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NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NEW JERSEY ADMINISTRATIVE CODE  
TITLE 7  
CHAPTER 27  
SUBCHAPTER 34

**MOBILE CARGO HANDLING EQUIPMENT AT PORTS AND INTERMODAL RAIL YARDS**

Statutory Authority: N.J.S.A. 13:1B-3(e), 13:1D-9, and 26:2C-1 et seq.  
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**7:27-34.1 Purpose**

The purpose of this subchapter is to reduce oxides of nitrogen (NO<sub>x</sub>) and particulate matter (PM) emissions from cargo handling equipment with diesel-fueled compression ignition engines that operate at ports and intermodal rail yards in the State of New Jersey.

**7:27-34.2 Applicability**

(a) Except as otherwise provided, this subchapter applies to:

1. Any person who owns or operates a terminal or business at a port in New Jersey and operates cargo handling equipment at that location;
2. Any person who owns or operates an intermodal rail yard in New Jersey and operates cargo handling equipment at that location; and
3. Any person conducting business in New Jersey who sells, offers for sale, leases, rents, or purchases any cargo handling equipment or CI engine that is used at any port or intermodal rail yard in New Jersey.

(b) This subchapter does not apply to:

1. Portable CI engines;
2. Military tactical support cargo handling equipment;
3. Cargo handling equipment used solely to support construction activities at a port or intermodal rail yard;
4. Mobile cranes;
5. Sweepers;
6. Rented, leased, or contracted equipment brought onto a port or intermodal rail yard

to perform unexpected repairs that are not routine in nature or due to predictable maintenance activities; and

7. Equipment at low-throughput ports that are no closer than 75 miles to an urban area, except as provided at N.J.A.C. 7:27-34.13.

### **7:27-34.3 Definitions**

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

"Alternate PM standard" means one of the Family Emissions Limit (FEL) standards that are currently available to engine manufacturers pursuant to 13 CCR 2423. Alternate standards are of limited duration and may be selectively applied to total or partial engine family production volumes.

"Best available control technology" means the maximum degree of PM and NO<sub>x</sub> emissions reduction achievable through application of available methods, systems, devices, and techniques.

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

"Cargo" means material, goods, or commodities that have been, or will be, transported to, or from, a port or intermodal rail yard by ship, train, truck, or other mode of transportation.

"Cargo handling equipment" means any mobile off-road, self-propelled vehicle, or

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equipment with a diesel-fueled CI engine used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. Cargo handling equipment includes yard trucks and non-yard trucks.

“CCR” means the California Code of Regulations.

“Certification” or “certified” means a finding by CARB or the EPA that a motor vehicle, motor vehicle engine, off-road CI engine, or air contaminant emission control system has satisfied the criteria for the control of specified air contaminants from such vehicles, engines, or control systems, adopted by CARB or the EPA, as set forth in their rules and/or regulations.

"Certified on-road engine" means an engine certified to 2010 or later model year California on-road engine emission standards at 13 CCR 1956.8, incorporated herein by reference.

“Certified Tier 4 final off-road engine” means an engine certified to the California Tier 4 final off-road emission standards at 13 CCR 2423, incorporated herein by reference, for the rated horsepower.

"Class I railroad" is a freight railway that meets the revenue threshold for a Class I railroad, as defined by the Surface Transportation Board.

"Compression ignition engine" or “CI engine” means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignition engine. Any engine certified under the diesel cycle is included under the definition of a compression ignition engine.

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"Construction activities" include any activities at a port or intermodal rail yard that are preparatory to or involved with the building, alteration, rehabilitation, demolition, or improvement of property, including, but not limited to, the following activities: grading excavation, loading, crushing, cutting, planning, shaping, or groundbreaking.

"Contiguous properties" means adjacent properties, even if they are separated by human-made barriers or structures, including roadways, or legal boundaries.

"Diesel fuel" means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture of primarily liquid hydrocarbons that is sold or represented by the supplier as suitable for use in an internal combustion, compression-ignition engine.

"Diesel-fueled CI engine" means a CI engine fueled by diesel fuel, ultra-low sulfur diesel, or jet fuel, in whole or in part.

"Diesel particulate matter" or "diesel PM" means the particles found in the exhaust of diesel-fueled CI engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

"Dozer" means an off-road tractor, either tracked or wheeled, equipped with a blade.

"Excavator" means an off-road vehicle consisting of a backhoe and cab mounted on a pivot atop an undercarriage with tracks or wheels.

"Family Emissions Limit" or "FEL" refers to an emission level that is declared by the manufacturer to serve as an emission standard for certification purposes and for the averaging, banking, and trading program as defined at 13 CCR 2423.

"Fleet" means the total number of cargo handling equipment owned, rented, or leased

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by an owner or operator, which is located at a specific port or intermodal rail yard.

“Forklift” means an off-road industrial truck used to hoist and transport materials by means of steel fork(s) under the load.

“Hybrid” means powered by two or more sources of energy.

“Hydrocarbon” or “HC” means any compound or mixture of compounds whose molecules consist of atoms of hydrogen and carbon only.

