

(PRE-FILED)

By: **Delegate Hubbard**
 Requested: August 30, 2005
 Introduced and read first time: January 11, 2006
 Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Diesel-Powered Nonroad Vehicles - Fuel and Technology**
 3 **Requirements**

4 FOR the purpose of requiring on or after a certain date that certain diesel-powered
 5 nonroad vehicles be powered by ultra low sulfur diesel fuel; requiring on or after
 6 a certain date that a solicitation for a public work contract and a contract
 7 entered into as a result of the solicitation include a requirement to use ultra low
 8 sulfur diesel fuel; providing for an alternative if ultra low sulfur diesel fuel is not
 9 available; providing for certain exceptions to this Act; providing for certain
 10 exceptions to the requirement to use ultra low sulfur diesel fuel; requiring on or
 11 after a certain date that certain diesel-powered nonroad vehicles utilize the best
 12 available technology for reducing the emission of pollutants; requiring on or
 13 after certain dates that solicitations for certain public work contracts and
 14 contracts entered into as a result of the solicitations include a requirement to
 15 use the best available technology for reducing the emission of pollutants;
 16 requiring the Secretary of the Environment to make a determination of the best
 17 available technology for reducing the emission of pollutants for each type of
 18 diesel-powered nonroad vehicle, listing factors on which the determination shall
 19 be made, and requiring the Secretary to publish a list containing the
 20 determinations; providing for certain exceptions to the requirement to use the
 21 best available technology for reducing the emission of pollutants; requiring on or
 22 before a certain date that the Secretary submit a certain report to the General
 23 Assembly that includes certain information; prohibiting a unit from entering
 24 into a certain public work contract unless the contract authorizes certain
 25 independent monitoring; providing for certain penalties for certain violations by
 26 a contractor; prohibiting this Act from being construed to limit a unit's authority
 27 to take certain actions; defining certain terms; making the provisions of this Act
 28 severable; and generally relating to fuel and technology requirements for
 29 diesel-powered nonroad vehicles.

30 BY repealing and reenacting, without amendments,
 31 Article - State Finance and Procurement
 32 Section 11-101(x)
 33 Annotated Code of Maryland

1 (2001 Replacement Volume and 2005 Supplement)

2 BY adding to

3 Article - State Finance and Procurement

4 Section 14-601 through 14-609, inclusive, to be under the new subtitle "Subtitle

5 6. Fuel and Technology Requirements in Diesel-Powered Nonroad

6 Vehicles"

7 Annotated Code of Maryland

8 (2001 Replacement Volume and 2005 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article - State Finance and Procurement**

12 11-101.

13 (x) (1) "Unit" means an officer or other entity that is in the Executive
14 Branch of the State government and is authorized by law to enter into a procurement
15 contract.

16 (2) "Unit" does not include:

17 (i) a bistate, multistate, bicounty, or multicounty governmental
18 agency; or

19 (ii) a special tax district, sanitary district, drainage district, soil
20 conservation district, water supply district, or other political subdivision of the State.

21 **SUBTITLE 6. FUEL AND TECHNOLOGY REQUIREMENTS IN DIESEL-POWERED**
22 **NONROAD VEHICLES.**

23 14-601.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (B) "CONTRACTOR" MEANS:

27 (1) A PERSON THAT ENTERS INTO A PUBLIC WORK CONTRACT WITH A
28 UNIT; OR

29 (2) A PERSON THAT PERFORMS WORK OR PROVIDES SERVICES RELATED
30 TO A PUBLIC WORK CONTRACT FOR THE PERSON THAT HAS ENTERED INTO A PUBLIC
31 WORK CONTRACT WITH A UNIT.

32 (C) (1) "MOTOR VEHICLE" MEANS A VEHICLE THAT:

33 (I) IS SELF-PROPELLED;

1 (II) IS DESIGNED TO BE OPERATED ON A PUBLIC STREET OR
2 HIGHWAY;

3 (III) IS DESIGNED FOR TRANSPORTING PERSONS OR PROPERTY; AND

4 (IV) IS NOT OPERATED ONLY ON RAILS.

5 (2) "MOTOR VEHICLE" INCLUDES A MOTOR VEHICLE OWNED BY A
6 FARMER AND OPERATED ONLY ON A FARM OR ON A PUBLIC STREET OR HIGHWAY
7 WITHIN A 10-MILE RADIUS OF THE FARM.

