



# Monthly Newsletter

March 2021

## New Projects(apparent low bidder):

Auburn State St Plaza - City of Auburn - \$1.3 million

City Garages 2021 - City of Rochester - \$1.2 million

Perry WWTP - Village of Perry - \$7.9 million

Since the start of the Pandemic in December 2020, the US DOL's OSHA has issued citation arising from 300 inspection for violations relating to COVID-19 resulting in \$3,930,381. The COVID-19 pandemic is still a threat and precautions must still be implemented as they were in 2020.

OSHA penalties have slightly increased: Serious and Other-than-serious are upwards of \$13,653 and Repeat/Willful Violations are up to \$136,532.

NYS Diesel Emissions Reduction Act - NYS-Owned projects are now required to Inventory Diesel Equipment subject to the regulation and track estimated annual fuel usage on each individual project. Please see the attachments below and in the email of this newsletter.

## Regulatory Updates

### Focus for Upcoming Toolbox Talks:

*COVID-19 Refresher (CH Policies and Procedures)*

*Reacclimating to Work Post-Layoff*

*Operating Company Vehicles*

*Excavations and DigSafe-NY*

## NEW CLAIMS & LESSONS LEARNED

No new claims to report for Crane-Hogan.


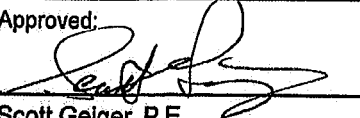
### 2021 Goals and Focus:

**Motor Vehicle Accidents** – Crane-Hogan has had multiple MVAs in the last few years that has cost thousands of dollars in direct costs and far more in indirect costs.

Crane-Hogan requires police reports for MVAs and sometime it takes hours for police to show up so we are paying a superintendent or Journeyman to sit and wait with CH's vehicle to file a report. This is a major loss of time, money, and resources that will be a major focus of 2021, especially at projects in or adjacent to active roadways.

**Crane-Hogan to take part in OSHA's 2021 "Safety Stand Downs" – Fall Prevention May 3-7 2021**

**Excavations/Dig Safe** – In the last few years, Crane-Hogan has struck 2 gas lines during excavation activities with subsequent fines. If you request a new operator from the Union Hall who will be involved with excavations, you MUST REQUEST an operator that is DigSafe Certified The Operators Union no longer trains all operators in the DigSafe Certified Excavator Program.

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p>	<p><b>Department of Transportation</b></p>	<p><b>ENGINEERING INSTRUCTION</b></p>	<p><b>EI</b> <b>20-004</b></p>
<p>Title: <b>DIESEL EMISSIONS REDUCTION ACT (DERA) REGULATORY COMPLIANCE</b></p>			
		<p>Approved:            Scott Geiger, P.E.          Director, Office of Construction</p>	<p><i>2-6-20</i> Date</p>

**ADMINISTRATIVE INFORMATION:**

- This Engineering Instruction (EI) is effective upon signature.
- This EI does not supersede any other issuance.

**PURPOSE:**

To announce the most recent implementation of the Diesel Emissions Reduction Act (DERA) regulations and to provide reporting procedures for NYSDOT prime Contractors to comply with those regulations.

**TECHNICAL INFORMATION:**

- Conservation Law (ECL) 19-0323 and New York State Department of Environmental Conservation (NYSDEC) regulation 6NYCRR Part 248 – Use of Ultra Low Sulfur Diesel Fuel (ULSD) and Best Available Retrofit Technology (BART) for Heavy Duty Vehicles requires prime Contractors working on State awarded contracts to maintain regulated vehicle and diesel fuel usage inventories in association with these contracts. In addition, Regulated Entities who administer those contracts are required to provide reports to NYSDEC every November 1<sup>st</sup> that summarizes inventories and fuel usages on an annual basis.
- DERA is a requirement of ECL and NYSDEC is responsible for regulatory enforcement. NYSDOT, a Regulated Entity, is responsible for annual regulatory reporting.
- An electronic copy of 6NYCRR Part 248 can be accessed at [https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I230dcde07ada11de8a7a9d9968c78f9e&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I230dcde07ada11de8a7a9d9968c78f9e&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))
- Electronic copies of the *Regulated Entity Vehicle Inventory Form* and the *Regulated Entity and Contractors Annual Report Form* can be accessed under *Part 248 Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology for Heavy Duty Vehicles* at the following link: [www.dec.ny.gov/chemical/4754.html](http://www.dec.ny.gov/chemical/4754.html).
- NYSDOT Prime Contractor determinations of regulatory applicability shall be based on the definition of Heavy Duty Vehicle (HDV) including on and off road diesel vehicles having gross vehicle weights in excess of 8,500 pounds, excluding vehicles that are exempt as defined in paragraph 248-1.1(b)(14) of 6NYCRR Part 248.
- NYSDOT Prime Contractors shall submit the following numbered information to NYSDOT by October 1<sup>st</sup> on an annual basis for the previous calendar year, starting with October 1, 2020:
  1. Contact information including firm name, contact person, phone number and e-mail
  2. Total quantity of ULSD fuel used by covered vehicles on NYSDOT contracts between January 1<sup>st</sup> and December 31<sup>st</sup> on an annual basis.