“In-use cargo handling equipment” means cargo handling equipment or a diesel-fueled CI engine installed in cargo handling equipment that is purchased, rented, leased, or otherwise brought onto, and in operation at, a port or intermodal rail yard in New Jersey before March 1, 2025.

“Intermodal rail yard” means any transportation facility owned or operated by a Class I railroad that is primarily dedicated to the business of intermodal rail operations where cargo is transferred to or from a train and any other form of conveyance, such as train-to-ship, ship-to-train, train-to-truck, or truck-to-train.

“Lease” means a contract by which one conveys cargo handling equipment for a specified term and for a specified rent.

“Level” means one of three categories of CARB-verified diesel emission control strategies as set forth at 13 CCR 2701 et seq: Level 1 means the strategy reduces engine diesel particulate matter emissions by between 25 and 49 percent; Level 2 means the strategy reduces engine diesel particulate matter emissions by between 50 and 84 percent; and Level 3 means the strategy reduces engine diesel particulate matter emissions by 85 percent or greater, or reduces engine emissions to less than or equal to 0.01 grams diesel PM per brake

horsepower-hour.

“Loader” means any type of off-road tractor with either tracks or rubber tires that uses a bucket on the end of movable arms to lift and move material; is also referred to as a front-end loader, front loader, skid steer loader, backhoe, rubber-tired loader, or wheeled loader.

“Low-throughput port” means a port that has a two-year average annual cargo throughput of less than one million tons per year, not including petroleum products, as reported by the U.S. Army Corps of Engineers, Waterborne Commerce Statistics Center.

“Military tactical support cargo handling equipment” means cargo handling equipment that meets military specifications, is owned by the U.S. Department of Defense and/or the U.S. military services, and is used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

“Mobile crane” means a mobile machine, other than a rubber-tired gantry crane, with a hoisting mechanism mounted on a specially constructed truck chassis or carrier; a mobile crane can either be a single-engine crane or a two-engine crane.

“Model year” or “MY” means the CI engine manufacturer’s annual production period, which includes January 1<sup>st</sup> of a calendar year, or if the manufacturer has no annual production period, the calendar year.

“New cargo handling equipment” means cargo handling equipment or a certified diesel-fueled CI engine installed in cargo handling equipment that is purchased, rented, leased, or otherwise brought onto and operated at a port or intermodal rail yard in New Jersey on or after March 1, 2025.

“Nitrogen oxides” or “NO<sub>x</sub>” means compounds of nitric oxide (NO), nitrogen dioxide

(NO), and other oxides of nitrogen, which are typically created during combustion processes and are major contributors to smog formation and acid deposition.

“Non-yard truck” means all cargo handling equipment other than yard trucks. Non-yard trucks include rubber-tired gantry cranes, top handlers, side handlers, reach stackers, straddle carriers, forklifts, loaders, tractors, aerial lifts, excavators, and dozers.

“Ocean-going vessel” means a commercial, government, or military vessel meeting any one of the following criteria:

1. A vessel with a “registry” (foreign trade) endorsement on its United States Coast Guard certificate of documentation, or a vessel that is registered under the flag of a country other than the United States;
2. A vessel greater than or equal to 400 feet in length overall (LOA) as defined at 50 CFR 679.2, as adopted June 19, 1996;
3. A vessel greater than or equal to 10,000 gross tons (GT ITC) per the convention measurement (international system) as defined at 46 CFR 69.51 through 69.61, as adopted September 12, 1989; or
4. A vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

"Off-road vehicle or equipment" means any non-stationary device, including registered motor vehicles, powered by an internal combustion engine or motor, used primarily off the highways to propel, move, or transport persons or property.

"Opacity" means the fraction of a beam of light, expressed in percent, which fails to penetrate a plume of smoke.



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"Particulate matter" or "PM" means the particles found in the exhaust of CI engines, which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

"Person" means an individual, public or private corporation, company, partnership, firm, association, society, joint stock company, international entity, institution, county, municipality, state, interstate body, the United States of America, or any agency, board, commission, employee, agent, officer, or political subdivision of a state, an interstate body, or the United States of America.

"Port" means a publicly or privately owned property located at a harbor or along a waterway where marine and port terminals typically operate by loading and unloading water-borne commerce onto and from ocean-going vessels; a port includes all terminals and property within the physical boundaries of the port or demarcated as the port on city or county land maps, as well as other contiguous properties owned or operated by the port. A port includes military terminals that operate cargo handling equipment when located as part of, or on contiguous properties with, non-military terminals.

"Portable CI engine" means a compression ignition engine designed and capable of being carried or moved from one location to another. Indicators of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. Portable engines are not self-propelled.

"Purchased" means the date shown on the front of the cashed check, the date of the financial transaction, or the date on the engine purchasing agreement, whichever is earliest.

"Reach stacker" means an off-road truck-like cargo container handler that uses an

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overhead telescopic boom that can reach across two or more stacks of cargo containers and lift the containers from the top.

"Registered motor vehicle" means cargo handling equipment that is registered as a motor vehicle pursuant to N.J.S.A. 39:3-4.

"Rent" means payment for the use of cargo handling equipment for a specified term.

"Retirement" or "retire" means an engine or cargo handling equipment that will be taken out of service, will not be operated at any port or intermodal rail yard in New Jersey, and will not be replaced with a new engine or cargo handling equipment.