8 (D) (1) "NONROAD ENGINE" MEANS AN INTERNAL COMBUSTION ENGINE,
9 INCLUDING THE FUEL SYSTEM, THAT:

10 (I) IS NOT USED IN A MOTOR VEHICLE;

11 (II) IS NOT USED IN A VEHICLE USED SOLELY FOR COMPETITION;
12 OR

13 (III) IS NOT SUBJECT TO STANDARDS ADOPTED UNDER 42 U.S.C. §
14 7411 OR § 7521.

15 (2) "NONROAD ENGINE" INCLUDES AN INTERNAL COMBUSTION ENGINE
16 USED TO POWER A GENERATOR, COMPRESSOR, OR SIMILAR EQUIPMENT USED IN A
17 CONSTRUCTION PROGRAM OR PROJECT.

18 (E) (1) "NONROAD VEHICLE" MEANS A VEHICLE THAT:

19 (I) IS POWERED BY A NONROAD ENGINE OF 50 HORSEPOWER OR
20 MORE; AND

21 (II) IS NOT A MOTOR VEHICLE OR A VEHICLE USED SOLELY FOR
22 COMPETITION.

23 (2) "NONROAD VEHICLE" INCLUDES EXCAVATORS, BACKHOES, CRANES,
24 COMPRESSORS, GENERATORS, BULLDOZERS, AND SIMILAR EQUIPMENT.

25 (3) "NONROAD VEHICLE" DOES NOT INCLUDE A HORTICULTURAL
26 MAINTENANCE VEHICLE THAT IS:

27 (I) USED FOR LANDSCAPING PURPOSES;

28 (II) POWERED BY A NONROAD ENGINE OF 65 HORSEPOWER OR
29 LESS; AND

30 (III) NOT USED IN A CONSTRUCTION PROGRAM OR PROJECT.

31 (F) "PUBLIC WORK CONTRACT" MEANS A CONTRACT WITH A UNIT THAT
32 INVOLVES THE CONSTRUCTION, DEMOLITION, RESTORATION, REHABILITATION,
33 REPAIR, RENOVATION, OR ABATEMENT OF A BUILDING, STRUCTURE, TUNNEL,
34 EXCAVATION, ROADWAY, PARK, OR BRIDGE.

1 (G) "SECRETARY" MEANS THE SECRETARY OF THE ENVIRONMENT.

2 (H) "ULTRA LOW SULFUR DIESEL FUEL" MEANS DIESEL FUEL THAT HAS A
3 SULFUR CONTENT OF NO MORE THAN 15 PARTS PER MILLION.

4 14-602.

5 THIS SUBTITLE DOES NOT APPLY:

6 (1) WHERE FEDERAL OR STATE FUNDING PRECLUDES A UNIT FROM
7 IMPOSING THE REQUIREMENTS OF THIS SUBTITLE;

8 (2) TO EMERGENCY OR EXPEDITED PROCUREMENTS UNDER § 13-108 OF
9 THIS ARTICLE; OR

10 (3) TO A PUBLIC WORK CONTRACT ENTERED INTO OR RENEWED
11 BEFORE OCTOBER 1, 2006.

12 14-603.

13 (A) ON OR AFTER APRIL 1, 2007, A DIESEL-POWERED NONROAD VEHICLE
14 OWNED BY, LEASED BY, OPERATED BY, OR OPERATED ON BEHALF OF A UNIT SHALL
15 BE POWERED BY ULTRA LOW SULFUR DIESEL FUEL.

16 (B) ON OR AFTER APRIL 1, 2007, A SOLICITATION FOR A PUBLIC WORK
17 CONTRACT AND A CONTRACT ENTERED INTO AS A RESULT OF THE SOLICITATION
18 SHALL INCLUDE A SPECIFICATION THAT:

19 (1) ALL CONTRACTORS SHALL USE ULTRA LOW SULFUR DIESEL FUEL IN
20 DIESEL-POWERED NONROAD VEHICLES IN THE PERFORMANCE OF THE CONTRACT;
21 AND

22 (2) ALL CONTRACTORS SHALL COMPLY WITH THE SPECIFICATION IN
23 PARAGRAPH (1) OF THIS SUBSECTION IN THE PERFORMANCE OF THE CONTRACT.

24 (C) (1) IF ULTRA LOW SULFUR DIESEL FUEL IS NOT AVAILABLE TO FULFILL
25 THE REQUIREMENTS OF THIS SECTION, THE SECRETARY SHALL ISSUE A WRITTEN
26 DETERMINATION THAT AUTHORIZES THE USE OF DIESEL FUEL THAT HAS A SULFUR
27 CONTENT OF NO MORE THAN 30 PARTS PER MILLION TO FULFILL THE
28 REQUIREMENTS OF THIS SECTION.

