to the provisions of paragraph three of this section.

(3) No county department shall be required to replace best available retrofit technology or experimental technology utilized for a diesel fuel-powered

motor vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle, except that technology that falls within level 4, as set forth in section 5 of this law, shall not be required to be replaced until it has reached the end of its useful life.

**Section 5. Classification of diesel emission control strategies.**

The classification levels for diesel emission control strategies are as follows, with level 4 being the highest classification level:

Level 4 – strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

Level 3 – strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

Level 2 – strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

Level 1 – strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

**Section 6. Procedure when ultra-low sulfur diesel fuel is unavailable.**

The county executive shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of this law if ultra low sulfur diesel fuel is not available to meet the needs of county departments to fulfill the requirements of this law.

Such determination shall expire after six months and shall be renewed in writing every six months if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

**Section 7. Waiver.**

The county executive may issue a waiver for the use of ultra low sulfur diesel fuel where a county department makes a written finding, approved in writing by the county executive, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to section 6 of this law, is not available to meet the requirements of this law, provided that such department, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for its diesel fuel-powered motor vehicles. Any waiver issued pursuant to this section shall expire after two months, unless the county department renews the finding, in writing, and the county executive approves such renewal, in writing.

**Section 8. Report to county executive and legislature.**

(1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the appropriate department or departments of county government, as determined by the county executive, shall submit a report to the county executive and legislature of Rockland county regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available

retrofit technology by diesel fuel-powered motor vehicles owned or operated by county departments during the immediately preceding calendar year. The information contained in this report shall include, but not be limited to, for each county department: (i) the total number of diesel fuel-powered motor vehicles owned or operated by such department; (ii) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel; (iii) the total number of diesel fuel-powered motor vehicles owned or operated by such department having a gross vehicle weight rating of more than 8,500 pounds; (iv) the number of such motor vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle; (v) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for particulate matter that is at least as stringent; (vi) the number of such motor vehicles that utilized technology in accordance with paragraph two of subdivision c of this section and the results and analyses regarding the testing of such technology; and (vii) all waivers, findings, and renewals of such findings, issued pursuant to sections 6 and 7 of this law that, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such department; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than

thirty parts per million where a determination is in effect pursuant to section 6 of this law; and detailed information concerning the department's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to sections 6 or 7 of this law.

(2) Where a determination is in effect pursuant to section 6 or 7 of this law, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this section.

(3) The report due January 1, 2007 in accordance with paragraph one of this section shall only include the information required pursuant to subparagraphs (i), (ii) and (vii) of such paragraph.

### **Section 8. Inapplicability.**

This law shall not apply:

(1) when federal or state funding precludes the county from imposing the requirements of this law; or

(2) to purchases that are emergency procurements pursuant to the charter or any local law allowing for such emergency procurements.

### **Section 10. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm,

partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 11. Effective date.**

This local law shall take effect immediately upon filing in the office of the secretary of state pursuant to section 27 of the municipal home rule law.

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# Suffolk County Legislation

Presented at the Hudson River Navigator's  
Conference on Air Quality

March 29, 2006

**Page 2: RESOLUTION NO. 0529-2005**

**Page 4: RESOLUTION NO. 1286-2004,**

**RESOLUTION NO. 529      -2005, TO PROMOTE  
ECONOMIC DEVELOPMENT AND A CLEANER  
ENVIRONMENT BY ESTABLISHING A COUNTY  
POLICY TO ENCOURAGE THE MANUFACTURE OF  
BIO-DIESEL**

**WHEREAS**, bio-diesel is a vegetable based fuel that runs in diesel engines of cars, buses, trucks, construction equipment, boats, generators, and also in oil home heating units; and

**WHEREAS**, bio-diesel is completely non-toxic -- a human being can drink it; and

**WHEREAS**, bio-diesel spills pose no threat to soil or water and require no special storage, as there is no harm to the environment as a result of a spill; and

**WHEREAS**, bio-diesel manufacture is a simple process and can utilize vegetable oil, either straight from a farm or recycled waste oil and fat; and

**WHEREAS**, this process can use restaurant waste oils, thereby reducing the quantity of grease being shipped to disposal facilities; and

**WHEREAS**, the number of grease traps used by restaurants exceed the capacity that can be handled by our scavenger waste facility and must be pumped out by private contractors at a great expense to small business owners; and