"Rubber-tired gantry crane" or "RTG crane" means an off-road overhead cargo container crane with the lifting mechanism mounted on a cross-beam supported on vertical legs that run on rubber tires. RTG cranes do not include gantry cranes that operate on steel wheels and rails.

"Side handler" or "side pick" means an off-road truck-like cargo container handler that uses an overhead telescopic boom to lift empty or loaded cargo containers by grabbing either two top corners on the longest side of a container, both arms of one side of a container, or both top and bottom sides of a container.

"Sweeper" means an off-road vehicle with attached brushes underneath that sweep the ground and pick up dirt and debris.

"Terminal" means a facility, including one owned or operated by the Department of Defense or the U.S. military services, that handles cargo at a port or intermodal rail yard.

"Top handler" or "top pick" means an off-road truck-like cargo container handler that uses an overhead telescopic boom to lift empty or loaded cargo containers by grabbing the top of the containers.

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"Two-year average annual cargo throughput" means the arithmetic average of the annual cargo throughput, not including petroleum products, as reported by the U.S. Army Corps of Engineers, Waterborne Commerce Statistics Center, for the most recently reported calendar year and the calendar year immediately preceding that year.

"Ultra-low sulfur diesel" or "ULSD" means a diesel fuel with a maximum sulfur concentration of 15 parts per million.

"Urban area" means a densely developed territory that contains 50,000 or more people, as reported by the latest U.S. Census Bureau census.

"Verification Procedure, Warranty, and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (Verification Procedure)" means the CARB regulatory procedure codified at 13 CCR 2700-2710, which is incorporated herein by reference, that engine manufacturers, sellers, owners, or operators may use to verify the reductions of diesel PM and/or NO<sub>x</sub> from in-use diesel engines using a particular emission control strategy.

"Verified diesel emission control strategy" or "VDECS" means an emission control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified pursuant to the "Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines" at 13 CCR 2700.

"Warranty period" means the period of time and/or mileage that a vehicle, engine, or part is covered by the engine manufacturer's new engine warranty provisions.

"Water-borne commerce" means the movement of materials, goods, or commodities using vessels or other craft plying upon navigable waters of the United States.

"Yard truck" means an off-road mobile utility vehicle with or without chassis that is used

to carry cargo containers. A yard truck is also known as a utility tractor rig (UTR), yard tractor, yard goat, yard hostler, yard hustler, or prime mover.

“Zero-emission” means an engine or equipment that does not produce exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas, excluding emissions from air conditioning systems, under any possible operational modes or conditions.

#### **7:27-34.4 General provisions**

(a) Any person who owns or operates a terminal or business at a port in New Jersey and operates cargo handling equipment at that location is required to keep all cargo handling equipment subject to this subchapter in compliance with the requirements of this subchapter at all times.

(b) Any person who owns or operates an intermodal rail yard in New Jersey and operates cargo handling equipment at that location is required to keep all cargo handling equipment subject to this subchapter in compliance with the requirements of this subchapter at all times.

(c) No person conducting business in the State shall sell, offer to sell, import, deliver, purchase, receive, or otherwise acquire any cargo handling equipment or CI engine for the purpose of selling, renting, or leasing the cargo handling equipment or CI engine for operation or use at a port or intermodal rail yard in New Jersey, if the equipment or engine does not meet the requirements of this subchapter.

(d) Failure to comply with any of the obligations or requirements of this subchapter shall subject the violator to an enforcement action pursuant to the provisions of the Air Pollution Control Act, at N.J.S.A. 26:2C-19, and the Air Administrative Procedures and Penalties, at

N.J.A.C. 7:27A-3.

(e) All information submitted to the Department pursuant to this subchapter shall be a public record, unless the person submitting the information asserts a confidentiality claim and the Department determines that the information is entitled to confidential treatment in accordance with N.J.A.C. 7:27-1.8 through 1.30.

(f) A zero-emission engine or equipment shall be considered over-compliance with the performance standards of this subchapter.

**7:27-34.5 Performance standards for new cargo handling equipment**

(a) On or after March 1, 2025, any new cargo handling equipment that is a registered motor vehicle shall be equipped with a certified on-road engine for the model year in which the cargo handling equipment and engine is newly purchased, leased, or rented.

(b) Except as otherwise provided, on or after March 1, 2025, any new cargo handling equipment that is not a registered motor vehicle shall be equipped with one of the following:

1. A certified on-road engine for the model year in which the cargo handling equipment is newly purchased, leased, or rented;

2. A certified Tier 4 final off-road engine; or

3. A certified engine and power system that meet the emission standards of a certified on-road engine for the model year in which the cargo handling equipment and/or engine or power system is newly purchased, leased, or rented, or a certified Tier 4 final off-road engine.

Compliance with the emission standards shall be demonstrated to the Department by using one of the following tests:

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- i. Testing conducted by the engine manufacturer for the engine and power system;
- ii. Testing conducted by the engine manufacturer for another in-use engine and power system that is configured and used in a substantially similar way to the engine and power system; or
- iii. Testing conducted to meet the regulatory requirements of CARB's Verification Procedure.