29 (2) THE DETERMINATION MADE UNDER PARAGRAPH (1) OF THIS
30 SUBSECTION:

31 (I) SHALL EXPIRE AFTER 6 MONTHS;

32 (II) SHALL BE RENEWED IN WRITING EVERY 6 MONTHS IF ULTRA
33 LOW SULFUR DIESEL FUEL IS NOT AVAILABLE TO FULFILL THE REQUIREMENTS OF
34 THIS SECTION; AND

35 (III) MAY NOT BE IN EFFECT AFTER OCTOBER 1, 2009.

1 (D) (1) THIS SECTION DOES NOT APPLY TO A UNIT OR CONTRACTOR WHEN:

2 (I) A UNIT MAKES A WRITTEN FINDING APPROVED IN WRITING BY
3 THE SECRETARY THAT:

4 1. A SUFFICIENT QUANTITY OF ULTRA LOW SULFUR DIESEL
5 FUEL IS NOT AVAILABLE TO MEET THE REQUIREMENTS OF SUBSECTIONS (A) AND (B)
6 OF THIS SECTION; OR

7 2. WHERE A DETERMINATION IS IN EFFECT UNDER
8 SUBSECTION (C) OF THIS SECTION, A SUFFICIENT QUANTITY OF DIESEL FUEL THAT
9 HAS A SULFUR CONTENT OF NO MORE THAN 30 PARTS PER MILLION IS NOT
10 AVAILABLE TO MEET THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS
11 SECTION; AND

12 (II) THE UNIT OR CONTRACTOR MAKES A GOOD FAITH EFFORT TO
13 USE THE AVAILABLE QUANTITIES OF:

14 1. ULTRA LOW SULFUR DIESEL FUEL; OR

15 2. DIESEL FUEL THAT HAS A SULFUR CONTENT OF NO MORE
16 THAN 30 PARTS PER MILLION WHERE A DETERMINATION IS IN EFFECT UNDER
17 SUBSECTION (C) OF THIS SECTION.

18 (2) A FINDING MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION
19 SHALL EXPIRE AFTER 60 DAYS, AND THE REQUIREMENTS OF SUBSECTIONS (A) AND
20 (B) OF THIS SECTION SHALL BE IN EFFECT UNLESS:

21 (I) A UNIT RENEWS THE FINDING IN WRITING; AND

22 (II) THE SECRETARY APPROVES THE RENEWAL IN WRITING.

23 14-604.

24 (A) EXCEPT AS PROVIDED IN § 14-605 OF THIS SUBTITLE, ON OR AFTER
25 OCTOBER 1, 2007, A DIESEL-POWERED NONROAD VEHICLE OWNED BY, LEASED BY,
26 OPERATED BY, OR OPERATED ON BEHALF OF A UNIT SHALL UTILIZE THE BEST
27 AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS.

28 (B) (1) ON OR AFTER OCTOBER 1, 2007, THIS SUBSECTION SHALL APPLY TO
29 PUBLIC WORK CONTRACTS VALUED AT \$2,000,000 OR MORE.

30 (2) ON OR AFTER APRIL 1, 2008, THIS SUBSECTION SHALL APPLY TO ALL
31 PUBLIC WORK CONTRACTS.

32 (3) EXCEPT AS PROVIDED IN § 14-605 OF THIS SUBTITLE, A
33 SOLICITATION FOR A PUBLIC WORK CONTRACT AND A CONTRACT ENTERED INTO AS
34 A RESULT OF THE SOLICITATION SHALL INCLUDE A SPECIFICATION THAT:

1 (I) ALL CONTRACTORS SHALL UTILIZE THE BEST AVAILABLE
2 TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS IN THE
3 PERFORMANCE OF THE CONTRACT; AND

4 (II) ALL CONTRACTORS SHALL COMPLY WITH THE SPECIFICATION
5 IN ITEM (I) OF THIS PARAGRAPH IN THE PERFORMANCE OF THE CONTRACT.

6 (C) (1) THE SECRETARY SHALL MAKE A DETERMINATION OF THE BEST
7 AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS FOR EACH
8 TYPE OF DIESEL-POWERED NONROAD VEHICLE USED BY A UNIT OR CONTRACTOR.