**WHEREAS**, collection of this grease could provide recycled material for clean fuel; and

**WHEREAS**, bio-diesel has an extremely low cost of manufacturing and distribution infrastructure as compared to hydrogen fuel cell technology; and

**WHEREAS**, any service station, convenience store or individual could set up a bio-diesel tank and pump for less than One Thousand (\$1,000.00) Dollars and a medium-scale bio-diesel manufacturing plant for less than Ten Thousand (\$10,000.00) Dollars; and

**WHEREAS**, the production and use of bio-diesel could reduce our dependence upon foreign oil and drastically reduce airborne emissions which could damage our environment for generations to come; now, therefore be it

**1st           RESOLVED**, that it shall be the policy of the County of Suffolk to encourage the manufacture, use, and promotion of bio-diesel within the County; and be it further

**2nd           RESOLVED**, that the Commissioner of the Department of Economic Development is hereby authorized, empowered, and directed, pursuant to Section C35-2(V) of the SUFFOLK COUNTY CHARTER, to take any and all steps to encourage the siting of bio-diesel manufacturing facilities within the County of Suffolk; and be it further

**3rd**            **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED: June 7, 2005

APPROVED BY:

/s/ Steve Levy  
County Executive of Suffolk County

Date: June 14, 2005

**RESOLUTION NO. 1286 –2004, TO INSTITUTE A PILOT PROGRAM UTILIZING BIO-DIESEL FUEL IN THE SUFFOLK COUNTY FLEET AND ENCOURAGE THE USE OF ALTERNATIVE FUELS**

**WHEREAS**, bio-diesel is a fuel made from soybeans or waste vegetable oil which can be used in the place of petroleum diesel fuel for vehicles or for heating oil; and

**WHEREAS**, bio-diesel is a renewable resource, which produces less pollution than fossil fuels, and can be used alone or in combination with petroleum diesel or in combination with fossil fuels; and

**WHEREAS**, bio-diesel can be used in any conventional, unmodified diesel engine; and

**WHEREAS**, bio-diesel can be used alone or mixed in any amount with petroleum diesel fuel creating a blend, the most common of which is called B20, which includes 20% bio-diesel mixed with traditional diesel fuel; and

**WHEREAS**, bio-diesel can be stored anywhere that petroleum diesel is stored and requires no modification to existing infrastructure; and

**WHEREAS**, bio-diesel reduces carbon dioxide emissions, the primary cause of the Greenhouse Effect by up to 100%; and

**WHEREAS**, bio-diesel use will also reduce the particulate emissions from diesel fuel, a known carcinogen; and

**WHEREAS**, bio-diesel increases engine life because it is more lubricating than diesel fuel and can be used to replace sulfur, a lubricating agent that produces sulfur dioxide, the primary component causing acid rain; and

**WHEREAS**, bio-diesel is biodegradable and non-toxic, it is safe to handle and, in fact, according to the National Bio-Diesel Board, it is as biodegradable as sugar and less toxic than salt; and

**WHEREAS**, bio-diesel is currently used in over 400 fleets in the United States, including municipal fleets in California and city buses in St. Louis, Missouri and

**WHEREAS**, the Defense Energy Support Center (DESC) has issued a bio-diesel solicitation in an effort to streamline the process through which federal agencies buy bio-diesel, a move that will mean that federal government fleets will soon be able to obtain bio-diesel as easily as they currently obtain petroleum diesel through DESC services; and

**WHEREAS**, several states have enacted legislation to promote the use of bio-diesel through mandated conversions or through incentive programs; and

**WHEREAS**, the Energy Conservation Reauthorization Act of 1998 (ECRA) amended the Energy Policy Act of 1992, to allow fleets that are required to purchase alternative fueled vehicles to meet these requirements, in part, through the use of bio-diesel fuel use credits; and

**WHEREAS**, a bill has passed the Congress, and is awaiting the President's signature, which would provide a credit on federal excise taxes to encourage blending of bio-diesel with petroleum diesel; and

**WHEREAS**, the County of Suffolk and the residents of Suffolk County would benefit from a cleaner environment and reduced costs of vehicle maintenance if the County of Suffolk assumes a leadership role in utilizing and promoting bio-diesel as an alternative fuel for the County's vehicles; now, therefore be it

**1st RESOLVED**, that the Commissioner of the Suffolk County Department of Public Works is hereby authorized, empowered, and directed, pursuant to 8-2(W) of the SUFFOLK COUNTY CHARTER, to institute a pilot program to fuel diesel operated vehicles at the Bergen Point yard exclusively with a bio-diesel blend (B20); and be it further

