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DIESEL EMISSIONS REDUCTION ACT OF 2017

SEPTEMBER 13, 2017.—Ordered to be printed

Mr. BARRASSO, from the Committee on Environment and Public Works, submitted the following

R E P O R T

[To accompany S. 1447]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1447) to reauthorize the diesel emissions reduction program, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

GENERAL STATEMENT AND BACKGROUND

Established pursuant to the Energy Policy Act of 2005, the Diesel Emissions Reduction Act (DERA) is a voluntary program that incentivizes vehicle, engine and equipment owners to retrofit existing heavy-duty diesel vehicles, engines and equipment with new technology, or replace vehicles, engines and equipment through the disbursal of federal and state grants and rebates. Diesel engines are reliable and efficient, but older ones emit significant amounts of exhaust including particulate matter (PM) and nitrogen oxides (NO_X), which can harm human health. Initially a grant program, the Environmental Protection Agency (EPA) started awarding the first DERA grants in 2008 with the purpose of reducing diesel exhaust from older engines. In January 2011, DERA was reauthorized through fiscal year (FY) 2016 and the EPA was given the authority to offer rebates in addition to grants pursuant to the Diesel Emissions Reduction Act of 2010. EPA started the first rebate program in 2012 targeting school bus replacement.

The DERA program is administered by EPA's National Clean Diesel Campaign within the Office of Transportation and Air Quality. According to the agency's latest report to Congress,[1] the DERA program is considered one of the most cost-effective federal clean air programs. EPA reports that from FY2008 through FY2013, DERA upgraded almost 73,000 vehicles or pieces of equipment. Over the same time, the lifetime emission reductions attributable to DERA funding totaled 14,700 tons of PM and 335,200 tons of NO_X.

Part of the program's success is its focus on areas that need it most. DERA grants have increasingly been awarded to areas that are in nonattainment for PM or ozone, thereby maximizing benefits and overall effectiveness. EPA's latest report reveals that 81 percent of projects awarded are located in areas with air quality challenges. Prioritization of goods movement projects have proven especially beneficial for communities located next to ports, rail yards and distribution centers that are disproportionately impacted by higher levels of diesel exhaust.

The DERA program benefits are far-reaching and cost-effective. DERA grant recipients can tailor projects to the needs of targeted communities with benefits continuing long after the project period closes. DERA funding has impacted a variety of sectors and supported many clean diesel technologies spurring market innovation. According to the EPA's latest report, each federal dollar invested in DERA has leveraged as much as $3 from non-federal sources, such as other government agencies, private organizations, industry, and nonprofit organizations. Further, the agency has improved DERA's cost-effectiveness by changing the Requests for Proposal so that funding of individual projects in which the vehicle or fleet owner derives an economic benefit is reduced.

Demand and necessity for the DERA program will continue. Despite the program's success, according to EPA's last report to Congress, approximately 10.3 million older diesel engines remain in use. EPA estimates that by 2030 over 1 million older, higher-emitting diesel engines will still be in use. As DERA is the only EPA program focused on providing health benefits from the reduction of diesel exhaust, the demand from fleet owners has far exceeded DERA's available funds. In fact, funding requests for the National Clean Diesel Rebate Program exceeded awards by as much as 35:1 and requests in the national grant competitions exceeded availability by 7:1. S. 1447 answers this demand by authorizing the program through 2022, which will ensure a continuation of the successful DERA program and its associated benefits.

While the DERA program has generally been a success, minor changes to the program are appropriate to make implementation more equitable across the country. In the past, EPA has denied state requests for funding for reasons not directly tied to a statutory or regulatory requirement. Current law does not explicitly state that EPA must recognize differing diesel vehicle, engine, equipment or fleet use concerns that may occur (especially between large metropolitan areas and less populated areas) when funding DERA projects through the national or state program. S. 1447 would clarify that in implementing both the national competitive program and the state-administered program, EPA must recognize

[1] United States Environmental Protection Agency, "Third Report to Congress: Highlights From the Diesel Emission Reduction Program," February 2016, available at: *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100OHMK.pdf.*

that typical diesel vehicle, engine, equipment and fleet use differs across the country. For example, equipment in less populated areas such as Wyoming may have a longer expected useful life than in more populated areas.

