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(Original Signature of Member)

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> S

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the ••Clean Construction  
3 Act of 2011••.

4 **SEC. 2. HIGHWAY CONSTRUCTION PROJECTS.**

5 (a) IN GENERAL.,,Chapter 3 of title 23, United  
6 States Code is amended by adding at the end the fol-  
7 lowing:

8 **“§ 330. Construction equipment and vehicles**

9 ••(a) DEFINITIONS .,,In this section:

10 ••(1) CHANGE ORDER.,,The term •change  
11 order• means a written document that,,

12 ••(A) modifies any provision of a contract  
13 to carry out a covered highway construction  
14 project; and

15 ••(B) is issued by a State transportation  
16 department that is a party to that contract to  
17 implement a diesel emission control technology.

18 ••(2) COVERED EQUIPMENT.,,

19 ••(A) IN GENERAL.,,The term •covered  
20 construction equipment• means any off-road  
21 diesel equipment and any on-road diesel equip-  
22 ment that is operated on a covered highway  
23 construction project for not less than 80 hours  
24 over the life of the project.

25 ••(B) EXCLUSIONS.,,The term •covered  
26 construction equipment• does not include,,

- 1           ••(i) equipment with an engine that  
2           meets or exceeds any particulate matter  
3           emission standards for the applicable en-  
4           gine power group issued by the Environ-  
5           mental Protection Agency relating to par-  
6           ticulate matter exhaust for new diesel en-  
7           gines that are in effect on the date on  
8           which the highway construction project  
9           commences;
- 10          ••(ii) equipment with diesel exhaust  
11          control technology that was installed dur-  
12          ing the 6-year period ending on the date of  
13          award of the contract for the covered high-  
14          way construction project;
- 15          ••(iii) large cranes, such as Sky cranes  
16          or Link Belt cranes, that are responsible  
17          for critical lift operations, if the emission  
18          control technology would adversely affect  
19          lift capacity; and
- 20          ••(iv) additional or replacement equip-  
21          ment brought on the job site after work  
22          has commenced to prevent or remedy harm  
23          to human beings or to address an emer-  
24          gency.

1           ••(3) COVERED HIGHWAY CONSTRUCTION  
2 PROJECT.,,

3           ••(A) IN GENERAL.,,The term •covered  
4 highway construction project• means a Federal-  
5 aid highway construction project carried out  
6 under this title or any other Federal law.

7           ••(B) INCLUSIONS.,,The term •covered  
8 highway construction project• includes.,,

9           ••(i) projects funded, in whole or in  
10 part, by amounts from the Highway Trust  
11 Fund; and

12           ••(ii) projects funded, in whole or in  
13 part, by amounts from the general fund of  
14 the Treasury.

15           ••(C) EXCLUSIONS.,,Notwithstanding any  
16 other provision of this paragraph, the term •cov-  
17 ered highway construction project• does not in-  
18 clude a project.,

19           ••(i) with a total budgeted cost of  
20 \$5,000,000 or less; and

21           ••(ii) that an applicable State has

1           ••(4) DIESEL EMISSION CONTROL TECH-  
2           NOLOGY.,,

3           ••(A) IN GENERAL.,,Subject to subpara-  
4           graph (B), the term •diesel emission control  
5           technology• means a technology that,,

6           ••(i) is,,

7           ••(I) a diesel exhaust control tech-  
8           nology;

9           ••(II) a diesel engine upgrade;

10          ••(III) a diesel engine repower; or

11          ••(IV) an idle reduction control  
12          technology; and

13          ••(ii) reduces  $PM_{2.5}$  emissions from  
14          covered equipment by,,

15          ••(I) not less than 85 percent  
16          control of any emission of particulate  
17          matter; or

18          ••(II) the maximum achievable re-  
19          duction of any emission of particulate  
20          matter.

21          ••(B) CRITERIA .,,

22          ••(i) IN GENERAL.,,To be considered  
23          a •diesel emission control technology•, the  
24          technology described in subparagraph

1 (A)(i) shall meet the criteria described in  
2 clauses (ii) through (v), as applicable.