9 (2) EACH DETERMINATION MADE UNDER PARAGRAPH (1) OF THIS
10 SUBSECTION:

11 (I) SHALL BE PRIMARILY BASED ON THE REDUCTION IN
12 EMISSIONS OF PARTICULATE MATTER;

13 (II) SHALL BE SECONDARILY BASED ON THE REDUCTION IN
14 EMISSIONS OF NITROGEN OXIDES ASSOCIATED WITH THE USE OF THE BEST
15 AVAILABLE TECHNOLOGY;

16 (III) MAY NOT RESULT IN AN INCREASE IN THE EMISSIONS OF
17 PARTICULATE MATTER OR NITROGEN OXIDES; AND

18 (IV) SHALL BE UPDATED AT LEAST EVERY 6 MONTHS.

19 (3) (I) IN DETERMINING THE BEST AVAILABLE TECHNOLOGY FOR
20 REDUCING THE EMISSION OF POLLUTANTS, THE SECRETARY SHALL SELECT
21 TECHNOLOGY VERIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
22 AGENCY OR THE CALIFORNIA AIR RESOURCES BOARD FOR USE IN:

23 1. NONROAD VEHICLES; OR

24 2. ONROAD VEHICLES IF THE TECHNOLOGY MAY ALSO BE
25 USED IN NONROAD VEHICLES.

26 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH,
27 THE SECRETARY MAY SELECT UNVERIFIED TECHNOLOGY AS CONSIDERED
28 APPROPRIATE.

29 (4) THE SECRETARY SHALL PUBLISH A LIST CONTAINING THE
30 DETERMINATIONS MADE UNDER THIS SUBSECTION.

31 14-605.

32 (A) A UNIT OR CONTRACTOR MAY NOT BE REQUIRED TO REPLACE THE
33 TECHNOLOGY USED IN A VEHICLE IF A UNIT OR CONTRACTOR UTILIZED BEST
34 AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS OR OTHER
35 AUTHORIZED TECHNOLOGY FOR A DIESEL-POWERED NONROAD VEHICLE UNDER

1 THE PROVISIONS OF § 14-604 OF THIS SUBTITLE FOR THAT SAME VEHICLE WITHIN
2 THE LAST 3 YEARS.

3 (B) SECTION 14-604 OF THIS SUBTITLE DOES NOT APPLY:

4 (1) TO A DIESEL-POWERED NONROAD VEHICLE USED FOR LESS THAN 20
5 DAYS TO SATISFY THE REQUIREMENTS OF A SPECIFIC PUBLIC WORK CONTRACT;

6 (2) TO A UNIT OR CONTRACTOR WHEN A UNIT MAKES A WRITTEN
7 FINDING APPROVED IN WRITING BY THE SECRETARY THAT:

8 (I) THE BEST AVAILABLE TECHNOLOGY FOR REDUCING THE
9 EMISSION OF POLLUTANTS AS REQUIRED UNDER § 14-604(A) AND (B) OF THIS
10 SUBTITLE IS NOT AVAILABLE FOR THE DIESEL-POWERED NONROAD VEHICLE; AND

11 (II) THE UNIT OR CONTRACTOR MAKES A GOOD FAITH EFFORT TO
12 USE THE BEST TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS THAT
13 IS AVAILABLE AND APPROPRIATE FOR THE VEHICLE; OR

14 (3) TO A UNIT OR CONTRACTOR:

15 (I) WHEN THE SECRETARY ISSUES A WRITTEN WAIVER TO A UNIT
16 OR CONTRACTOR BECAUSE THE UNIT OR CONTRACTOR DEMONSTRATED TO THE
17 SECRETARY THAT THE USE OF THE BEST AVAILABLE TECHNOLOGY FOR REDUCING
18 THE EMISSION OF POLLUTANTS MIGHT ENDANGER THE OPERATOR OF THE VEHICLE
19 OR THOSE WORKING NEAR THE VEHICLE BECAUSE OF ENGINE MALFUNCTION; AND

20 (II) WHEN THE UNIT OR CONTRACTOR MAKES A GOOD FAITH
21 EFFORT TO USE THE BEST AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION
22 OF POLLUTANTS THAT IS AVAILABLE AND APPROPRIATE FOR THE VEHICLE AND
23 THAT WOULD NOT ENDANGER THE OPERATOR OF THE VEHICLE OR THOSE WORKING
24 NEAR THE VEHICLE.