**2nd RESOLVED**, that the Commissioner of the Suffolk County Department of Public Works is further authorized, empowered, and directed, to apply for any grant funding that may be available through federal or State sources, including, but not limited to the Clean Cities Coalition, to help fund this pilot program; and be it further

**3rd RESOLVED**, that the Commissioner of the Suffolk County Department of Public Works is further authorized, empowered, and directed, to issue a report to the County Executive and the Presiding Officer of the County Legislature, evaluating the effectiveness and cost ramifications of this pilot program no later than one (1) year following the effective date of this Resolution; and be it further

**4th RESOLVED**, that the Commissioner of the Suffolk County Department of Public Works will study the feasibility of further reducing NOX omissions in conjunction with the use of bio-diesel fuel; and be it further

**5th RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED: December 7, 2004

EFFECTIVE PURSUANT TO SECTION 2-15(F) OF THE SUFFOLK COUNTY CHARTER,  
RETURNED BY THE COUNTY EXECUTIVE UNSIGNED DECEMBER 20, 2004

# Westchester County Legislation

Presented at the Hudson River Navigator's  
Conference on Air Quality

March 29, 2006

**Page 2:**

**Proposed local law to limit the idling time of diesel-powered vehicles**

**Page 7:**

**Proposed local law to prohibit the continued distribution of fuels with high sulfur  
content for heating and hot water**

**Page 14:**

ACT NO. 19 -2006

BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee is aware that the United State Environmental Protection Agency has classified Westchester's air as failing to meet ambient air quality standards for ozone and particulate matter.

Your Committee is in receipt of a Report from its the Healthy Air Task Force further documenting that Westchester's air is unhealthful and outlining various measures that Westchester should adopt to improve its air quality.

The Healthy Air Task Force urged Westchester County government to adopt a local law to limit the **idling time of diesel-powered vehicles** in Westchester County.

Your Committee is aware that diesel emissions, due in large part to their high concentrations of particulate matter, are associated with severe and multiple health risks to the citizens of Westchester County. Public health organizations, including the National Institute of Occupational Safety and Health, the World Health Organization, the United States Environmental Protection Agency (EPA), the California Environmental Protection Agency and the United States Department of Health and Human Services' National Toxicology Program, have associated diesel exhaust or diesel particulates with an increased risk of cancer, decreased lung function, aggravated asthma, respiratory symptoms and premature death.

Your Committee is aware that diesel exhaust also contains nitrogen oxides, which combined with volatile organic compounds in the air, such as hydrocarbons to form ground-level ozone, or smog, in the presence of heat and sunlight. Ozone may cause and increase susceptibility to a variety of respiratory problems, including aggravated asthma and decreases in lung capacity.

Your Committee is aware that Westchester County law limits idling time of vehicles powered by a diesel engine to five consecutive minutes for certain vehicles except under certain specified circumstances.

Your Committee finds that the air in Westchester can be made cleaner *now* by further limiting the idling time of all diesel powered vehicles used anywhere in Westchester County.

Your Committee finds that it is in the best interest of the health of our County's residents, workers and schoolchildren for the County and all of its agents to limit the idling time of diesel powered vehicles in Westchester County.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). If this Honorable Board adopts the aforementioned Act, your Committee believes this would constitute an action under Article 8 of the Environmental Conservation Law, which requires this Honorable Board to comply with the requirements of SEQRA. As this project is classified as an "Unlisted" action under SEQRA, your Committee has provided an Environmental Assessment Form prepared by the Department of Planning to assist this Board in determining that this action will have no adverse impact on the Environment.

In light of the aforementioned, your Committee recommends the adoption of the attached Local Law.

Dated: \_\_\_\_\_, 2005

White Plains, New York

COMMITTEE ON ENVIRONMENT



LOCAL LAW INTRO. NO. -2005

A LOCAL LAW amending the Laws of Westchester County with respect to idling time of diesel powered vehicles.