3 ••(ii) DIESEL EXHAUST CONTROL  
4 TECHNOLOGY.,,For a diesel exhaust con-  
5 trol technology, the technology shall be,,

6 ••(I) installed on a diesel engine  
7 or vehicle;

8 ••(II) included on a list of verified  
9 retrofit technologies maintained by  
10 the Environmental Protection Agency  
11 or the California Air Resources  
12 Board; and

13 ••(III) certified by the installer as  
14 having been installed in accordance  
15 with the specifications included on the  
16 list referred to in subclause (II) for  
17 achieving a reduction in 1 or more air  
18 quality criteria for air pollutants  
19 under section 109 of the Clean Air  
20 Act (42 U.S.C. 7409).

21 ••(iii) DIESEL ENGINE UPGRADE .,,  
22 For a diesel engine upgrade, the upgrade  
23 shall be performed on an engine that is,,

24 ••(I) rebuilt using new compo-  
25 nents that collectively appear as a sys-

1 tem, such as a kit, on a list of verified  
2 retrofit technologies maintained by  
3 the Environmental Protection Agency  
4 or the California Air Resources  
5 Board; and

6 ••(II) certified by the installer to  
7 have been installed in accordance with  
8 the specifications included on the list  
9 referred to in subclause (I) for achiev-  
10 ing a reduction in 1 or more air qual-  
11 ity criteria for air pollutants under  
12 section 109 of the Clean Air Act (42  
13 U.S.C. 7409).

14 ••(iv) DIESEL ENGINE REPOWER.,,

15 For a diesel engine repower, the repower  
16 shall be conducted using a new or remanu-  
17 factured diesel engine that,,

18 ••(I) is installed as a replacement  
19 for an engine used in the existing  
20 equipment, subject to the condition  
21 that the replaced engine is,,

22 ••(aa) used for scrap;

23 ••(bb) permanently disabled;

24 or

1                   ••(cc) returned to the origi-  
2                   nal manufacturer for remanufac-  
3                   ture; and

4                   ••(II) meets more stringent emis-  
5                   sions standards than the engine re-  
6                   placed.

7                   ••(v) IDLE REDUCTION CONTROL  
8                   TECHNOLOGY.,,For an idle reduction con-  
9                   trol technology, the technology shall be,,

10                  ••(I) installed on a diesel engine  
11                  or vehicle;

12                  ••(II) included on a list of verified  
13                  retrofit technologies maintained by  
14                  the Environmental Protection Agency  
15                  or the California Air Resources  
16                  Board; and

17                  ••(III) certified by the installer as  
18                  having been installed in accordance  
19                  with the specifications included on the  
20                  list referred to in subclause (II) for  
21                  achieving a reduction in 1 or more air  
22                  quality criteria for air pollutants  
23                  under section 109 of the Clean Air  
24                  Act (42 U.S.C. 7409).



1           ••(5) ELIGIBLE ENTITY „,The term •eligible en-  
2           tity• means an entity that has entered into a prime  
3           contract or agreement with a State to carry out a  
4           covered highway construction project.

5           ••(6) OFF-ROAD DIESEL EQUIPMENT „,

6           ••(A) IN GENERAL„,The term •off-road  
7           diesel equipment• means a vehicle, including  
8           covered equipment, that is,,

9                   ••(i) powered by a nonroad diesel en-  
10                  gine of not less than 50 horsepower; and

11                  ••(ii) not intended for highway use.

12           ••(B) INCLUSIONS„,The term •off-road  
13           diesel equipment• includes a backhoe, bulldozer,  
14           compressor, crane, excavator, generator, and  
15           similar equipment.

16           ••(C) EXCLUSIONS„,The term •off-road  
17           diesel equipment• does not include a locomotive  
18           or marine vessel.

19           ••(7) ON-ROAD DIESEL EQUIPMENT „,The term  
20           •on-road diesel equipment• means any self-propelled  
21           vehicle that,,

22                  ••(A) operates on diesel fuel;

23                  ••(B) is designed to transport persons or  
24           property on a street or highway; and

1           ••(C) has a gross vehicle weight rating of at  
2           least 14,000 pounds.