(c) The following additional provisions apply to new cargo handling equipment that is a non-yard truck and not a registered motor vehicle:

1. If an owner or operator cannot comply with (b) above because the options at (b)1, 2, or 3 are not available for the specific application and equipment type, the owner or operator may request Department approval to apply the best available control technology, in accordance with N.J.A.C. 7:27-34.10 and 34.10A.

2. If a non-yard truck was purchased with an engine complying with (b) above, but there is a manufacturer's delay in delivery, and if no comparable compliant cargo handling equipment is available for lease, then the owner or operator may lease, until the purchased equipment is delivered, a comparable non-yard truck that is equipped with a CI engine certified to meet the most stringent emission standards at 13 CCR 2423 for the rated horsepower and model year.

(d) A non-yard truck that is moved from one port terminal or intermodal rail yard to another port terminal or intermodal rail yard, or terminal under the control of the same owner or operator, shall be considered newly acquired and subject to the performance standards at

N.J.A.C. 7:27-34.5, unless the owner or operator has received approval for such transfer pursuant to N.J.A.C. 7:27-34.12.

**7:27-34.6 Performance standards for in-use yard trucks**

(a) In accordance with the schedule at Table 1, any in-use yard truck shall be equipped with one of the following:

1. A certified on-road engine for the model year of the year purchased, rented, or leased;
2. A certified Tier 4 final off-road engine; or
3. A certified engine and power system that meet the emission standards of a certified on-road engine for the model year in which the cargo handling equipment and/or engine or power system is newly purchased, leased, or rented or a certified Tier 4 final off-road engine, as demonstrated to the Department by using one of the following tests:
  - i. Testing conducted by the engine manufacturer for the engine and power system;
  - ii. Testing conducted by the engine manufacturer for another in-use engine and power system that is configured and used in a substantially similar way to the engine and power system; or
  - iii. Testing conducted to meet the regulatory requirements of CARB's Verification Procedure.

Table 1: Compliance Schedule for In-Use Cargo Handling Equipment

Cargo handling equipment with an on-road engine	Cargo handling equipment with an off-road engine	Compliance deadline
Pre-1998 model year	Tier 0	March 1, 2025
1998-2003 model year	Tier 1	March 1, 2026
2004-2006 model year	Tier 2	March 1, 2027
2007-2009 model year	Tier 3 and Tier 4 interim	March 1, 2028

**7:27-34.7 Performance standards for in-use non-yard trucks**

(a) Except as otherwise provided, in accordance with the schedule at Table 1 above, any in-use non-yard truck shall be equipped with:

1. A certified on-road engine or certified Tier 4 final off-road engine;
2. An engine or power system that is certified to the Tier 4 Alternate PM off-road diesel engine standards as specified at 13 CCR 2423(b)(2)(B) for the rated horsepower and model year and used in conjunction with a Level 3 VDECS; or
3. A certified engine or power system that meets the emission standards of a certified on-road engine or certified Tier 4 final off-road engine, as demonstrated to the Department by using one of the following tests:
  - i. Testing conducted by the engine manufacturer for that engine or power system;
  - ii. Testing conducted by the engine manufacturer from another in-use engine or power system that is configured and used in a substantially similar way to the engine or power system; or



iii. Testing conducted to meet the regulatory requirements of CARB's Verification Procedure.

(b) If an owner or operator cannot comply with (a) above because the compliance options therein are not available for the specific application and equipment type, the owner or operator may apply the next best available control technology, if requested, and approved by, the Department in accordance with N.J.A.C. 7:27-34.10 and 34.10A.

#### **7:27-34.8 Opacity limits**

(a) Except as provided at (c) below, on or after March 1, 2025, for new cargo handling equipment and on or after the compliance deadlines at Table 1 above for in-use cargo handling equipment, or any approved compliance extension(s), any cargo handling equipment subject to this subchapter shall not exceed the opacity limits at Table 2 below. Compliance with the opacity limits will be determined by the Department with a smoke meter that meets, and is used in accordance with, the Society of Automotive Engineers "Surface Vehicle Recommended Practice, Snap Acceleration Smoke Test Procedure for Heavy-Duty Powered Vehicles" (SAE J1667, February 1996).

(b) Except as provided at (c) above, an owner or operator shall take out of service and repair any cargo handling equipment that exceeds the opacity limit at Table 2 below. The owner or operator shall not return the cargo handling equipment to service until it meets the opacity limits at Table 2. The owner or operator shall maintain all service and repair records in accordance with N.J.A.C. 7:27-34.15.

Table 2: Opacity limits

PM emissions limit to which cargo handling equipment powered by a diesel CI engine is certified	Opacity Limit
>0.40 g/bhp-hr PM	55%
0.31-0.40 g/bhp-hr PM	45%
0.21-0.30 g/bhp-hr PM	35%
0.11-0.20 g/bhp-hr PM	25%
0.05-0.10 g/bhp-hr PM	15%
<0.05 g/bhp-hr PM	5%

(c) Cargo handling equipment that is a registered motor vehicle is subject to the applicable tests, procedures, and standards set forth at N.J.A.C. 7:27-14, 7:27B-4, and 13:20-26.