BE IT ENACTED by the County Board of the County of Westchester as follows:

**Section 1.**

Chapter 873 Article XII Section 873.1317 Subsection 2 is amended to read as follows:

2. No person shall allow or permit a bus or truck, the motive power for which is provided by a diesel engine to idle for more than [five consecutive minutes] three consecutive minutes when the bus or truck is not in motion, except that this provision shall not apply when:
- a. A bus or truck, the motive power for which is provided by a diesel engine, is forced to remain motionless because of traffic conditions over which the operator thereof has no control;
  - b. Regulations adopted by a federal, state or local agency having jurisdiction require the maintenance of a specific temperature for passenger comfort, in which case the idling time may be increased to the extent necessary to comply with such regulations;
  - c. A diesel engine is being used to provide power for an essential auxiliary purpose, such as loading, discharging, mixing or processing cargo; controlling cargo temperature; construction; lumbering; oil or gas well servicing; farming operations; or when operation of the engine is required for the purpose of maintenance;
  - d. Trucks and heavy-duty construction equipment propelled by diesel engines, owned and operated by persons engaged in mining and quarrying, are used within the confines of such person's property; and
  - e. A bus or truck propelled by a diesel engine is to remain motionless for a period exceeding two hours, and during which period the ambient temperature is continuously below 25 degrees Fahrenheit).

**Section 2.**

Chapter 873 Article XII Section 873.1317 Subsection 2 Paragraph e is deleted:

[e. A bus or truck propelled by a diesel engine is to remain motionless for a period exceeding two hours, and during which period the ambient temperature is continuously below 25 degrees Fahrenheit.]

**Section 3.**

If any section, subsection, sentence, clause, phrase or other portion of this act is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this act, which remaining portions shall continue in full force and effect.

**Section 3.**

This local law shall take effect ninety (90) days following its enactment except that Section 2 shall take effect January 1, 2007.

RESOLUTION NO.

- 2005

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. -2005 entitled "A LOCAL LAW amending the Laws of Westchester County with respect to idling times of diesel powered vehicles."

The public hearing will be held at m. on the day of , 2005 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee is aware that the United State Environmental Protection Agency has classified Westchester's air as failing to meet ambient air quality standards for ozone and particulate matter.

Your Committee is in receipt of a Report from its the Healthy Air Task Force further documenting that Westchester's air is unhealthful and outlining various measures that Westchester should adopt to improve its air quality.

The Healthy Air Task Force urged Westchester County government to adopt a local law to prohibit the continued distribution of fuels with high sulfur content for **heating and hot water** production purposes in Westchester.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). If this Honorable Board adopts the aforementioned Act, your Committee believes this would constitute an action under Article 8 of the Environmental Conservation Law, which requires this Honorable Board to comply with the requirements of SEQRA. As this project is classified as an "Unlisted" action under SEQRA, your Committee has provided an Environmental Assessment Form prepared by the Department of Planning to assist this Board in determining that this action will have no adverse impact on the Environment.

In light of the aforementioned, your Committee recommends the adoption of the attached Local Law.

Dated: \_\_\_\_\_, 2005

White Plains, New York

COMMITTEE ON ENVIRONMENT

LOCAL LAW INTRO. NO. -2005

A LOCAL LAW amending the Laws of Westchester County with respect to regulating the content of fuels.

BE IT ENACTED by the County Board of the County of Westchester as follows:

### **Section 1.**

Chapter 873 Article XII Section 873.1301 Subsection 19 is amended to read:

19. *Fuel oil.* The term “fuel oil” means any virgin distillate oil, virgin residual oil, re-refined oil or any blend of the aforementioned meeting the latest specifications of the American Society of Testing Materials (ASTM) D396.

a. *Distillate fuel oil* shall mean a fuel oil meeting the current definition of fuel oil grades No. 1, 2 and 4 as classified by the American Society of Testing Materials;

b. *Residual fuel oil* shall mean a fuel oil meeting the current definition of fuel oil grades No. 5, No.6, bunker or special navy fuel oil as classified by the American Society of Testing Materials;

### **Section 2.**

Chapter 873 Article XII Section 873.1321 is amended by adding new subsections 5 and 6 as follows:

5. Notwithstanding the foregoing, after December thirty-first two thousand and five, no person shall sell, offer for sale or manufacture for space heating and/or domestic hot water production in Westchester County distillate fuel oil or residual fuel oil having a sulfur content greater than 0.05 percent by weight.

6. Notwithstanding the foregoing, after December thirty-first two thousand and seven, no person shall sell, offer for sale or manufacture for space heating and/or domestic hot water production in Westchester County distillate fuel oil or residual fuel oil having a sulfur content greater than 0.0015 percent by weight.

