

116TH CONGRESS
2D SESSION

S. 4046

To direct the Administrator of the Environmental Protection Agency to establish a program to award grants to eligible entities to purchase, and as applicable install, zero emissions port equipment and technology, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2020

Mr. MERKLEY (for himself, Mr. WYDEN, Mr. BOOKER, Ms. WARREN, Mr. HEINRICH, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To direct the Administrator of the Environmental Protection Agency to establish a program to award grants to eligible entities to purchase, and as applicable install, zero emissions port equipment and technology, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Climate Smart Ports
5 Act”.

1 **SEC. 2. CLIMATE SMART PORTS GRANT PROGRAM.**

2 (a) ESTABLISHMENT.—Not later than 6 months after
3 the date of enactment of this section, the Administrator
4 shall establish a program to award grants to eligible enti-
5 ties to purchase, and as applicable install, zero emissions
6 port equipment and technology.

7 (b) USE OF GRANTS.—

8 (1) IN GENERAL.—An eligible entity may use a
9 grant awarded under this section to purchase, and
10 as applicable install, zero emissions port equipment
11 and technology.

12 (2) PROHIBITED USE.—

13 (A) IN GENERAL.—An eligible entity may
14 not use a grant awarded under this section to
15 purchase or install fully automated cargo han-
16 dling equipment or terminal infrastructure that
17 is designed for fully automated cargo handling
18 equipment.

19 (B) HUMAN-OPERATED ZERO EMISSIONS
20 PORT EQUIPMENT AND TECHNOLOGY.—Nothing
21 in subparagraph (A) prohibits an eligible entity
22 from using a grant awarded under this section
23 to purchase human-operated zero emissions
24 port equipment and technology or infrastruc-
25 ture that supports such human-operated zero
26 emissions port equipment and technology.

1 (3) COST SHARE.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), an eligible entity may not
4 use a grant awarded under this section to cover
5 more than 70 percent of the cost of purchasing,
6 and as applicable installing, zero emissions port
7 equipment and technology.

8 (B) CERTAIN GRANTS.—With respect to a
9 grant in an amount equal to or greater than
10 \$3,000,000, an eligible entity may use such
11 grant to cover not more than 85 percent of the
12 cost of purchasing and installing zero emissions
13 port equipment and technology if such eligible
14 entity certifies to the Administrator that—

15 (i) such grant will be used, at least in
16 part, to employ laborers or mechanics to
17 install zero emissions port equipment and
18 technology; and

19 (ii) such eligible entity is a party to a
20 project labor agreement or requires that
21 each subgrantee of such eligible entity, and
22 any subgrantee thereof at any tier, that
23 performs such installation participate in a
24 project labor agreement.

1 (4) PROJECT LABOR.—An eligible entity that
2 uses a grant awarded under this section to install
3 zero emissions port equipment and technology shall
4 ensure, to the greatest extent practicable, that any
5 subgrantee of such eligible entity, and any sub-
6 grantee thereof at any tier, that carries out such in-
7 stallation employs laborers or mechanics for such in-
8 stallation that—

9 (A) are domiciled not further than 50
10 miles from such installation;

11 (B) are members of the Armed Forces
12 serving on active duty, separated from active
13 duty, or retired from active duty;

14 (C) have been incarcerated or served time
15 in a juvenile detention facility; or

16 (D) have a disability.

17 (c) WAGES.—

18 (1) IN GENERAL.—All laborers and mechanics
19 employed by a subgrantee of an eligible entity, and
20 any subgrantee thereof at any tier, to perform con-
21 struction, alteration, installation, or repair work that
22 is assisted, in whole or in part, by a grant awarded
23 under this section shall be paid wages at rates not
24 less than those prevailing on similar construction, al-
25 teration, installation, or repair work in the locality

1 as determined by the Secretary of Labor in accord-
2 ance with subchapter IV of chapter 31 of title 40,
3 United States Code.

4 (2) LABOR STANDARDS.—With respect to the
5 labor standards in this subsection, the Secretary of
6 Labor shall have the authority and functions set
7 forth in Reorganization Plan Numbered 14 of 1950
8 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of
9 title 40, United States Code.

10 (d) APPLICATION.—

11 (1) IN GENERAL.—To be eligible to be awarded
12 a grant under this section, an eligible entity shall
13 submit to the Administrator an application at such
14 time, in such manner, and containing such informa-
15 tion as the Administrator may require.

16 (2) PRIORITY.—The Administrator shall priori-
17 tize awarding grants under this section to eligible
18 entities based on the following:

19 (A) The degree to which the proposed use
20 of the grant will—

- 21 (i) reduce greenhouse gas emissions;
- 22 (ii) reduce emissions of any criteria
23 pollutant and precursor thereof;
- 24 (iii) reduce hazardous air pollutant
25 emissions; and

1 (iv) reduce public health disparities in
2 communities that receive a dispropor-
3 tionate quantity of air pollution from a
4 port.