#### **7:27-34.9 Replacement engines for in-use cargo handling equipment**

Any in-use cargo handling equipment that is repowered with a replacement diesel-fueled CI engine is considered to be newly purchased, leased, or rented equipment and must meet the requirements at N.J.A.C. 7:27-34.5, unless the engine was replaced by the manufacturer due to failure during its warranty period.

#### **7:27-34.10 Alternate compliance option, generally**

(a) An owner or operator may request that the Department approve an alternate compliance option if it cannot meet the performance standards at N.J.A.C. 7:27-34.5 through 34.7, as applicable. The compliance options are:

1. Approval to use the best available control technology for a new non-yard truck that is not registered as a motor vehicle, or an in-use non-yard truck, if a compliant non-yard truck is not available; and

2. A fleet averaging plan, provided the fleet averaging plan establishes that:

i. Reductions of PM emissions as expressed in pounds, from the entire fleet of cargo handling equipment included in the fleet averaging plan will be equivalent to, or greater than, the reductions of PM emissions that would have been achieved upon compliance with N.J.A.C. 7:27-34.5, 34.6, or 34.7, as applicable; and

ii. Reductions of NO<sub>x</sub> emissions as expressed in pounds, from the entire fleet of cargo handling equipment included in the fleet averaging plan will be equivalent to, or greater than, the reductions of NO<sub>x</sub> emissions that would have been achieved upon compliance with N.J.A.C. 7:27-34.5, 34.6, or 34.7, as applicable.

(b) An owner or operator shall not operate any cargo handling equipment under an alternate compliance option unless the Department notifies the applicant, in writing, that the alternate compliance option is approved.

(c) If the Department approves an alternate compliance option, the owner or operator shall operate the subject cargo handling equipment in accordance with the approval.

(d) The owner or operator shall submit its application at least 90 days prior to the applicable compliance deadline.

(e) The owner or operator shall submit its application on a form available at

[www.stopthesoot.org](http://www.stopthesoot.org). The application shall include:

1. Owner or operator name, address, and contact information;
2. Equipment and engine information, including make, model, serial number, and other information that uniquely identifies the equipment or engine for which an alternate compliance option is sought;
3. Proposed fleet averaging plan, if applicable; and
4. Any other information necessary for the Department's evaluation of the fleet averaging plan.

(f) Within 30 days after receipt of an application, the Department will notify the applicant if the application is administratively complete or incomplete.

1. If the application is incomplete, the Department will notify the applicant of the additional information required and provide a reasonable due date by which the applicant shall submit the information to the Department. Upon determining that the application is complete, the Department will notify the applicant.

2. The Department may request additional information relevant to the required demonstrations at N.J.A.C. 7:27-34.10, 34.10A, or 34.10B from an applicant at any time after the submittal of an application, regardless of whether the application is administratively complete at the time of the Department's information request. A Department request for additional information shall not alter the completeness status of the application.

3. If an applicant fails to submit the information requested by the due date, the Department will deny the application.

(g) The Department will approve or deny an application within 30 days of receipt of an administratively complete application.

**7:27-34.10A Alternate compliance option - non-yard truck**

(a) An owner or operator may request approval to apply the best available control technology for a new non-yard truck that is not registered as a motor vehicle or an in-use non-yard truck, if it cannot meet the performance standards at N.J.A.C. 7:27-34.5 and 34.7.

(b) The Department will grant the application if the owner or operator:

1. Demonstrates that it is not reasonably able to comply with the applicable performance standards because a certified on-road engine or certified Tier 4 final off-road engine with the appropriate physical or performance characteristics for the particular application is not available from any manufacturer or dealer;
2. Provides a list of manufacturers that the owner or operator has contacted and the manufacturers' responses to a request to purchase;
3. Demonstrates that use of the non-yard truck is necessary to prevent a disruption in operations; and
4. Provides an analysis of all commercially available control technologies that reduce PM and NO<sub>x</sub> and demonstrates that the alternative proposal will achieve the maximum possible PM and NO<sub>x</sub> reductions for the particular engine or non-yard truck.

**7:27-34.10B Alternate compliance option - fleet averaging plan**

(a) An owner or operator may apply to implement a fleet averaging plan in lieu of the

requirements at N.J.A.C. 7:27-34.5 through 34.7.

(b) The following requirements apply to an application for approval of a fleet averaging plan:

1. An applicant for a fleet averaging plan shall include, in the plan, two or more pieces of cargo handling equipment, but shall include in the plan only cargo handling equipment it owns or operates under its direct control at the same port or intermodal rail yard.

2. A piece of cargo handling equipment shall be included in no more than one plan.

3. The application for a fleet averaging plan shall include:

i. Documentation, calculations, emissions test data, or other information that establishes that reductions of PM, expressed in pounds, from the entire fleet of cargo handling equipment included in the fleet averaging plan will be equivalent to, or greater than, the emission reductions of PM that would have been achieved upon compliance with N.J.A.C. 7:27-34.5, 34.6, or 34.7, as applicable;

ii. Documentation, calculations, emissions test data, or other information that establishes that reductions of NO<sub>x</sub> emissions as expressed in pounds, from the entire fleet of cargo handling equipment included in the fleet averaging plan will be equivalent to, or greater than, the reductions of NO<sub>x</sub> emissions that would have been achieved upon compliance with N.J.A.C. 7:27-34.5, 34.6, or 34.7, as applicable; and

iii. The proposed recordkeeping, reporting, monitoring, and testing procedures that the applicant will use to demonstrate continued compliance with the plan.