In addition, S. 1447 makes funding of the DERA program more equitable. Under current law, all states are eligible for equal funding shares under the state-administered program. If states choose not to participate in the state-administered program, their shares of funding are distributed to participating states on a population-weighted basis, which disadvantages less-populated states. Any funding given to participating states that is not used by a state is then reallocated to the national competitive program. S. 1447 would require all money left over from the state-administered program (whether for a state that chooses not to participate or allocated to a state but unused) to be reallocated to the national competitive program.

Objectives of the Legislation

The bill reauthorizes the Diesel Emissions Reduction Act program through 2022. The bill also makes it clear that EPA must recognize differences in how vehicles, engines, equipment, and fleets are used across the country and equalizes funding opportunities for all states.

Section-by-Section Analysis

Section 1. Short title

Section 1 states that the Act may be cited as the "Diesel Emissions Reduction Act of 2017".

Section 2. Reauthorization of diesel emissions reduction program

Section 2 extends the authorization of the program through fiscal year 2022.

Section 3. Recognizing differences in diesel vehicle, engine, equipment, and fleet use

Section 3 changes current law to make it clear that EPA must recognize that there are differing diesel vehicle, engine, equipment or fleet use concerns in different areas of the country as the agency funds DERA projects. Section 3(a) would clarify that in prioritizing projects for funding under the national competitive program, EPA must "recogniz[e] differences in typical vehicle, engine, equipment, and fleet use." Section 3(b) commits the agency to "recognition, for purposes of implementing this section, of differences in typical vehicle, engine, equipment, and fleet use throughout the United States, including expected useful life" in guidance that the agency issues to states to assist in preparing funding applications under the state-administered program.

Section 4. Reallocation of unused state funds

Section 4 changes current law by requiring all money left over from the state-administered program (whether for a state that chooses not to participate or allocated to a state but unused) would be reallocated to the national competitive program.

LEGISLATIVE HISTORY

On June 27, 2017, Senator Carper introduced S. 1447, the Diesel Emissions Reduction Act. Senators Inhofe, Barrasso, and Whitehouse were original cosponsors of the legislation. The bill was referred to the Senate Committee on Environment and Public Works.

HEARINGS

No committee hearings were held on S. 1447.

ROLLCALL VOTES

On July 12, 2017, the Committee on Environment and Public Works met to consider S. 1447. The bill was ordered favorably reported by voice vote. No roll call votes were taken.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds that S. 1447 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the Committee notes that the Congressional Budget Office found, "S. 1447 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments."

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

JULY 21, 2017.

Hon. JOHN BARRASSO,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1447, the Diesel Emissions Reduction Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

KEITH HALL.

Enclosure.

S. 1447—Diesel Emissions Reduction Act of 2017

Summary: S. 1447 would authorize the appropriation of $100 million annually through 2022 for the Environmental Protection Agency (EPA) to provide grants for projects and state programs that reduce emissions from diesel engines. The bill also would require the EPA to provide guidance to states about technical differences in vehicles, engines, equipment, and vehicle fleets. Finally, the bill would specify that any funds not claimed by states for diesel programs be reallocated for projects that retrofit vehicles.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 1447 would cost $480 million over the 2018–2022 period.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1447 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 1447 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1447 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—						
	2017	2018	2019	2020	2021	2022	2017–2022
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Authorization Level	0	100	100	100	100	100	500
Estimated Outlays	0	85	95	100	100	100	480

Basis of estimate: For this estimate, CBO assumes that S. 1447 will be enacted near the end of fiscal year 2017, that the specified amounts will be appropriated in each year starting in 2018, and that outlays will follow historical spending patterns for the program. The program received an appropriation of $50 million in fiscal year 2017.

Pay-As-You-Go considerations: None.

