

HOUSE BILL 870

P2
HB 38/06 – HGO

71r3018

By: **Delegate Hubbard**

Introduced and read first time: February 9, 2007

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 construed to limit a unit's authority to take certain actions; defining certain
2 terms; making the provisions of this Act severable; and generally relating to
3 fuel and technology requirements for diesel-powered nonroad vehicles.

4 BY repealing and reenacting, without amendments,
5 Article – State Finance and Procurement
6 Section 11–101(x)
7 Annotated Code of Maryland
8 (2006 Replacement Volume and 2006 Supplement)

9 BY adding to
10 Article – State Finance and Procurement
11 Section 14–601 through 14–609 to be under the new subtitle “Subtitle 6. Fuel
12 and Technology Requirements in Diesel-Powered Nonroad Vehicles”
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2006 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – State Finance and Procurement**

18 11–101.

19 (x) (1) “Unit” means an officer or other entity that is in the Executive
20 Branch of the State government and is authorized by law to enter into a procurement
21 contract.

22 (2) “Unit” does not include:

23 (i) a bistate, multistate, bicounty, or multicounty governmental
24 agency; or

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

27 **SUBTITLE 6. FUEL AND TECHNOLOGY REQUIREMENTS IN DIESEL-POWERED**
28 **NONROAD VEHICLES.**

29 **14–601.**

1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) “CONTRACTOR” MEANS:

4 (1) A PERSON THAT ENTERS INTO A PUBLIC WORK CONTRACT
5 WITH A UNIT; OR

6 (2) A PERSON THAT PERFORMS WORK OR PROVIDES SERVICES
7 RELATED TO A PUBLIC WORK CONTRACT FOR THE PERSON THAT HAS ENTERED
8 INTO A PUBLIC WORK CONTRACT WITH A UNIT.

9 (C) (1) “MOTOR VEHICLE” MEANS A VEHICLE THAT:

10 (I) IS SELF-PROPELLED;

11 (II) IS DESIGNED TO BE OPERATED ON A PUBLIC STREET OR
12 HIGHWAY;

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

15 (IV) IS NOT OPERATED ONLY ON RAILS.

16 (2) “MOTOR VEHICLE” INCLUDES A MOTOR VEHICLE OWNED BY A
17 FARMER AND OPERATED ONLY ON A FARM OR ON A PUBLIC STREET OR
18 HIGHWAY WITHIN A 10-MILE RADIUS OF THE FARM.

19 (D) (1) “NONROAD ENGINE” MEANS AN INTERNAL COMBUSTION
20 ENGINE, INCLUDING THE FUEL SYSTEM, THAT:

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

22 (II) IS NOT USED IN A VEHICLE USED SOLELY FOR
23 COMPETITION; OR

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

1 (2) “NONROAD ENGINE” INCLUDES AN INTERNAL COMBUSTION
2 ENGINE USED TO POWER A GENERATOR, COMPRESSOR, OR SIMILAR EQUIPMENT
3 USED IN A CONSTRUCTION PROGRAM OR PROJECT.

4 (E) (1) “NONROAD VEHICLE” MEANS A VEHICLE THAT:

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

7 (II) IS NOT A MOTOR VEHICLE OR A VEHICLE USED SOLELY
8 FOR COMPETITION.

9 (2) “NONROAD VEHICLE” INCLUDES EXCAVATORS, BACKHOES,
10 CRANES, COMPRESSORS, GENERATORS, BULLDOZERS, AND SIMILAR
11 EQUIPMENT.

12 (3) “NONROAD VEHICLE” DOES NOT INCLUDE A HORTICULTURAL
13 MAINTENANCE VEHICLE THAT IS:

14 (I) USED FOR LANDSCAPING PURPOSES;

15 (II) POWERED BY A NONROAD ENGINE OF 65 HORSEPOWER
16 OR LESS; AND

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

18 (F) “PUBLIC WORK CONTRACT” MEANS A CONTRACT WITH A UNIT THAT
19 INVOLVES THE CONSTRUCTION, DEMOLITION, RESTORATION, REHABILITATION,
20 REPAIR, RENOVATION, OR ABATEMENT OF A BUILDING, STRUCTURE, TUNNEL,
21 EXCAVATION, ROADWAY, PARK, OR BRIDGE.

22 (G) “SECRETARY” MEANS THE SECRETARY OF THE ENVIRONMENT.