3           ••(8)  $PM_{2.5}$  NONATTAINMENT OR MAINTENANCE  
4           AREA.,,The term • $PM_{2.5}$  nonattainment or mainte-  
5           nance area• means a nonattainment or maintenance  
6           area designated under section 107(d)(6) of the  
7           Clean Air Act (42 U.S.C. 7407(d)(6)).

8           ••(b) HIGHWAY CONSTRUCTION PROJECTS FOR  $PM_{2.5}$   
9           NONATTAINMENT AND MAINTENANCE AREAS.,,Subject  
10          to subsection (c)(2), all covered equipment used on a cov-  
11          ered highway construction project within a ~~PM~~ non-  
12          attainment or maintenance area shall have installed and  
13          employ diesel emission control technology.

14          ••(c) FUNDING FOR COSTS OF ACQUIRING AND IN-  
15          STALLING EMISSION CONTROL TECHNOLOGY.,,

16                 ••(1) IN GENERAL.,,The Secretary shall ap-  
17                 prove as part of the Federal share of the cost of a  
18                 covered highway construction project an amount  
19                 equal to the amount required to be expended under  
20                 paragraph (2) for the purpose of acquiring and in-  
21                 stalling diesel emission control technology.

22                 ••(2) REQUIRED EXPENDITURE ,,A State shall  
23                 be in compliance with subsection (b) with respect to  
24                 a covered highway construction project, if, in order

1 to comply with subsection (b), the State expends an  
2 amount that is equal to the lesser of,,

3 ••(A) 1 percent of the cost of the project;

4 or

5 ••(B) the amount necessary to install diesel  
6 emission control technology on all covered  
7 equipment used on the project.

8 ••(3) USE OF CERTAIN AMOUNTS.,,

9 ••(A) IN GENERAL.,,Notwithstanding any  
10 other provision of law, a State may obligate  
11 funds apportioned to that State under section  
12 104(b)(2) to meet the requirements of sub-  
13 section (b).

14 ••(B) FEDERAL SHARE.,,The Federal  
15 share of the cost of an activity carried out to  
16 meet the requirements of subsection (b) shall be  
17 100 percent if the activity is carried out using  
18 funds apportioned under section 104(b)(2).

19 ••(C) STREAMLINED PROCESS.,,A State  
20 may obligate funds under subparagraph (A)  
21 without regard to any process or other require-  
22 ment established under section 149.

23 ••(d) IMPLEMENTATION ,,,

24 ••(1) PLAN FOR ELIGIBLE ENTITIES ,,,As soon  
25 as practicable after the date on which a State

1 awards a construction contract for a covered high-  
2 way construction project to an eligible entity, the eli-  
3 gible entity shall submit to the State a written plan  
4 that includes,,

5 ••(A) an estimate of the quantity of equip-  
6 ment that the eligible entity intends to operate  
7 onsite;

8 ••(B) any relevant information on each  
9 piece of equipment the eligible entity intends to  
10 operate onsite, including,,

11 ••(i) the vehicle serial number, identi-  
12 fier, type, manufacturer, model, and model  
13 year; and

14 ••(ii) the engine serial number, manu-  
15 facturer, model, engine family, model year,  
16 horsepower, and displacement;

17 ••(C) an estimate of the number of hours  
18 that the eligible entity expects to operate each  
19 piece of equipment onsite;

20 ••(D) the options for modifying any covered  
21 equipment to employ diesel emission control  
22 technology, including,,

23 ••(i) an itemized estimate of the rea-  
24 sonable expected cost of modifying each

1 piece of covered equipment to reduce the  
2 emissions of that equipment;

3 ••(ii) a reasonable estimate of the  
4 emission reduction that would directly re-  
5 sult from each modification;

6 ••(iii) a reasonable estimate of the  
7 time required to perform each modifica-  
8 tion; and

9 ••(iv) a reasonable estimate of the im-  
10 pact that each modification would have on  
11 the schedule of the covered highway con-  
12 struction project; and

13 ••(E) at the discretion of the eligible entity,  
14 the options for modifying equipment that is not  
15 covered equipment to employ diesel emission  
16 control technology, including the estimates re-  
17 quired under clauses (i), (ii), (iii), and (iv) of  
18 subparagraph (D).