Increase in long-term deficit and direct spending: CBO estimates that enacting S. 1447 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: S. 1447 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Jon Sperl; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

Changes in Existing Law

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in ⟦black brackets⟧, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

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ENERGY POLICY ACT OF 2005

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SEC. 2. [42 U.S.C. 15801] DEFINITIONS.

Except as otherwise provided, in this Act:

(1) DEPARTMENT.—* * *

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SEC. 792. [42 U.S.C. 16132] NATIONAL GRANT, REBATE, AND LOAN PROGRAMS.

(a) IN GENERAL.—* * *

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(c) APPLICATIONS.—

(1) EXPEDITED PROCESS.—

(A) IN GENERAL.—* * *

* * * * * * *

(4) PRIORITY.—In providing a grant, rebate, or loan under this section, the Administrator shall give highest priority to proposed projects that, as determined by the Administrator—

(A) maximize public health benefits;

(B) are the most cost-effective;

(C) serve areas—

(i) with the highest population density;

(ii) that are poor air quality areas, including areas identified by the Administrator as—

(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant;

(II) Federal Class I areas; or

(III) areas with toxic air pollutant concerns;

(iii) that receive a disproportionate quantity of air pollution from diesel fleets, including truckstops, ports, rail yards, terminals, construction sites, schools, and distribution centers; or

(iv) that use a community-based multistakeholder collaborative process to reduce toxic emissions;

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life*, recognizing differences in typical vehicle, engine, equipment, and fleet use throughout the United States*;

* * * * * * *

SEC. 793. [42 U.S.C. 16133] STATE GRANT, REBATE, AND LOAN PROGRAMS.

(a) IN GENERAL.—Subject to the availability of adequate appropriations, the Administrator shall use 30 percent of the funds made available for a fiscal year under this subtitle to support grant, rebate, and loan programs administered by States that are designed to achieve significant reductions in diesel emissions.

(b) APPLICATIONS.—The Administrator shall—

(1) provide to States guidance for use in applying for grant, rebate, or loan funds under this section, including information regarding—

(A) the process and forms for applications;

(B) permissible uses of funds received[; and] *;*

(C) the cost-effectiveness of various emission reduction technologies eligible to be carried out using funds provided under this section; and

(D) the recognition, for purposes of implementing this section, of differences in typical vehicle, engine, equipment, and fleet use throughout the United States, including expected useful life; and

(2) establish, for applications described in paragraph (1)—

(A) an annual deadline for submission of the applications;

(B) a process by which the Administrator shall approve or disapprove each application; and

(C) a streamlined process by which a State may renew an application described in paragraph (1) for subsequent fiscal years.

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—For each fiscal year, the Administrator shall allocate among States for which applications are approved by the Administrator under subsection (b)(2)(B) funds made available to carry out this section for the fiscal year.

(2) ALLOCATION.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), using not more than 20 percent of the funds made available to carry out this subtitle for a fiscal year, the Administrator shall provide to each State qualified for an allocation for the fiscal year an allocation equal to $1/53$ of the funds made available for that fiscal year for distribution to States under this paragraph.

(B) CERTAIN TERRITORIES.—

(i) IN GENERAL.—Except as provided in clause (ii), Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall collectively receive an allocation equal to $1/53$ of the funds made available for that fiscal year for distribution to States under this subsection, divided equally among those 4 States.

(ii) EXCEPTION.—If any State described in clause (i) does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under clause (i) shall be reallocated pursuant to subparagraph (C).

(C) REALLOCATION.—If any State does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under this paragraph shall be reallocated [to each remaining qualified State in an amount equal to the product obtained by multiplying—

(i) the proportion that the population of the State bears to the population of all States described in paragraph (1); by

(ii) the amount otherwise allocatable to the nonqualifying State under this paragraph] *to carry out section 792*.

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SEC. 797. [42 U.S.C. 16137] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 2012 through [2016] *2022*, to remain available until expended.

(b) MANAGEMENT AND OVERSIGHT.—The Administrator may use not more than 1 percent of the amounts made available under subsection (a) for each fiscal year for management and oversight purposes.

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