23 (H) “ULTRA-LOW SULFUR DIESEL FUEL” MEANS DIESEL FUEL THAT
24 HAS A SULFUR CONTENT OF NO MORE THAN 15 PARTS PER MILLION.

25 14-602.

26 THIS SUBTITLE DOES NOT APPLY:

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

3 **(2) TO EMERGENCY OR EXPEDITED PROCUREMENTS UNDER §**
4 **13-108 OF THIS ARTICLE; OR**

5 **(3) TO A PUBLIC WORK CONTRACT ENTERED INTO OR RENEWED**
6 **BEFORE OCTOBER 1, 2007.**

7 **14-603.**

8 **(A) ON OR AFTER APRIL 1, 2008, A DIESEL-POWERED NONROAD**
9 **VEHICLE OWNED BY, LEASED BY, OPERATED BY, OR OPERATED ON BEHALF OF A**
10 **UNIT SHALL BE POWERED BY ULTRA-LOW SULFUR DIESEL FUEL.**

11 **(B) ON OR AFTER APRIL 1, 2008, A SOLICITATION FOR A PUBLIC WORK**
12 **CONTRACT AND A CONTRACT ENTERED INTO AS A RESULT OF THE SOLICITATION**
13 **SHALL INCLUDE A SPECIFICATION THAT:**

14 **(1) ALL CONTRACTORS SHALL USE ULTRA-LOW SULFUR DIESEL**
15 **FUEL IN DIESEL-POWERED NONROAD VEHICLES IN THE PERFORMANCE OF THE**
16 **CONTRACT; AND**

17 **(2) ALL CONTRACTORS SHALL COMPLY WITH THE SPECIFICATION**
18 **IN ITEM (1) OF THIS SUBSECTION IN THE PERFORMANCE OF THE CONTRACT.**

19 **(C) (1) IF ULTRA-LOW SULFUR DIESEL FUEL IS NOT AVAILABLE TO**
20 **FULFILL THE REQUIREMENTS OF THIS SECTION, THE SECRETARY SHALL ISSUE**
21 **A WRITTEN DETERMINATION THAT AUTHORIZES THE USE OF DIESEL FUEL THAT**
22 **HAS A SULFUR CONTENT OF NO MORE THAN 30 PARTS PER MILLION TO FULFILL**
23 **THE REQUIREMENTS OF THIS SECTION.**

24 **(2) THE DETERMINATION MADE UNDER PARAGRAPH (1) OF THIS**
25 **SUBSECTION:**

26 **(I) SHALL EXPIRE AFTER 6 MONTHS;**

1 **(II) SHALL BE RENEWED IN WRITING EVERY 6 MONTHS IF**
2 **ULTRA-LOW SULFUR DIESEL FUEL IS NOT AVAILABLE TO FULFILL THE**
3 **REQUIREMENTS OF THIS SECTION; AND**

4 **(III) MAY NOT BE IN EFFECT AFTER OCTOBER 1, 2010.**

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

7 **(I) A UNIT MAKES A WRITTEN FINDING APPROVED IN**
8 **WRITING BY THE SECRETARY THAT:**

9 **1. A SUFFICIENT QUANTITY OF ULTRA-LOW SULFUR**
10 **DIESEL FUEL IS NOT AVAILABLE TO MEET THE REQUIREMENTS OF SUBSECTIONS**
11 **(A) AND (B) OF THIS SECTION; OR**

12 **2. WHERE A DETERMINATION IS IN EFFECT UNDER**
13 **SUBSECTION (C) OF THIS SECTION, A SUFFICIENT QUANTITY OF DIESEL FUEL**
14 **THAT HAS A SULFUR CONTENT OF NO MORE THAN 30 PARTS PER MILLION IS**
15 **NOT AVAILABLE TO MEET THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF**
16 **THIS SECTION; AND**

17 **(II) THE UNIT OR CONTRACTOR MAKES A GOOD FAITH**
18 **EFFORT TO USE THE AVAILABLE QUANTITIES OF:**

19 **1. ULTRA-LOW SULFUR DIESEL FUEL; OR**

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

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

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

27 **(II) THE SECRETARY APPROVES THE RENEWAL IN WRITING.**

1 **14-604.**

2 (A) EXCEPT AS PROVIDED IN § 14-605 OF THIS SUBTITLE, ON OR AFTER
3 OCTOBER 1, 2008, A DIESEL-POWERED NONROAD VEHICLE OWNED BY, LEASED
4 BY, OPERATED BY, OR OPERATED ON BEHALF OF A UNIT SHALL UTILIZE THE
5 BEST AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS.