### **Section 3. Severability.**

If any section, subsection, sentence, clause, phrase or other portion of this act is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this act, which remaining portions shall continue in full force and effect.

**Section 4.** This local law shall take effect ninety (90) days following its enactment.

RESOLUTION NO.

- 2005

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. -2005 entitled "A LOCAL LAW amending the Laws of Westchester County with respect to regulating the content of fuels."

The public hearing will be held at m. on the day of , 2005 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

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AN ACT to amend the environmental conservation law, in relation to regulating the content of fuels

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Title 3 of Article 19 of the environmental conservation law is amended by adding a new Section 19-0322 as follows:

1. Definitions. When used in this section:

a. 'distillate fuel oil' shall mean a fuel oil meeting the current definition of fuel oil grades No. 1, 2 and 4 as classified by the American society for testing and materials

b. 'residual fuel oil' shall mean a fuel oil meeting the current definition of fuel oil grades No. 5, No.6, bunker or special navy fuel oil as classified by the American society for testing and materials.

2. Within one year from the effective date of this section, the department shall issue regulations prohibiting the sale, offer for sale or manufacture of distillate fuel oil and/or residual fuel oil if such fuel is to be used for space heating and/or domestic hot water production unless:

a. such fuel contains a sulfur content of 0.05 percent sulfur by weight or less after December thirty-first. Two thousand and six; and

b. such fuel contains a sulfur content of 0.0015 percent sulfur by weight after December thirty-first two thousand and eight.

§ 2. This act shall take effect immediately

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

REV. 6/29/05

BOARD OF LEGISLATORS — COUNTY OF WESTCHESTER

Your Committee is aware that the United State Environmental Protection Agency has classified Westchester's air as failing to meet ambient air quality standards for ozone and particulate matter.

Your Committee is in receipt of a Report from Its Healthy Air Task Force further documenting that Westchester's air is unhealthful and outlining various measures that Westchester should adopt to improve its air quality.

The Healthy Air Task Force urged Westchester County government to adopt **an act requiring that all diesel-powered onroad vehicles and all diesel-powered nonroad vehicles owned, leased and/or operated by or on behalf of Westchester County be powered by ultra low sulfur diesel fuel and utilize the best available technology**, to reduce the emission of pollutants. Nonroad vehicles include backhoes, bulldozers, excavation machines, generators and cranes.

Your Committee is aware that diesel emissions, due in large part to their high concentrations of particulate matter, are associated with severe and multiple health risks to the citizens of Westchester County. Public health organizations, including the National Institute of Occupational Safety and Health, the World Health Organization, the United States Environmental Protection Agency (EPA), the California Environmental Protection Agency and the United States Department of Health and Human Services' National Toxicology Program, have associated diesel exhaust or diesel particulates with an increased risk of cancer, decreased lung function, aggravated asthma, respiratory symptoms and premature death.

Your Committee is aware diesel exhaust also contains nitrogen oxides which, in the presence of heat and sunlight, combine with volatile organic compounds in the air, such as hydrocarbons, to form ground-level ozone (smog). Your Committee is aware diesel exhaust emitted by nonroad vehicles also contains these hydrocarbons.



Nonroad equipment powered by diesel fuel is the single largest mobile source of diesel particulate matter. Recognizing the harmful effects of nonroad-vehicle diesel emission, the EPA has promulgated a comprehensive rule to require advanced emission controls for *new* nonroad diesel engines and to decrease the allowable fuel sulfur levels by 99 percent. The EPA estimates that when all older nonroad engines have been replaced, exhaust emissions from nonroad engines will be reduced by over 90 percent and 12,000 premature deaths, one million lost work days, 15,000 heart attacks and 6,000 children's asthma-related emergency room visits will be prevented. But the lag in effective date and long life spans of heavy-duty diesel engines means that the federal rule's impact will not be fully realized for twenty years.

Your Committee finds that the air in Westchester can be made cleaner now by the use of emission-control technologies and ultra low sulfur diesel fuel. Your Committee finds that use of ultra low sulfur diesel for onroad and nonroad vehicles operating in Westchester County would reduce particulates released into the air by these vehicles and significantly improve our air quality.

Your Committee believes that reducing particulate matter and nitrogen oxide emissions by using cleaner fuels and installing emission-control technologies on onroad and nonroad equipment may help to stem the tide of the asthma epidemic in Westchester County. In Westchester, an estimated 48,000 people have asthma - 25 percent of them children. More cases are reported each year, especially among the very young, minorities and the poor.