19 ••(2) SUPPLEMENTAL PLAN FOR SUBCONTRAC-  
20 TORS.,,If the total estimated cost of the modifica-  
21 tions described in paragraph (1)(D) that is sub-  
22 mitted by an eligible entity to a State in accordance  
23 with paragraph (1) is less than the amount required  
24 to be expended by the eligible entity under sub-  
25 section (c)(2)(A), the eligible entity shall submit to

1 the State a supplemental written plan that includes,  
2 with respect to the equipment that a subcontractor  
3 of the eligible entity intends to operate onsite, the  
4 information required to be submitted under para-  
5 graph (1).

6 ••(3) BIDDING REQUIREMENTS.„By change  
7 order and in accordance with the requirements and  
8 procedures of this subsection, a State shall require  
9 the successful bidder of a covered highway construc-  
10 tion project to install and use diesel emission control  
11 technology on the pieces of covered equipment se-  
12 lected by the State as having the greatest potential  
13 of meeting the requirements of subsection (b).

14 ••(4) STRUCTURE OF CHANGE ORDER.„A State  
15 may structure a change order as the State deter-  
16 mines to be necessary, if the State determines that  
17 the change order does not,

18 ••(A) materially delay the commencement  
19 of construction of the covered highway con-  
20 struction project;

21 ••(B) materially increase the time required  
22 to carry out the covered highway construction  
23 project;

24 ••(C) cause any material interruption of the  
25 covered highway construction project;

1           ••(D) increase any risk to the safety or  
2 health of any construction worker of the cov-  
3 ered highway construction project; or

4           ••(E) result in the successful bidder for the  
5 covered highway construction project recovering  
6 less than 100 percent of the cost of imple-  
7 menting each diesel emission control technology.

8       ••(e) SAVINGS CLAUSE.,,Nothing in this section  
9 modifies or otherwise affects any authority or restrictions  
10 established under the Clean Air Act (42 U.S.C. 7401 et  
11 seq.).••.

12       (b) APPLICABILITY .,,Section 330 of title 23, United  
13 States Code, as added by this section, shall apply to each  
14 highway construction project that is initiated, as deter-  
15 mined by the Secretary, after the date that is 30 days  
16 after the date of enactment of this Act.

17       (c) TECHNICAL AMENDMENT .,,The analysis for  
18 chapter 3 of title 23, United States Code is amended by  
19 adding at the end the following:

••Sec. 330. Construction equipment and vehicles.~••.

20 **SEC. 3. PUBLIC TRANSPORTATION CONSTRUCTION**  
21 **PROJECTS.**

22       (a) IN GENERAL.,,Chapter 53 of title 49, United  
23 States Code, is amended by adding at the end the fol-  
24 lowing:

1 **“§ 5341. Construction equipment and vehicles**

2 ••(a) DEFINITIONS .„In this section:

3 ••(1) CHANGE ORDER.„The term •change  
4 order• means a written document that,,

5 ••(A) modifies any provision of a contract  
6 to carry out a covered public transportation  
7 construction project; and

8 ••(B) is issued by a recipient that is a  
9 party to that contract to implement a diesel  
10 emission control technology.

11 ••(2) COVERED EQUIPMENT.„

12 ••(A) IN GENERAL.„The term •covered  
13 construction equipment• means any off-road  
14 diesel equipment and any on-road diesel equip-  
15 ment that is operated on a covered public trans-  
16 portation construction project for not less than  
17 80 hours over the life of the project.

18 ••(B) EXCLUSIONS.„The term •covered  
19 construction equipment• does not include,,

20 ••(i) equipment with an engine that  
21 meets or exceeds any particulate matter  
22 emission standards for the applicable en-  
23 gine power group issued by the Environ-  
24 mental Protection Agency relating to par-  
25 ticulate matter exhaust for new diesel en-  
26 gines that are in effect on the date on





1           ••(B) INCLUSIONS.,,The term •covered  
2 public transportation construction project• in-  
3 cludes,,

4           ••(i) projects funded, in whole or in  
5 part, by amounts from the Mass Transit  
6 Account of the Highway Trust Fund; and

7           ••(ii) projects funded, in whole or in  
8 part, by amounts from the general fund of  
9 the Treasury.