6 (B) (1) ON OR AFTER OCTOBER 1, 2008, THIS SUBSECTION SHALL
7 APPLY TO PUBLIC WORK CONTRACTS VALUED AT \$2,000,000 OR MORE.

8 (2) ON OR AFTER APRIL 1, 2009, THIS SUBSECTION SHALL APPLY
9 TO ALL PUBLIC WORK CONTRACTS.

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

13 (I) ALL CONTRACTORS SHALL UTILIZE THE BEST
14 AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS IN
15 THE PERFORMANCE OF THE CONTRACT; AND

16 (II) ALL CONTRACTORS SHALL COMPLY WITH THE
17 SPECIFICATION IN ITEM (I) OF THIS PARAGRAPH IN THE PERFORMANCE OF THE
18 CONTRACT.

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

23 (2) EACH DETERMINATION MADE UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION:

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

27 (II) SHALL BE SECONDARILY BASED ON THE REDUCTION IN
28 EMISSIONS OF NITROGEN OXIDES ASSOCIATED WITH THE USE OF THE BEST
29 AVAILABLE TECHNOLOGY;

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

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

4 (3) (I) IN DETERMINING THE BEST AVAILABLE TECHNOLOGY
5 FOR REDUCING THE EMISSION OF POLLUTANTS, THE SECRETARY SHALL
6 SELECT TECHNOLOGY VERIFIED BY THE UNITED STATES ENVIRONMENTAL
7 PROTECTION AGENCY OR THE CALIFORNIA AIR RESOURCES BOARD FOR USE
8 IN:

9 1. NONROAD VEHICLES; OR

10 2. ONROAD VEHICLES IF THE TECHNOLOGY MAY
11 ALSO BE USED IN NONROAD VEHICLES.

12 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS
13 PARAGRAPH, THE SECRETARY MAY SELECT UNVERIFIED TECHNOLOGY AS
14 CONSIDERED APPROPRIATE.

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

17 **14-605.**

18 (A) A UNIT OR CONTRACTOR MAY NOT BE REQUIRED TO REPLACE THE
19 TECHNOLOGY USED IN A VEHICLE IF A UNIT OR CONTRACTOR UTILIZED BEST
20 AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION OF POLLUTANTS OR
21 OTHER AUTHORIZED TECHNOLOGY FOR A DIESEL-POWERED NONROAD
22 VEHICLE UNDER THE PROVISIONS OF § 14-604 OF THIS SUBTITLE FOR THAT
23 SAME VEHICLE WITHIN THE LAST 3 YEARS.

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

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

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

3 **(I) THE BEST AVAILABLE TECHNOLOGY FOR REDUCING THE**
4 **EMISSION OF POLLUTANTS AS REQUIRED UNDER § 14-604(A) AND (B) OF THIS**
5 **SUBTITLE IS NOT AVAILABLE FOR THE DIESEL-POWERED NONROAD VEHICLE;**
6 **AND**

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

10 **(3) TO A UNIT OR CONTRACTOR:**

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

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

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

24 **(1) SHALL PRIMARILY CONSIDER THE REDUCTION IN EMISSIONS**
25 **OF PARTICULATE MATTER;**

26 **(2) SHALL SECONDARILY CONSIDER THE REDUCTION IN**
27 **EMISSIONS OF NITROGEN OXIDES ASSOCIATED WITH THE USE OF THE BEST**
28 **AVAILABLE TECHNOLOGY; AND**

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

1 (D) A FINDING OR WAIVER MADE UNDER SUBSECTION (B) OF THIS
2 SECTION SHALL EXPIRE AFTER 180 DAYS, AND THE REQUIREMENTS OF §
3 14-604(A) AND (B) OF THIS SUBTITLE SHALL BE IN EFFECT UNLESS:

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

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

7 **14-606.**

8 (A) ON OR BEFORE JANUARY 1, 2009, AND EVERY YEAR THEREAFTER,
9 THE SECRETARY SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN
10 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
11 USE BY UNITS DURING THE PREVIOUS FISCAL YEAR OF:

12 (1) ULTRA-LOW SULFUR DIESEL FUEL IN DIESEL-POWERED
13 NONROAD VEHICLES; AND

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

17 (B) THE REPORT SHALL INCLUDE:

