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116TH CONGRESS, 1st Session — SENATE — REPORT 116–39

DIESEL EMISSIONS REDUCTION ACT OF 2019

MAY 13, 2019.—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. 747]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 747) 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 Qual-

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ity. According to the agency's last report to Congress,[1] the DERA program is considered one of the most cost-effective federal clean air programs. EPA has estimated that from FY 2008 through FY 2016, DERA upgraded almost 67,300 vehicles or pieces of equipment. Over the same time, the lifetime emission reductions attributable to DERA funding totaled 15,490 tons of PM and 472,700 tons of NO_X. The DERA program also has the benefit of reducing greenhouse gas emissions. EPA estimates the program reduced carbon dioxide emissions by more than 5 million tons and black carbon emissions by 11,620 tons from FY 2008 to FY 2016.[2]

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 last 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's 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 continues to focus on maximizing DERA's cost-effectiveness in terms of the distribution of funds.

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. 747 answers this demand by authorizing the program through FY 2024, 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. 747 would

[1] United States Environmental Protection Agency, "Third Report to Congress: Highlights From the Diesel Emission Reduction Program" (Feb. 2016).

[2] Information was provided by EPA at Committee's request.

clarify that in implementing both the national competitive program and the state-administered program, EPA must recognize 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. 747 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. 747 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 FY 2024. 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

This section states that the Act may be cited as the "Diesel Emissions Reduction Act of 2019".

Section 2. Reauthorization of diesel emissions reduction program

This section extends the authorization of the program through fiscal year 2024.

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

This section 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) clarifies 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 March 12, 2019, Senator Carper introduced S. 747, the Diesel Emissions Reduction Act of 2019. Senators Inhofe, Barrasso, Whitehouse, Sullivan, Booker, Capito, Gillibrand, Cramer, and Van Hollen were original cosponsors. The bill was referred to the Committee on Environment and Public Works.

The text of S. 747 is nearly identical to the text of S. 1447, the Diesel Emissions Reduction Act of 2017. Senator Carper introduced S. 1447 on June 27, 2017. Senators Inhofe, Barrasso, and Whitehouse were original cosponsors. The EPW Committee reported S. 1447 by voice vote on July 12, 2017.

HEARINGS

A committee hearing was held on S. 747 on March 13, 2019.

ROLLCALL VOTES

On April 10, 2019, the Committee on Environment and Public Works met to consider S. 747. The bill was ordered favorably reported without amendment 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. 747 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. 747 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:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 26, 2019.

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. 747, the Diesel Emissions Reduction Act of 2019.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 747, Diesel Emissions Reduction Act of 2019
As reported by the Senate Committee on Environment and Public Works on April 10, 2019

Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	410	500

		Mandate Effects	
Pay-as-you-go procedures apply?	No	Contains intergovernmental mandate?	No
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains private-sector mandate?	No

S. 747 would authorize the appropriation of $100 million annually through 2024 for the Environmental Protection Agency (EPA) to provide grants and rebates for projects and state programs that reduce emissions from diesel engines. The bill also would require EPA to provide guidance to states about technical differences in vehicles, engines, equipment, and vehicle fleet use. Finally, the bill would direct that funds not allocated to state diesel programs be reallocated to projects for retrofitting vehicles. In 2019, $87 million was appropriated for those purposes.

Assuming appropriation of the specified amounts, CBO estimates that implementing the bill would cost $410 million over the 2020–2024 period and $90 million after 2024 (see Table 1). The costs of the legislation fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 747

	By fiscal year, millions of dollars—						
	2019 [a]	2020	2021	2022	2023	2024	2019–2024
Estimated Authorization	100	100	100	100	100	100	500

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 747—Continued

	By fiscal year, millions of dollars—						
	2019 [a]	2020	2021	2022	2023	2024	2019–2024
Estimated Outlays	0	25	85	100	100	100	410

[a] S. 747 would authorize appropriations totaling $100 million for 2019. CBO does not estimate any outlays for those authorizations because appropriations for 2019 have already been provided.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed 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.— * * *

* * * * * * *

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

(a) IN GENERAL.— * * *

* * * * * * *

(c) APPLICATIONS.—

(1) EXPEDITED PROCESS.— * * *

* * * * * * *

(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) * * *

* * * * * * *

(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, re-

bate, 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] *;*

* * * * * * *

(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

* * * * * * *

(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.— * * *

* * * * * * *

(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 non-qualifying State under this paragraph] *to carry out section 792*.

* * * * * * *

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] *2024*, to remain available until expended.

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