10          ••(C) EXCLUSIONS.,,Notwithstanding any  
11 other provision of this paragraph, the term •cov-  
12 ered public transportation construction project•  
13 does not include a project,,

14          ••(i) with a total budgeted cost of  
15 \$5,000,000 or less; and

16          ••(ii) that an applicable recipient has  
17 elected to exclude from treatment as a cov-  
18 ered public transportation construction  
19 project for purposes of this paragraph.

••(4) D

- 1                   ••(I) a diesel exhaust control tech-  
2                   nology;  
3                   ••(II) a diesel engine upgrade;  
4                   ••(III) a diesel engine repower; or  
5                   ••(IV) an idle reduction control  
6                   technology; and  
7                   ••(ii) reduces  $PM_{2.5}$  emissions from  
8                   covered equipment by,,  
9                   ••(I) not less than 85 percent  
10                  control of any emission of particulate  
11                  matter; or  
12                  ••(II) the maximum achievable re-  
13                  duction of any emission of particulate  
14                  matter.  
15                  ••(B) CRITERIA .,,  
16                  ••(i) IN GENERAL,,To be considered  
17                  a •diesel emission control technology•, the  
18                  technology described in subparagraph  
19                  (A)(i) shall meet the criteria described in  
20                  clauses (ii) through (v), as applicable.  
21                  ••(ii) DIESEL EXHAUST CONTROL  
22                  TECHNOLOGY,,For a diesel exhaust con-  
23                  trol technology, the technology shall be,,  
24                  ••(I) installed on a diesel engine  
25                  or vehicle;

- 1                   ••(II) included on a list of verified
- 2 retrofit technologies maintained by
- 3 the Environmental Protection Agency
- 4 or the California Air Resources
- 5 Board; and
- 6                   ••(III) certified by the installer as
- 7 having been installed in accordance
- 8 with the specifications included on the
- 9 list referred to in subclause (II) for
- 10 achieving a reduction in 1 or more air
- 11 quality criteria for air pollutants
- 12 under section 109 of the Clean Air
- 13 Act (42 U.S.C. 7409).
- 14                  ••(iii) DIESEL ENGINE UPGRADE „,
- 15 For a diesel engine upgrade, the upgrade
- 16 shall be performed on an engine that is,,
- 17                  ••(I) rebuilt using new compo-
- 18 nents that collectively appear as a sys-
- 19 tem, such as a kit, on a list of verified
- 20 retrofit technologies maintained by
- 21 the Environmental Protection Agency
- 22 or the California Air Resources
- 23 Board; and
- 24                  ••(II) certified by the installer to
- 25 have been installed in accordance with

1 the specifications included on the list  
2 referred to in subclause (I) for achiev-  
3 ing a reduction in 1 or more air qual-  
4 ity criteria for air pollutants under  
5 section 109 of the Clean Air Act (42  
6 U.S.C. 7409).

7 ••(iv) DIESEL ENGINE REPOWER.,,

8 For a diesel engine repower, the repower  
9 shall be conducted using a new or remanu-  
10 factured diesel engine that,,

11 ••(I) is installed as a replacement  
12 for an engine used in the existing  
13 equipment, subject to the condition  
14 that the replaced engine is,,

15 ••(aa) used for scrap;

16 ••(bb) permanently disabled;

17 or

18 ••(cc) returned to the origi-  
19 nal manufacturer for remanufac-  
20 ture; and

21 ••(II) meets more stringent emis-  
22 sions standards than the engine re-  
23 placed.