Your Committee intends that diesel particulate filters (DPFs) (or technologies with similar emissions benefits) be used to the maximum extent possible as part of

emissions-reduction systems, since DPFs currently achieve best performance in reducing harmful PM<sub>2.5</sub> emissions. This is especially important to help the county achieve compliance with federal PM<sub>2.5</sub> standards and to attract the best PM<sub>2.5</sub> - and NO<sub>x</sub>-reducing technologies into the Westchester market.

Your Committee finds that it is in the best interest of the health of our County's residents, workers and schoolchildren for the County and all of its agents to use ultra low sulfur diesel fuel and the best available technology for reducing the emission of pollutants in its diesel-powered onroad and nonroad vehicles in all areas of the entire County. Your Committee believes that the County should contract for construction and other services only with contractors who use ultra low sulfur diesel fuel and the best available technology. The County should choose to allocate its purchasing dollars to protect the health of its residents and, thereby, potentially save millions of dollars in avoided health care costs.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). If this Honorable Board adopts the aforementioned Act, your Committee believes this would constitute an action under Article 8 of the Environmental Conservation Law, which requires this Honorable Board to comply with the requirements of SEQRA. As this project is classified as a "Type II" action under SEQRA, your Committee has been provided with an Environmental Assessment Form prepared by the Department of Planning to assist this Board in determining that this action will have no adverse impact on the Environment.

Your Committee recommends the adoption of the attached Act.

ACT NO. 19 -2006

An ACT -requiring that all diesel-powered onroad and nonroad vehicles owned, leased and/or operated by or on behalf of Westchester County be powered by ultra low sulfur diesel fuel and utilize the best available technology to reduce the emission of pollutants.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Declaration Of Legislative Findings And Intent

In 2004 the United States Environmental Protection Agency classified Westchester County as a nonattainment area for ozone and fine particulate matter (PM<sub>2.5</sub>).

The Board of Legislators finds that there is credible evidence that diesel emissions, with their high concentrations of particulate matter, are associated with severe and multiple health risks to the citizens of Westchester County, including an increased risk of cancer, decreased lung function, aggravated asthma, respiratory symptoms and premature death and that there is an asthma epidemic in Westchester County.

The Board finds that the utilization of emission-control technologies and ultra low sulfur diesel fuel in diesel-powered onroad and nonroad vehicles can significantly reduce these harmful emissions of particulate matter and nitrogen oxides.

The Board finds that nonroad equipment powered by diesel fuel is the single largest mobile source of diesel particulate matter.

The Board finds that requiring the use of cleaner fuels and emission control technologies for onroad and nonroad equipment can aid in reducing the incidence of these diseases, assist in the county's achieving compliance with federal PM<sub>2.5</sub> standards and attract the best PM<sub>2.5</sub> - and NO<sub>x</sub>-reducing technologies into the Westchester market.

Section 2. Chapter 873 Article XIII Section 873.1329 is amended as follows:

**[Sec. 873.1329] Sec. 873.1330 Air Quality; severability.**

If any provision of this article is held invalid, such invalidity shall not affect other provisions which shall be given effect without the invalid provision.

Section 3. Chapter 873 Article XIII is amended by adding a new section as follows:

**Section 873.1329 Air Quality; Onroad and nonroad vehicles: Emission standards.**

**1. Definitions.**

Whenever used in this section, the following terms shall have the meaning indicated:

a. "Best Available Technology" (BAT) means a system for reducing the emission of pollutants which is based on technology verified by the United States Environmental Protection Agency or the California Air Resources Board or which has been identified pursuant to New York City's Department of Environmental Protection (under Local Law 77 §24-163.3d.(1)) that:

i. reduces diesel particulate matter emissions by at least 85 percent, as compared to a similar engine operating on traditional diesel fuel without emission control technology, or reduces engine emissions to 0.01 grams diesel particulate matter per brake horsepower per hour or less; and

ii. achieves the greatest reduction in emissions of nitrogen oxides at a reasonable cost and in no case produces a net increase in nitrogen oxides in excess of 10%.

b. "Contractor" means any person (as defined in Section 873-1301(27), who enters into an agreement or contract with Westchester County valued at more than \$150,000 (such sum to increase \$5,000 on the first day of January each year following the enactment of this section until it reaches a maximum of \$250,000) to perform County work or any person who enters into an agreement or contract with such person to perform County work.