25 (C) IN DETERMINING THE AVAILABLE AND APPROPRIATE TECHNOLOGY TO
26 USE UNDER SUBSECTION (B) OF THIS SECTION, A UNIT OR CONTRACTOR:

27 (1) SHALL PRIMARILY CONSIDER THE REDUCTION IN EMISSIONS OF
28 PARTICULATE MATTER;

29 (2) SHALL SECONDARILY CONSIDER THE REDUCTION IN EMISSIONS OF
30 NITROGEN OXIDES ASSOCIATED WITH THE USE OF THE BEST AVAILABLE
31 TECHNOLOGY; AND

32 (3) MAY NOT USE TECHNOLOGY THAT RESULTS IN AN INCREASE IN THE
33 EMISSIONS OF PARTICULATE MATTER OR NITROGEN OXIDES.

34 (D) A FINDING OR WAIVER MADE UNDER SUBSECTION (B) OF THIS SECTION
35 SHALL EXPIRE AFTER 180 DAYS, AND THE REQUIREMENTS OF § 14-604(A) AND (B) OF
36 THIS SUBTITLE SHALL BE IN EFFECT UNLESS:

1 (1) A UNIT RENEWS THE FINDING IN WRITING AND THE SECRETARY
2 APPROVES THE FINDING IN WRITING; OR

3 (2) THE SECRETARY RENEWS THE WAIVER IN WRITING.

4 14-606.

5 (A) ON OR BEFORE JANUARY 1, 2008, AND EVERY YEAR THEREAFTER, THE
6 SECRETARY SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE
7 WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE USE BY UNITS DURING
8 THE PREVIOUS FISCAL YEAR OF:

9 (1) ULTRA LOW SULFUR DIESEL FUEL IN DIESEL-POWERED NONROAD
10 VEHICLES; AND

11 (2) THE BEST AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION
12 OF POLLUTANTS AND OTHER AUTHORIZED TECHNOLOGY FOR DIESEL-POWERED
13 NONROAD VEHICLES UNDER THIS SUBTITLE.

14 (B) THE REPORT SHALL INCLUDE:

15 (1) THE TOTAL NUMBER OF DIESEL-POWERED NONROAD VEHICLES
16 OWNED BY, LEASED BY, OPERATED BY, OR OPERATED ON BEHALF OF EACH UNIT OR
17 USED TO FULFILL THE REQUIREMENTS OF A PUBLIC WORK CONTRACT FOR EACH
18 UNIT;

19 (2) THE NUMBER OF DIESEL-POWERED NONROAD VEHICLES THAT
20 WERE POWERED BY ULTRA LOW SULFUR DIESEL FUEL;

21 (3) THE NUMBER OF DIESEL-POWERED NONROAD VEHICLES THAT
22 UTILIZED THE BEST AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF
23 POLLUTANTS, INCLUDING A BREAKDOWN BY VEHICLE MODEL AND TYPE OF
24 TECHNOLOGY USED FOR EACH VEHICLE;

25 (4) THE NUMBER OF DIESEL-POWERED NONROAD VEHICLES THAT
26 UTILIZED OTHER AUTHORIZED TECHNOLOGY UNDER THIS SUBTITLE, INCLUDING A
27 BREAKDOWN BY VEHICLE MODEL AND TYPE OF TECHNOLOGY USED FOR EACH
28 VEHICLE;

29 (5) THE LOCATIONS WHERE DIESEL-POWERED NONROAD VEHICLES
30 THAT WERE POWERED BY ULTRA LOW SULFUR DIESEL FUEL OR UTILIZED THE BEST
31 AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS OR OTHER
32 AUTHORIZED TECHNOLOGY UNDER THIS SUBTITLE WERE USED;

33 (6) ALL FINDINGS AND RENEWALS OF FINDINGS ISSUED UNDER § 14-603
34 OF THIS SUBTITLE, WHICH SHALL INCLUDE FOR EACH FINDING AND RENEWAL:

35 (I) THE QUANTITY OF DIESEL FUEL REQUIRED BY THE UNIT OR
36 CONTRACTOR TO POWER DIESEL-POWERED NONROAD VEHICLES OWNED BY,

1 LEASED BY, OPERATED BY, OR OPERATED ON BEHALF OF THE UNIT OR USED TO
2 FULFILL THE REQUIREMENTS OF A PUBLIC WORK CONTRACT FOR THE UNIT;

3 (II) SPECIFIC INFORMATION CONCERNING THE AVAILABILITY OF:

4 1. ULTRA LOW SULFUR DIESEL FUEL; OR

5 2. DIESEL FUEL THAT HAS A SULFUR CONTENT OF NO MORE
6 THAN 30 PARTS PER MILLION WHERE A DETERMINATION IS IN EFFECT UNDER §
7 14-603(C) OF THIS SUBTITLE; AND