4. Emission control strategies in the plan may include only:

i. Exhaust treatment control;

ii. Engine repower;

iii. Equipment replacement;

iv. Hybrid technology; or

v. Zero-emission equipment.

5. Emission reduction calculations demonstrating equivalence with the requirements at N.J.A.C. 7:27-34.5, 34.6, or 34.7, as applicable, shall:

i. Include only PM and NO<sub>x</sub> emissions from cargo handling equipment that operates at the port or intermodal rail yard to which the plan applies; and

ii. Not include reductions that are otherwise required by any local, State, or Federal rule, regulation, or statute, or any agreement or final administrative or court order to resolve an enforcement action, or agreed to as part of a local, State, or Federal grant, incentive, or voucher program. Except that reductions achieved as a result of funding from local, State, or Federal grant, incentive, or voucher programs for zero-emission equipment, which would result in over-compliance, may be included in the emission reduction calculations demonstration.

(c) An application for approval of a fleet averaging plan shall be subject to public comment prior to Department action. The public comment period will be specified in the notice published pursuant to (f) below.

(d) The Department will provide public notice of the opportunity for public comment on each draft fleet averaging plan. The notice will:

1. Identify the port or intermodal rail yard where the cargo handling equipment is located, and provide the name and address of the owner or operator;
2. Identify the equipment involved and the fleet averaging plan proposed;
3. Provide the name and address of the Department, including the name, telephone

number, and email address of an individual at the Department from whom interested persons may obtain additional information;

4. Announce the opportunity for public comment and provide a description of the public comment procedures set forth in this section;

5. Specify the length of the public comment period; and

6. Include the time and location of any public hearing to be held on the plan. If no public hearing is scheduled, the notice shall include procedures for requesting a public hearing.

(e) The Department will post the public notice and the draft fleet averaging plan on the Department's website, [www.stopthesoot.org](http://www.stopthesoot.org), for the duration of the public comment period.

(f) The Department may schedule a public hearing and include it in the notice of opportunity for public comment pursuant to (d) above. If the Department does not schedule a hearing, any person may request that the Department hold a hearing on the plan. A request for a public hearing shall be submitted, in writing, to the Department no later than the published date of the close of the comment period and shall include a statement of issues to be raised at the hearing. The issues raised shall be relevant to the draft fleet averaging plan under review by the Department.

1. If a public hearing is held, the Department shall provide public notice of the public hearing at least 15 days prior to the date the public hearing is scheduled.

2. If, in response to a request for a public hearing, the Department schedules a public hearing, the close of the public comment period shall be at 5:00 P.M. on the second State business day following the date of the public hearing unless, a later date is specified in the notice provided. The Department may further extend the comment period by announcing the extension and its duration at the public hearing.

3. At any public hearing on a plan, the Department may, at its discretion, limit the time allowed for oral statements and request a person offering oral testimony to also submit the



statement in writing.

**7:27-34.11 Compliance extension, generally**

(a) An owner or operator may apply for an extension of the deadline to comply with N.J.A.C.

7:27-34.6 and 34.7 for the following:

1. The new cargo handling equipment or engine was purchased to comply with N.J.A.C.

7:27-34.6 or 34.7, but has not been received due to manufacturer delay;

2. The equipment is operated less than 200 hours in a calendar year (low-use equipment); or

3. The owner or operator is replacing in-use cargo handling equipment with zero-emission cargo handling equipment.

(b) If the Department approves an extension request, the owner or operator shall operate the subject cargo handling equipment in accordance with the approval.

(c) The owner or operator shall submit the request to the Department at least 60 days prior to the applicable compliance deadline on a form available from the Department at

[www.stopthesoot.org](http://www.stopthesoot.org). The application shall include:

1. Owner or operator name, address, and contact information;

2. Equipment and engine information, including make, model, serial number, and other information that uniquely identifies the equipment or engine for which a compliance extension is sought; and

3. Any other information required at N.J.A.C. 7:27-34.11A, 34.11B, and 34.11C below.

(d) Within 30 days after receipt of an application, the Department will notify the applicant that

the application is administratively complete or incomplete.

1. If the application is incomplete, the Department will notify the applicant of the additional information required and provide 30 days for the applicant to submit the information to the Department. Upon determining that the application is complete, the Department will notify the applicant.

2. The Department may request additional information relevant to the required demonstrations at N.J.A.C. 7:27-34.11, 34.11A, 34.11B, or 34.11C from an applicant at any time after the submittal of an application, regardless of whether the application is administratively complete at the time of the Department's information request. A Department request for additional information shall not alter the completeness status of the application.

3. If an applicant fails to submit the information requested by the due date, the Department will deny the application.

(e) The Department will approve or deny an application within 30 days after receipt of an administratively complete application.