- 1                   ••(v) IDLE REDUCTION CONTROL  
2 TECHNOLOGY.,,For an idle reduction con-  
3 trol technology, the technology shall be,,  
4                   ••(I) installed on a diesel engine  
5 or vehicle;  
6                   ••(II) included on a list of verified  
7 retrofit technologies maintained by  
8 the Environmental Protection Agency  
9 or the California Air Resources  
10 Board; and  
11                   ••(III) certified by the installer as  
12 having been installed in accordance  
13 with the specifications included on the  
14 list referred to in subclause (II) for  
15 achieving a reduction in 1 or more air  
16 quality criteria for air pollutants  
17 under section 109 of the Clean Air  
18 Act (42 U.S.C. 7409).
- 19           ••(5) ELIGIBLE ENTITY ,,The term •eligible en-  
20 tity• means an entity that has entered into a prime  
21 contract or agreement with a recipient to carry out  
22 a covered public transportation construction project.
- 23           ••(6) OFF-ROAD DIESEL EQUIPMENT ,,

- 1           ••(A) IN GENERAL.,,The term •off-road  
2 diesel equipment• means a vehicle, including  
3 covered equipment, that is,,  
4           ••(i) powered by a nonroad diesel en-  
5 gine of not less than 50 horsepower; and  
6           ••(ii) not intended for highway use.
- 7           ••(B) INCLUSIONS.,,The term •off-road  
8 diesel equipment• includes a backhoe, bulldozer,  
9 compressor, crane, excavator, generator, and  
10 similar equipment.
- 11          ••(C) EXCLUSIONS.,,The term •off-road  
12 diesel equipment• does not include a locomotive  
13 or marine vessel.
- 14          ••(7) ON-ROAD DIESEL EQUIPMENT .,,The term  
15 •on-road diesel equipment• means any self-propelled  
16 vehicle that,,  
17          ••(A) operates on diesel fuel;  
18          ••(B) is designed to transport persons or  
19 property on a street or highway; and  
20          ••(C) has a gross vehicle weight rating of at  
21 least 14,000 pounds.
- 22          ••(8) PM<sub>2.5</sub> NONATTAINMENT OR MAINTENANCE  
23 AREA.,,The term •PM<sub>2.5</sub> nonattainment or mainte-  
24 nance area• means a nonattainment or maintenance

1 area designated under section 107(d)(6) of the  
2 Clean Air Act (42 U.S.C. 7407(d)(6)).

3 ••(9) RECIPIENT .,,The term •recipient• means  
4 an entity that receives Federal funding to carry out  
5 a covered public transportation construction project.

6 ••(b) PUBLIC TRANSPORTATION CONSTRUCTION  
7 PROJECTS FOR PM<sub>2.5</sub> NONATTAINMENT AND MAINTENANCE  
8 AREAS.,,Subject to subsection (c)(2), all covered  
9 equipment used on a covered public transportation con-  
10 struction project within a PM<sub>2.5</sub> nonattainment or mainte-  
11 nance area shall have installed and employ diesel emission  
12 control technology.

13 ••(c) FUNDING FOR COSTS OF ACQUIRING AND IN-  
14 STALLING EMISSION CONTROL TECHNOLOGY.,,

15 ••(1) IN GENERAL.,,The Secretary shall ap-  
16 prove as part of the Federal share of the cost of a  
17 covered public transportation construction project an  
18 amount equal to the amount required to be expended  
19 under paragraph (2) for the purpose of acquiring  
and installing diesel emission control technology.



1 recipient expends an amount that is equal to the  
2 lesser of,

3 ••(A) 1 percent of the cost of the project;

4 or

5 ••(B) the amount necessary to install emis-  
6 sion control technology on all covered equip-  
7 ment used on the project.

8 ••(3) USE OF CERTAIN AMOUNTS.,,

9 ••(A) IN GENERAL.,,Notwithstanding any  
10 other provision of law, a State may obligate  
11 funds apportioned to that State under section  
12 104(b)(2) of title 23 to meet the requirements  
13 of subsection (b).

14 ••(B) FEDERAL SHARE.,,The Federal  
15 share of the cost of an activity to meet the re-  
16 quirements of subsection (b) shall be 100 per-  
17 cent if the activity is carried out using funds  
18 apportioned under section 104(b)(2) of title 23.

19 ••(C) STREAMLINED PROCESS.,,A State  
20 may obligate funds under subparagraph (A)  
21 without regard to any process or other require-  
22 ment established under section 149 of title 23.

