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Improving and Reforming the Nation's Surface Transportation Programs
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Good Morning.

My name is Conrad Schneider and I am the Advocacy Director for the Clean Air Task Force.

We thank Chairmen Mica and Duncan and Ranking Members Rahall and DeFazio for the opportunity to submit testimony for this transportation hearing.

The Clean Air Task Force (CATF) is a nonprofit organization, founded in 1996, dedicated to restoring clean air and healthy environments through scientific research and public education. Our organization is made up of 20 senior scientists, lawyers, MBAs, economists, and public outreach professionals, CATF is headquartered in Boston but our staff and consultants are located throughout the United States.

CATF believes that states are important laboratories for clean air policy, and accordingly devotes much of its effort to advocating model state policies, in addition to participating actively in national administrative rulemakings and judicial proceedings relating to clean air.

Today we would like to stress the importance of Clean Construction and the impact this policy initiative could have on the next transportation reauthorization bill. Clean Construction provides a unique opportunity to integrate and streamline clean air measures into the project delivery process while providing support for contractors to clean up dirty equipment and protect public health.

What is Clean Construction?

To put it simply, Clean Construction involves our effort to reduce the amount of harmful particulate matter emissions emitted by older diesel on and off road construction vehicles.

As a policy roadmap for the record, I have included a copy of the Clean Air Task Force (CATF) and the Associated General Contractors (AGC) Clean Construction Principles.

These Principles describe a process for retrofitting construction vehicles used on a federally funded transportation projects located in PM2.5 designated non-attainment and maintenance areas. These vehicles can be upgraded and/or retrofitted cost effectively with best available emission control technologies that can reduce harmful emissions of PM 2.5 by up to 85 percent.

The technologies that can be used under these Principles include diesel exhaust controls, engine upgrades, engine repairs, and idle reduction equipment, all of which must be verified by EPA or the California Air Resources Board to ensure their effectiveness. The funding to purchase and install the emission control technology would come directly from the project costs, through a project change order.

Why We Need Clean Construction

Pollution from diesel construction equipment continues to poses a serious threat to communities and project workers alike. Diesel pollution is associated with numerous adverse health effects including lung cancer, asthma attacks, heart attacks, stroke, and premature death.

According to the U.S. Environmental Protection Agency and stakeholders participating in the Clean Air Act Advisory Committee, over 37 percent of land-based particulate matter comes from construction equipment. Nationwide, there are over 2 million pieces of construction equipment and most lack modern particulate pollution controls. Pollution from diesel equipment has the potential to affect citizens in all parts of the country. Over 88 million Americans live in counties that violate federal health standards for particulate pollution.

Additionally, heavy construction equipment operators face an increased risk of lung disease from their exposure to diesel exhaust. Estimates show that for every dollar spent on reducing particulate matter pollution from diesel engines, $12 would be saved in health damages.

The pieces of equipment that would utilize emission control technology under this requirement are durable, often lasting up to fifty years. While this equipment provides value to owners and communities alike, technology is available to make these them cleaner and the communities in which they operate healthier.

Technology is Available

Over the past decade, air quality officials have expressed increasing concern over the health effects of diesel emissions. While diesel engines provide many advantages, they also have the disadvantage of emitting significant amounts of particulate matter (PM) and nitrogen oxides (NOx) along with hydrocarbons (HC), carbon monoxide (CO), and toxic air pollutants.

Fortunately, affordable emission control technology is available to help address the air quality challenges posed by heavy equipment. This technology is feasible to install and accessible throughout the country. These technologies include: Diesel Particulate Filters (DPF), which are certified to reduce PM by 85 percent.

The U.S. EPA estimates that retrofitting 10,000 engines with DPFs would eliminate roughly 15,000 tons of harmful pollution each year. Achieving emissions reductions from in-use diesels is needed because older engines pollute at much higher rates than newer ones and remain on the road for decades. The U.S. EPA believes that in-use diesel emission control programs need to be available now so that areas can use them to meet their immediate nonattainment goals, as well as address ongoing public complaints and pollution concerns.

Included, for the record, we have provided an overview of these technologies that highlights each of the technologies characteristics and experience in the field.

State and Local Clean Construction Initiatives

Modern pollution control equipment is being used across the country to build clean transportation projects to ensure that no harm is done to the air quality in communities. Clean Construction has been employed in several regions and localities across the country. Clean Construction was employed on the Big Dig project in Boston as far back as the 1990's, but most notably was used in the reconstruction of lower Manhattan after 9/11.

After the success of the lower Manhattan project, the rest of the boroughs of New York wanted Clean Construction and the New York City Council passed Local Law 77, which requires it on all projects in the City. Soon thereafter, the New York Legislature passed the New York Diesel Emissions Reduction Act (NY DERA), which required clean diesel on all state projects and those performed by private contractors working for the state.

Meanwhile, in Illinois, Cook County, the county comprising the City of Chicago, adopted an ordinance requiring Clean Construction. The Governor of Illinois followed suit with an Executive Order requiring Clean Construction on all state-funded projects. Now, Mayor Daley has introduced a Clean Construction ordinance to the Chicago City Council.

Last year, Rhode Island, following action by the City of Providence, passed legislation with the support of the contractors requiring Clean Construction. This week, Governor Christie of New Jersey is expected to sign an Executive Order requiring Clean Construction and the City Council of Pittsburgh is holding a hearing next month to consider a Clean Construction ordinance.

History of Diesel Retrofits in the Transportation Reauthorization Bill

During the Reauthorization of SAFETEA-LU, a significant effort was made to include Diesel Retrofits as a priority in the CMAQ program. While securing the CMAQ priority language was successful, but the implementation of this policy was less so.

Without clear guidance, states were reluctant to utilize the diesel retrofit language. Contractors who were in most need of the funding for retrofits found the process of going through CMAQ cumbersome. In short, the CMAQ priority language did not accomplish what it had set out to do:

provide a resource for contractors and states to utilize emission control technology in the areas with the most impacted air quality.

A New Approach

We recommend that Clean Construction Principles be included in the re-authorization bill. We envision a policy that would make funding available for emission control technology and require its use in PM2.5 designated non-attainment and maintenance areas. The requirement would be administered as eligible project expense through a "change order" to the awarded contract, a process that both State DOT's and contractors are familiar with and utilize. The goal is a streamlined process that integrates clean air benefits into the delivery of the project. I would not create a set aside or new program.

The PM reductions could be used, at the discretion of the states towards State Implementation Plans (SIPs), conformity determinations, and/or new source offsets.

Another important feature is that the bidding process of awarding transportation construction contracts be blind to the presence or absence of emissions controls in the bidding firms' fleets of equipment. This would achieve the dual purposes of ensuring that the policy will not create a "favored class" of bidders that have an advantage in winning all federal contracts because they already have emissions controls, while disseminating the benefits of emission control technology to more construction firms and equipment.

Mindful of current concerns about constraining growth in transportation spending, we recommend that the total cost of emission control technology on a project be capped at 1 percent of total project cost. We have commissioned case studies on ten actual and hypothetical projects. The results of these case studies demonstrate, using conservative assumptions, that devoting 1 percent of total project cost will cover the cost of Clean Construction on most transportation projects.

CATF thanks you for the opportunity to submit testimony. We look forward to working with the Committee on our Nation's next Surface Transportation Reauthorization Bill.