c. "County work" means to provide labor, services, material and/or equipment which traditionally has been provided by the government of the County of Westchester through county employees or contractors except it does not include labor, services, materials and/or equipment provided by (1) a common carrier, (2) a shipping company (including overnight delivery companies) or (3) a manufacturer or delivery company which does not deliver materials or equipment to Westchester County government on a regular and frequent basis.

d. "Nonroad diesel engine" means an internal combustion engine (including the fuel system) operating on diesel fuel not used in a motor vehicle or a vehicle used solely for competition or not subject to standards promulgated under United States Code Title 42 sections 7411 or 7521, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in any construction program or project.

e. "Nonroad diesel vehicle" means a vehicle that is powered by a diesel engine fifty horsepower or greater, including but not limited to excavators, backhoes, cranes, compressors, bulldozers and similar equipment, but not including a vehicle used solely for competition.

f. "Onroad diesel vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway that operates on diesel fuel.

g. "Owned, leased and/or operated by or on behalf of Westchester County" includes all diesel-powered vehicles owned by Westchester County or a contractor, which are used by Westchester County or a contractor to do County work.

h. "Reasonable cost" means that the cost to purchase and install the system with technologies to reduce both Particulate Matter and Nitrogen Oxides does not exceed the cost of the system without Nitrogen Oxide control by more than thirty percent.

i. "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

j. "Westchester County" means all departments, agencies, bureaus, boards, commissions, sewer and water and other districts, the Westchester Community College, the Westchester County Airport and all other entities whose expenses are shown in the Operating Budget of Westchester County and/or are paid in whole or in part from Westchester County funds.

## **2. Requirements: ultra low sulfur diesel fuel and best available technology**

a. All on road and nonroad diesel vehicles owned, leased and/or operated by or on behalf of Westchester County when used to perform County work as defined herein shall be powered by ultra low sulfur diesel fuel beginning as soon as practicable but in no event later than September 1, 2006.

b. All onroad and nonroad diesel vehicles owned, leased and/or operated by or on behalf of Westchester County equipped with an model year 2003 or older engine when used to perform county work as defined herein shall utilize the best available technology in accordance with the following schedule:

i. 35% of all such motor vehicles in each department or agency by

September 1, 2007;

ii. 65% of all such motor vehicles in each department or agency by

September 1, 2008;

iii. 100% of all such motor vehicles in each department or agency by

September 1, 2009.

c. All onroad and nonroad diesel vehicles owned, leased and/or operated by or on behalf of Westchester County when used to perform county work as defined herein having a gross vehicle weight rating of more than 14,000 pounds shall utilize the best available technology or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, in accordance with the following schedule:

- i. 35% of all such motor vehicles in each department or agency by September 1, 2007;
- ii. 65% of all such motor vehicles in each department or agency by September 1, 2008;
- iii. 100% of all such motor vehicles in each department or agency by September 1, 2009.

### **3. Agreements and contracts.**

Westchester County shall specify in all of its solicitations, bids and requests for proposals to perform County work issued after the effective date hereof and in all contracts pursuant thereto that all contractors in the performance of each such contract shall comply with the provisions of Paragraph 2 of this section.

### **4. Determination of fuel non-availability,**

If sufficient quantities of ultra low sulfur diesel fuel are not available to meet the needs of Westchester County or a contractor to fulfill the requirements of this section, the Commissioner may issue a written determination permitting the use of diesel fuel with a sulfur content of no more than thirty parts per million to fulfill the requirements of this section provided that Westchester County or the contractor to the extent practicable shall use whatever quantity of ultra low sulfur diesel fuel is available. Such determination shall be made on a case by case basis upon written application of Westchester County or a contractor which determination shall expire sixty days thereafter and may be renewed in writing for additional periods of sixty days.