23 ••(d) IMPLEMENTATION ,,,

24 ••(1) PLAN FOR ELIGIBLE ENTITIES ,,,As soon  
25 as practicable after the date on which a recipient

1 awards a construction contract for a covered public  
2 transportation construction project to an eligible en-  
3 tity, the eligible entity shall submit to the recipient  
4 a written plan that includes,,

5 ••(A) an estimate of the quantity of equip-  
6 ment that the eligible entity intends to operate  
7 onsite;

8 ••(B) any relevant information on each  
9 piece of equipment the eligible entity intends to  
10 operate onsite, including,,

11 ••(i) the vehicle serial number, identi-  
12 fier, type, manufacturer, model, and model  
13 year; and

14 ••(ii) the engine serial number, manu-  
15 facturer, model, engine family, model year,  
16 horsepower, and displacement;

17 ••(C) an estimate of the number of hours  
18 that the eligible entity expects to operate each  
19 piece of equipment onsite;

20 ••(D) the options for modifying any covered  
21 equipment to employ diesel emission control  
22 technology, including,,

23 ••(i) an itemized estimate of the rea-  
24 sonable expected cost of modifying each

- 1 piece of covered equipment to reduce the
- 2 emissions of that equipment;

1 to the recipient a supplemental written plan that in-  
2 cludes, with respect to the equipment that a subcon-  
3 tractor of the eligible entity intends to operate on-  
4 site, the information required to be submitted under  
5 paragraph (1).

6 ••(3) BIDDER REQUIREMENTS.,,By change  
7 order and in accordance with the requirements and  
8 procedures of this subsection, a recipient shall re-  
9 quire the successful bidder of a covered public trans-  
10 portation construction project to install and employ  
11 diesel emission control technology on the pieces of  
12 covered equipment selected by the recipient as hav-  
13 ing the greatest potential of meeting the require-  
14 ments of subsection (b).

15 ••(4) STRUCTURE OF CHANGE ORDER.,,A re-  
16 cipient may structure a change order as the recipi-  
17 ent determines to be necessary, if the recipient de-  
18 termines that the change order does not,,

19 ••(A) materially delay the commencement  
20 of construction of the covered public transpor-  
21 tation construction project;

22 ••(B) materially increase the time required  
23 to carry out the covered public transportation  
24 construction project;

1           ••(C) cause any material interruption of the  
2 covered public transportation construction  
3 project;

4           ••(D) increase any risk to the safety or  
5 health of any construction worker of the cov-  
6 ered public transportation construction project;  
7 or

8           ••(E) result in the successful bidder for the  
9 covered public transportation construction  
10 project recovering less than 100 percent of the  
11 cost of implementing each diesel emission con-  
12 trol technology.

13       ••(e) SAVINGS CLAUSE.,,Nothing in this section shall  
14 be construed to modify or otherwise affect any authority  
15 or restriction established under the Clean Air Act (42  
16 U.S.C. 7401 et seq.).••.

17       (b) APPLICABILITY ,,Section 5341(b) of title 49,  
18 United States Code, as added by this section, shall apply  
19 to each public transportation construction project that is  
20 initiated, as determined by the Secretary of Transpor-  
21 tation, after the date that is 30 days after the date of  
22 enactment of this Act.

23       (c) CLERICAL AMENDMENT ,,The analysis for chap-  
24 ter 53 of title 49, United States Code, is amended by add-  
25 ing at the end the following:

••5341. Construction equipment and vehicles.••.

**1 SEC. 4. REPORT TO CONGRESS.**

1           (1) quantify the emissions reductions achieved  
2           under this Act, including the amendments made by  
3           this Act;

4           (2) include such emissions reductions in State  
5           implementation plans required under section 110 of  
6           the Clean Air Act (42 U.S.C. 7410) to help dem-  
7           onstrate progress toward, attainment of, or mainte-  
8           nance of national ambient air quality standards; and

9           (3) include such emission reductions in con-  
10          formity determinations required under section 176  
11          of the Clean Air Act (42 U.S.C. 7506).