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

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

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

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

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

10 (6) ALL FINDINGS AND RENEWALS OF FINDINGS ISSUED UNDER §
11 14-603 OF THIS SUBTITLE, WHICH SHALL INCLUDE FOR EACH FINDING AND
12 RENEWAL:

13 (I) THE QUANTITY OF DIESEL FUEL REQUIRED BY THE UNIT
14 OR CONTRACTOR TO POWER DIESEL-POWERED NONROAD VEHICLES OWNED BY,
15 LEASED BY, OPERATED BY, OR OPERATED ON BEHALF OF THE UNIT OR USED TO
16 FULFILL THE REQUIREMENTS OF A PUBLIC WORK CONTRACT FOR THE UNIT;

17 (II) SPECIFIC INFORMATION CONCERNING THE
18 AVAILABILITY OF:

- 19 1. ULTRA-LOW SULFUR DIESEL FUEL; OR
- 20 2. DIESEL FUEL THAT HAS A SULFUR CONTENT OF
21 NO MORE THAN 30 PARTS PER MILLION WHERE A DETERMINATION IS IN EFFECT
22 UNDER § 14-603(C) OF THIS SUBTITLE; AND

23 (III) DETAILED INFORMATION CONCERNING THE EFFORTS
24 OF THE UNIT OR CONTRACTOR TO OBTAIN:

- 25 1. ULTRA-LOW SULFUR DIESEL FUEL; OR
- 26 2. DIESEL FUEL THAT HAS A SULFUR CONTENT OF
27 NO MORE THAN 30 PARTS PER MILLION WHERE A DETERMINATION IS IN EFFECT
28 UNDER § 14-603(C) OF THIS SUBTITLE; AND

1 **(7) ALL FINDINGS, WAIVERS, AND RENEWALS ISSUED UNDER §§**
2 **14-604 AND 14-605 OF THIS SUBTITLE, WHICH SHALL INCLUDE:**

3 **(I) ALL SPECIFIC INFORMATION SUBMITTED BY A UNIT OR**
4 **CONTRACTOR ON WHICH THE FINDINGS, WAIVERS, AND RENEWALS ARE BASED;**
5 **AND**

6 **(II) THE TYPE OF OTHER AUTHORIZED TECHNOLOGY,**
7 **INSTEAD OF THE BEST AVAILABLE TECHNOLOGY FOR REDUCING THE EMISSION**
8 **OF POLLUTANTS, UTILIZED FOR EACH FINDING, WAIVER, AND RENEWAL.**

9 **(C) WHERE A DETERMINATION IS IN EFFECT UNDER § 14-603(C) OF**
10 **THIS SUBTITLE, INFORMATION REGARDING DIESEL FUEL THAT HAS A SULFUR**
11 **CONTENT OF NO MORE THAN 30 PARTS PER MILLION SHALL BE REPORTED**
12 **WHENEVER INFORMATION IS REQUESTED FOR ULTRA-LOW SULFUR DIESEL**
13 **FUEL UNDER THIS SECTION.**

14 **14-607.**

15 **A UNIT MAY NOT ENTER INTO A PUBLIC WORK CONTRACT SUBJECT TO**
16 **THE PROVISIONS OF THIS SUBTITLE UNLESS THE CONTRACT AUTHORIZES**
17 **INDEPENDENT MONITORING OF THE CONTRACTOR'S COMPLIANCE WITH THE**
18 **REQUIREMENTS OF THIS SUBTITLE.**

19 **14-608.**

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

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

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

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

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

3 **(2) A CONTRACTOR FOUND IN VIOLATION OF PARAGRAPH (1) OF**
4 **THIS SUBSECTION:**

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

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

8 **14-609.**

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

10 **(1) CANCEL OR TERMINATE A CONTRACT;**

11 **(2) DENY OR WITHDRAW APPROVAL TO PERFORM A**
12 **SUBCONTRACT OR PROVIDE SUPPLIES;**

13 **(3) ISSUE A NONRESPONSIBILITY FINDING;**

14 **(4) ISSUE A NONRESPONSIVENESS FINDING;**

15 **(5) DENY A PERSON PREQUALIFICATION AS A VENDOR; OR**

16 **(6) OTHERWISE DENY A PERSON BUSINESS WITH A UNIT.**

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

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2007.