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3. Required Fleet information for covered vehicles on NYSDOT contracts between January 1<sup>st</sup> and December 31<sup>st</sup> on an annual basis.

### **IMPLEMENTATION:**

- NYSDOT Main Office Design Quality Assurance Bureau will insert the attached special note into contract proposals for projects submitted for the letting on or after May 1, 2020.
- All NYSDOT prime Contractors shall make determinations of regulatory applicability for vehicles in inventory that were used on NYSDOT contracts on an annual basis. For inventoried vehicles used on NYSDOT contracts, the amount of ULSD fuel shall also be quantified.
- Electronic mail submissions to [mo-construction@dot.ny.gov](mailto:mo-construction@dot.ny.gov).

### **TRANSMITTED MATERIALS:**

The attached special note applies to DERA reporting requirements for all NYSDOT future year contract work.

### **BACKGROUND:**

The effective date of the law was initially February 12, 2007. The compliance date for this law has been changed several times by the legislature and most recently in 2018. The 2018 revision establishes that heavy duty diesel vehicles owned or operated by or on behalf of the state must meet the requirements of the law by December 31, 2019.

### **CONTACT:**

Direct questions regarding this issuance to Jonathan Bass of the Office of Construction at (518) 485-5315 or via e-mail at [jonathan.bass@dot.ny.gov](mailto:jonathan.bass@dot.ny.gov).

## SPECIAL NOTE

### Diesel Emission Reduction Act (DERA) Regulatory Compliance

All NYSDOT prime Contractors are made aware that Environmental Conservation Law (ECL) 19-0323 and New York State Department of Environmental Conservation (NYSDEC) regulation 6 NYCRR Part 248 *Use of Ultra Low Sulfur Diesel (ULSD) Fuel and Best Available Retrofit Technology (BART) for Heavy Duty Vehicles* requires 100% compliance by December 31, 2019 for regulated heavy duty diesel vehicles working on all State awarded contracts. DERA is a requirement of ECL, not a contractual requirement of NYSDOT. NYSDOT is responsible for regulatory enforcement. NYSDOT is responsible for annual Regulatory Entity reporting.

All NYSDOT prime Contractors shall make determinations of regulatory applicability for vehicles in inventory used on active Department contracts beginning January 1<sup>st</sup> of every year. These determinations shall be based on the definition of Heavy Duty Vehicle (HDV) including on and off road diesel vehicles having gross vehicle weights in excess of 8,500 pounds, excluding vehicles that are exempt as defined in 6 NYCRR 248-1.1(b)(14). Prime Contractors shall also quantify ULSD fuel used by regulated vehicles beginning with active contract work January 1<sup>st</sup> of every year.

An electronic copy of 6NYCRR Part 248 can be accessed at:

[https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I230dcde07ada11de8a7a9d9968c78f9e&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I230dcde07ada11de8a7a9d9968c78f9e&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

Electronic copies of the Regulated Entity Vehicle Inventory Form and the Regulated Entity and Contractors Annual Report Form can be accessed under Part 248 Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology for Heavy Duty Vehicles at the following link:  
[www.dec.ny.gov/chemical/4754.html](http://www.dec.ny.gov/chemical/4754.html)

DERA annual reporting by NYSDOT prime Contractors shall be submitted to NYSDOT by October 1<sup>st</sup> of every year for the previous calendar year, starting with October 1, 2020. The following numbered information shall be submitted:

1. Inclusion of "DERA" and calendar year being reported in subject line of email
2. Contact information including firm name, contact person, phone number and e-mail
3. Estimated annual total quantity of ULSD fuel used by covered vehicles on NYSDOT contracts
4. Required Fleet information for covered vehicles on NYSDOT contracts

Electronic mail submissions to [mo-construction@dot.ny.gov](mailto:mo-construction@dot.ny.gov).