8 (III) DETAILED INFORMATION CONCERNING THE EFFORTS OF THE
9 UNIT OR CONTRACTOR TO OBTAIN:

10 1. ULTRA LOW SULFUR DIESEL FUEL; OR

11 2. DIESEL FUEL THAT HAS A SULFUR CONTENT OF NO MORE
12 THAN 30 PARTS PER MILLION WHERE A DETERMINATION IS IN EFFECT UNDER §
13 14-603(C) OF THIS SUBTITLE; AND

14 (7) ALL FINDINGS, WAIVERS, AND RENEWALS ISSUED UNDER §§ 14-604
15 AND 14-605 OF THIS SUBTITLE, WHICH SHALL INCLUDE:

16 (I) ALL SPECIFIC INFORMATION SUBMITTED BY A UNIT OR
17 CONTRACTOR ON WHICH THE FINDINGS, WAIVERS, AND RENEWALS ARE BASED; AND

18 (II) THE TYPE OF OTHER AUTHORIZED TECHNOLOGY, INSTEAD OF
19 THE BEST AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS,
20 UTILIZED FOR EACH FINDING, WAIVER, AND RENEWAL.

21 (C) WHERE A DETERMINATION IS IN EFFECT UNDER § 14-603(C) OF THIS
22 SUBTITLE, INFORMATION REGARDING DIESEL FUEL THAT HAS A SULFUR CONTENT
23 OF NO MORE THAN 30 PARTS PER MILLION SHALL BE REPORTED WHENEVER
24 INFORMATION IS REQUESTED FOR ULTRA LOW SULFUR DIESEL FUEL UNDER THIS
25 SECTION.

26 14-607.

27 A UNIT MAY NOT ENTER INTO A PUBLIC WORK CONTRACT SUBJECT TO THE
28 PROVISIONS OF THIS SUBTITLE UNLESS THE CONTRACT AUTHORIZES INDEPENDENT
29 MONITORING OF THE CONTRACTOR'S COMPLIANCE WITH THE REQUIREMENTS OF
30 THIS SUBTITLE.

31 14-608.

32 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
33 CONTRACTOR FOUND IN VIOLATION OF ANY PROVISION OF THIS SUBTITLE:

34 (1) SHALL REIMBURSE A UNIT FOR ANY COSTS INCURRED BY THE UNIT
35 FOR THE INDEPENDENT MONITORING UNDER § 14-607 OF THIS SUBTITLE;

1 (2) IS SUBJECT TO A CIVIL FINE OF AT LEAST \$1,000 AND NOT
2 EXCEEDING \$10,000; AND

3 (3) IS SUBJECT TO A CIVIL FINE OF TWICE THE AMOUNT OF MONEY
4 SAVED BY THE CONTRACTOR BECAUSE OF NONCOMPLIANCE WITH THIS SUBTITLE.

5 (B) (1) A CONTRACTOR MAY NOT MAKE A FALSE CLAIM TO A UNIT WITH
6 RESPECT TO THE PROVISIONS OF THIS SUBTITLE.

7 (2) A CONTRACTOR FOUND IN VIOLATION OF PARAGRAPH (1) OF THIS
8 SUBSECTION:

9 (I) SHALL BE SUBJECT TO A CIVIL FINE OF \$20,000; AND

10 (II) IS SUBJECT TO A CIVIL FINE OF TWICE THE AMOUNT OF MONEY
11 SAVED BY THE CONTRACTOR BECAUSE OF THE FALSE CLAIM.

12 14-609.

13 THIS SUBTITLE DOES NOT LIMIT A UNIT'S AUTHORITY TO:

14 (1) CANCEL OR TERMINATE A CONTRACT;

15 (2) DENY OR WITHDRAW APPROVAL TO PERFORM A SUBCONTRACT OR
16 PROVIDE SUPPLIES;

17 (3) ISSUE A NONRESPONSIBILITY FINDING;

18 (4) ISSUE A NONRESPONSIVENESS FINDING;

19 (5) DENY A PERSON PREQUALIFICATION AS A VENDOR; OR

20 (6) OTHERWISE DENY A PERSON BUSINESS WITH A UNIT.

21 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
22 Act or the application thereof to any person or circumstance is held invalid for any
23 reason in a court of competent jurisdiction, the invalidity does not affect other
24 provisions or any other application of this Act which can be given effect without the
25 invalid provision or application, and for this purpose the provisions of this Act are
26 declared severable.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2006.