### **5. Determination of best available technology.**

a. On or before September 1, 2006, the Westchester County Commissioner of Health, or such other Commissioner as the County Executive may designate in writing to the Clerk of the Board of Legislators, shall, in consultation with the Commissioners of Public Works and Transportation, determine the best available technology as defined herein for reducing the emission of pollutants for each type of diesel-powered onroad and nonroad vehicle to which this section applies and the strategy to be used with respect to each type of vehicle to which this section applies.

b. The Commissioner shall publish a list, delivered in writing to the Clerk of the Board of Legislators, containing such determinations, which the Commissioner shall revise, as needed, on a regular basis, but in no event less often than once every twelve months,

c. Neither Westchester County nor any contractor shall be required to replace best available technology or other authorized technology utilized for each diesel-powered motor vehicle in accordance with this section for three years from having first utilized such technology for said vehicle.

d. For new engines to be delivered after the effective date of this act, BAT may be installed by the Original Equipment Manufactured (OEM) and need not be shown on the EPA or CARB, verified retrofit list, provided that the technology otherwise complies with the definition of BAT as defined herein

## **6. Applicability.**

This act shall not apply:

- a. where federal or state funding precludes the requirements of this act;
- b. where such applicability would interfere with the purchase, lease or operation of emergency response vehicles operated by the Department of Emergency Management or the Department of Public Safety;
- c. to purchases that are determined to be emergency procurements as by the Commissioner of Health or accelerated procurements compliant with the County Procurement Policy as adopted by the Board of Legislators as Act No. 23 of 1992;
- d. to any agreement or contract entered into prior to the effective date hereof,
- e. to a diesel-powered nonroad vehicle where
  - i. the commissioner certifies that the best available technology for reducing the emission of pollutants as required herein is unavailable for such vehicle, in which case such agency or contractor shall use whatever technology available and appropriate for such vehicle that the commissioner approves for reducing the emission of pollutants; or
  - ii. the vehicle is used for fewer than five calendar days pr contract; or
  - iii. the commissioner issues a written waiver based upon a finding that the use of the best available technology for reducing the emission of may present a hazard or threat to the safety of the operator, other workers or members of the public.

## **7. Reporting.**

a. On or before April 1, 2007, and every succeeding April 1, all Westchester County departments, agencies, bureaus, boards, commissions, districts and other entities to which this act applies shall report to the Clerk of the Board of Legislators on the use of ultra low sulfur diesel fuel in onroad and nonroad diesel vehicles and the use of the best available technology for reducing the emission of pollutants and such other authorized technology in accordance with this act for the immediately preceding fiscal year. This report shall include, but not be limited to

(i) the total number of onroad and nonroad diesel vehicles it owned, leased and/or operated;

(ii) the number of such onroad and nonroad diesel vehicles that were powered by ultra low sulfur diesel fuel;

(iii) the number of such onroad and nonroad diesel vehicles that utilized the best available technology or retrofit technology, including an itemization by vehicle model and the type of technology used for each vehicle;

(iv) the number of onroad and nonroad diesel vehicles that utilized other authorized technology in accordance with this act, including an itemization by vehicle model and the type of technology used for each vehicle;

(v) all findings, determinations and renewals of such findings and determinations which it issued or which were issued relative to said entity pursuant to this act, which shall include, but not be limited to the quantity of diesel fuel needed to power each onroad and nonroad diesel vehicles owned by, operated by or on behalf of or leased by the entity or used to fulfill the requirements of a public work contract for such entity;

(vi) specific information concerning the availability of ultra low sulfur diesel fuel or low sulfur diesel fuel where it is used;

(vii) detailed information concerning the entity's and its or contractor's efforts to obtain ultra low sulfur diesel fuel and low sulfur diesel fuel, and

(viii) all findings, determinations and waivers, and renewals thereof issued including all specific information submitted by an entity or contractor upon which such are based authorizing alternative technology, if any, utilized instead of the best available technology for reducing the emission of pollutants.

b. Notwithstanding the foregoing, whenever a determination pursuant to subdivision 4 above is in effect, information regarding alternative fuel shall be reported wherever information regarding ultra low sulfur diesel fuel is required to be reported.

## **8. Contractor violations.**

The Commissioner is authorized to enforce the provisions of this section.

a. Any contractor who violates any provision of this section shall be liable for a civil penalty not to exceed ten thousand dollars plus twice the amount of money saved by such contractor for failure to comply with this section.

b. Any contractor who makes a false claim may be liable for a civil penalty not to exceed twenty thousand dollars, in addition to twice the amount of money saved by such contractor as a result of having made such false claim.

## **9. Miscellaneous.**



Nothing in this section shall be construed to limit Westchester County's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity public entity business.

#### **Section 4. Severability**

If any section, subsection, sentence, clause, phrase or other portion of this act is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this act, which remaining portions shall continue in full force and effect.

#### **Sections. Effective date.**

This act shall take effect immediately.