(f) If the Department approves the extension request, the approval will be in writing, and the owner or operator shall be deemed to be in compliance for the applicable period, provided the owner or operator complies with all of the conditions of the Department's approval. If, upon inspection, the Department finds the owner or operator has not complied with any of the conditions of approval:

1. The extension will be automatically revoked and the equipment will be considered noncompliant from the date that compliance would otherwise have been required pursuant to N.J.A.C. 7:27-34.6 or 34.7, but for the extension; and

2. The owner or operator shall not use the cargo handling equipment that is subject to the extension request until the owner or operator brings the equipment into compliance with N.J.A.C. 7:27-34.6 or 34.7, as applicable.

**7:27-34.11A Compliance extension - manufacturer delay**

(a) An owner or operator may request a compliance extension of an applicable compliance deadline at N.J.A.C. 7:27-34.6 or 34.7, if the new cargo handling equipment or engine was purchased to comply with N.J.A.C. 7:27-34.6 or 34.7, but has not been received due to manufacturer delays.

(b) The Department will grant the extension if the Department determines that the equipment was purchased, or the owner or operator and seller had entered into a contractual agreement for the purchase, at least six months prior to the required compliance date. An application for an extension due to manufacturer delay must include:

1. Identification of the delayed equipment and/or engine type and application, including engine horsepower;
2. A purchase order, letter, or other form of documentation that demonstrates that at least six months prior to the original compliance date the owner or operator entered into a contract to purchase equipment and/or engine meeting the requirements at N.J.A.C. 7:27-34.5; and
3. Documentation from a representative of the equipment and/or engine manufacturer supporting the applicant's claim of delayed availability, including the anticipated date that the equipment and/or engine meeting the requirements at N.J.A.C. 7:27-34 will be available and

able to be delivered to the owner or operator.

**7:27-34.11B Compliance extension – low-use equipment**

(a) An owner or operator may request a compliance extension of an applicable compliance deadline at N.J.A.C. 7:27-34.6 and 34.7, for any piece of cargo handling equipment that is operated less than 200 hours annually. An extension under this section shall be for no longer than two years.

(b) The Department will approve an extension if the owner or operator:

1. Is in compliance with N.J.A.C. 7:27-34.6, 34.7, and 34.8 for all other cargo handling equipment in its fleet pursuant to the compliance schedule at N.J.A.C. 7:27-34.6, Table 1; and

2. Includes in the application for a compliance extension, documentation from a non-resettable hour meter or fuel records, indicating that each engine for which an extension is requested was operated less than 200 hours in the preceding calendar year; and

3. Installs a non-resettable hour meter, which records the hours of use of a particular engine and is incapable of being adjusted, on each engine for which the compliance extension is requested.

(c) For the duration of the extension, the owner or operator shall include in its annual report required at N.J.A.C. 7:27-34.14, the annual hours of operation for each engine that is subject to a compliance extension under this section.

(d) The Department may elect to limit the extensions pursuant to this section to no more than two engines in a single fleet, or two percent of a fleet, whichever is greater. In making its decision, the Department will consider the impact of the extensions on public health based on

an evaluation of:

1. The number of pieces of equipment granted an extension pursuant to this section;
2. The hours of operation of the equipment;
3. The estimated emissions; and
4. The proximity of the equipment to residences.

**7:27-34.11C Compliance extensions – zero-emission replacement**

(a) An owner or operator may request an extension of an applicable compliance deadline at N.J.A.C. 7:27-34.6 and 34.7 for any piece of in-use cargo handling equipment that the owner or operator requests to replace with zero-emission cargo handling equipment.

(b) The Department will grant the request if the owner or operator provides in its application:

1. Documentation from an equipment or engine manufacturer or dealer that a certified zero-emission engine or equipment is available for the make, model, and horsepower of the cargo handling engine or equipment being replaced;

2. Purchase order or other documentation that includes a certification as provided at N.J.A.C. 7:27-1.39 and shows the owner or operator's intent to purchase the certified zero-emission cargo handling engine or equipment within two years of the applicable compliance deadline; and

3. Documentation, or a workplan, demonstrating that the necessary charging or fueling infrastructure to support operation of the zero-emission equipment will be in place within two years of the applicable compliance deadline.

**7:27-34.12 Department approval to transfer non-yard trucks between two facilities**

(a) An owner or operator may request approval to transfer non-yard trucks between two port terminals or intermodal rail yards.

(b) No person may operate any transferred cargo handling equipment that does not meet the performance standards set forth at N.J.A.C. 7:27-34.5, unless the Department notifies the applicant, in writing, that the transfer plan is approved.

(c) If the Department approves a transfer plan, the owner or operator shall operate the subject cargo handling equipment in accordance with the approval.

(d) The owner or operator shall submit its application to the Department at least 30 days prior to the proposed transfer date on a form available from the Department at

[www.stopthesoot.org](http://www.stopthesoot.org). The application shall include:

1. Owner or operator name, address, and contact information;
2. Number of pieces of equipment requested to be transferred;
3. Equipment and engine information, including make, model, serial number, horsepower, and other information that uniquely identifies the equipment or engine subject to the transfer request;
4. Hours of operation of each piece of equipment subject to the transfer request; and
5. Proximity of the new location to residences.

(e) Within 30 days after receipt of an application, the Department will notify the applicant if the application is administratively complete or incomplete.

1. If the application is incomplete, the Department will notify the applicant of the

additional information required and provide 30 days for the applicant to submit the information to the Department. Upon determining that the application is complete, the Department will notify the applicant.

2. The Department may request additional information relevant to the required demonstrations at N.J.A.C. 7:27-34.12 from an applicant at any time after the submittal of an application, regardless of whether the application is administratively complete at the time of the Department's information request. A Department request for additional information shall not alter the completeness status of the application.

3. If an applicant fails to submit the information requested by the due date, the Department will deny the application.

(g) The Department will approve or deny an application within 30 days of receipt of an administratively complete application.

(h) The Department will allow the transfer of non-yard truck cargo handling equipment between two port terminals or intermodal rail yards, if the owner or operator submits its request and transfer plan to the Department on a form available at [www.stopthesoot.org](http://www.stopthesoot.org), at least 30 days prior to the applicable transfer date, provided:

1. The facilities that the equipment is being transferred from and to are under the control of the same owner or operator;

2. The owner or operator agrees to bring the transferred equipment into compliance with the requirements at N.J.A.C. 7:27-34.7 before the equipment is put into operation at the new location; and

3. The Department determines that the transfer plan does not result in a significant

increase in public health impacts.

#### **7:27-34.13 Equipment at a low-throughput port**

If a port that has been exempt from this subchapter in accordance with N.J.A.C. 7:27-34.2(a)7 because it is classified as a low-throughput port subsequently exceeds the two-year average annual cargo throughput limit, or the port becomes part of an urban area, each owner or operator at that port subject to this subchapter shall submit a plan for compliance to the Department within six months after the exceedance. The compliance plan shall demonstrate how the owner or operator will achieve compliance with this subchapter within two years after the exceedance, and shall include the information at N.J.A.C. 7:27-34.14(c) and (d), on the form available at [www.stopthesoot.org](http://www.stopthesoot.org).

#### **7:27-34.14 Reporting requirements**

(a) Any owner or operator subject to this subchapter shall submit an annual report through the web portal at [www.stopthesoot.org](http://www.stopthesoot.org). All submissions to the web portal shall include a certification(s), as provided at N.J.A.C. 7:27-1.39.

(b) An owner or operator shall submit the initial report to the Department on or before August 1, 2024.

(c) An owner or operator shall include the following information in its initial report of the cargo handling equipment reflecting its fleet as of January 1, 2024:

1. Owner or operator name;
2. Contact name, phone number, mailing address, and email address;



3. Address, including name of port or intermodal rail yard, where the equipment is operated;
4. The total population of cargo handling equipment by engine model year;
5. For each piece of cargo handling equipment:
  - i. Equipment make, model, and model year;
  - ii. Engine make, model, and model year;
  - iii. Year of manufacture of equipment and engine (if unable to determine, approximate age);
  - iv. Engine family;
  - v. Engine serial number;
  - vi. If the equipment is registered as a motor vehicle, the vehicle registration number or license plate;
  - vii. Rated brake horsepower;
  - viii. Annual hours of use in 2023;
  - ix. Fuel type and annual fuel usage in 2023; and
  - x. If seasonal, actual months operated in 2023.

(d) An owner or operator is required to submit an annual report each calendar year thereafter.

The owner or operator shall submit each subsequent annual report on or before August 1 reflecting the cargo handling equipment in the fleet as of January 1 of that calendar year. In its annual report for subsequent years, the owner or operator shall include the following:

1. Any changes to the material and information previously provided pursuant to (b)

above, including information for any cargo handling equipment added to, or removed from, the owner/operator's fleet;

2. A description of the method and date of compliance for any cargo handling equipment subject to N.J.A.C. 7:27-34.6, 34.7, 34.10, or 34.11, including retirement date or engine installation date, if applicable;

3. For any cargo handling equipment removed from the fleet, information about the disposition of the equipment; and

4. For any cargo handling equipment for which an extension was granted, an update on the compliance status.

#### **7:27-34.15 Recordkeeping requirements**

(a) Beginning January 1, 2023, an owner or operator subject to this subchapter shall maintain the following records or copies of records at a single location at the port or intermodal rail yard where the equipment is operated or normally resides:

1. Any documents that may be required to verify compliance with this subchapter; and
2. Maintenance records for cargo handling equipment subject to this subchapter.

(b) Each owner or operator shall maintain these records for each piece of cargo handling equipment until it is sold outside of the State of New Jersey or is no longer used at a port or intermodal rail yard in the State of New Jersey. If ownership is transferred, the seller shall convey the records to the buyer, subject to (c) below.

(c) Any person who operates a place of business in New Jersey, including an owner or operator subject to this subchapter, shall maintain records of all sales, leases, rentals, purchases,

acquisitions, receipt of, or other transfers of cargo handling equipment for a period of no less than five years after the date of the transaction.

(d) Upon the request of the Department, any person required to comply with (a) and/or (c) above shall make the specified records available for inspection at the place of business by any representative of the Department during normal business hours.

(e) Upon receipt of a written request from the Department, any person required to comply with (a) and/or (c) above shall timely submit a copy of the specified records to the Department by mail or by other means as agreed to by the Department.