5 (B) The amount of matching, non-Federal
6 funds expected to be used by an applicant to
7 purchase, and as applicable install, zero emis-
8 sions port equipment and technology.

9 (C) Whether the applicant will use such
10 grant to purchase, and as applicable install,
11 zero emissions port equipment and technology
12 that is produced in the United States.

13 (D) As applicable, whether the applicant
14 will meet the utilization requirements for reg-
15 istered apprentices established by the Secretary
16 of Labor or a State Apprenticeship Agency.

17 (E) As applicable, whether the applicant
18 will recruit and retain skilled workers through
19 a State-approved joint labor management ap-
20 prenticeship program.

21 (e) OUTREACH.—

22 (1) IN GENERAL.—Not later than 90 days after
23 funds are made available to carry out this section,
24 the Administrator shall develop and carry out an
25 educational outreach program to promote and ex-

1 plain the grant program established under sub-
2 section (a) to prospective grant recipients.

3 (2) PROGRAM COMPONENTS.—In carrying out
4 the outreach program developed under paragraph
5 (1), the Administrator shall—

6 (A) inform prospective grant recipients
7 how to apply for a grant awarded under this
8 section;

9 (B) describe to prospective grant recipients
10 the benefits of available zero emissions port
11 equipment and technology;

12 (C) explain to prospective grant recipients
13 the benefits of participating in the grant pro-
14 gram established under this section; and

15 (D) facilitate the sharing of best practices
16 and lessons learned between grant recipients
17 and prospective grant recipients with respect to
18 how to apply for and use grants awarded under
19 this section.

20 (f) REPORTS.—

21 (1) REPORT TO ADMINISTRATOR.—Not later
22 than 90 days after the date on which an eligible en-
23 tity uses a grant awarded under this section, such
24 eligible entity shall submit to the Administrator a re-

1 port containing such information as the Adminis-
 2 trator shall require.

3 (2) ANNUAL REPORT TO CONGRESS.—Not later
 4 than January 31, 2021, and annually thereafter, the
 5 Administrator shall submit to Congress and make
 6 available on the website of the Environmental Pro-
 7 tection Agency a report that includes, with respect
 8 to each grant awarded under this section during the
 9 preceding calendar year—

10 (A) the name and location of the eligible
 11 entity that was awarded such grant;

12 (B) the amount of such grant that the eli-
 13 gible entity was awarded;

14 (C) the name and location of the port
 15 where the zero emissions port equipment and
 16 technology that was purchased, and as applica-
 17 ble installed, with such grant is used;

18 (D) an estimate of the impact of such zero
 19 emissions port equipment and technology on re-
 20 ducing—

21 (i) greenhouse gas emissions;

22 (ii) emissions of criteria pollutants
 23 and precursors thereof;

24 (iii) hazardous air pollutant emissions;

25 and

1 (iv) public health disparities; and

2 (E) any other information the Adminis-
3 trator determines necessary to understand the
4 impact of grants awarded under this section.

5 (g) AUTHORIZATION OF APPROPRIATIONS.—

6 (1) IN GENERAL.—There is authorized to be
7 appropriated to carry out this section
8 \$1,000,000,000 for each of fiscal years 2021
9 through 2030.

10 (2) NONATTAINMENT AREAS.—To the extent
11 practicable, at least 25 percent of amounts made
12 available to carry out this section in each fiscal year
13 shall be used to award grants to eligible entities to
14 provide zero emissions port equipment and tech-
15 nology to ports that are in nonattainment areas.

16 (h) DEFINITIONS.—In this section:

17 (1) ACTIVE DUTY.—The term “active duty” has
18 the meaning given such term in section 101 of title
19 10, United States Code.

20 (2) ADMINISTRATOR.—The term “Adminis-
21 trator” means the Administrator of the Environ-
22 mental Protection Agency.

23 (3) ALTERNATIVE EMISSIONS CONTROL TECH-
24 NOLOGY.—The term “alternative emissions control

1 technology” means a technology, technique, or meas-
2 ure that—

3 (A) captures the emissions of nitrogen
4 oxide, particulate matter, reactive organic com-
5 pounds, and greenhouse gases from the auxil-
6 iary engine and auxiliary boiler of an ocean-
7 going vessel at berth;

8 (B) is verified or approved by a State or
9 Federal air quality regulatory agency;

10 (C) the use of which achieves at least the
11 equivalent reduction of emissions as the use of
12 shore power for an ocean-going vessel at berth;

13 (D) the use of which results in reducing
14 emissions of the auxiliary engine of an ocean-
15 going vessel at berth to a rate of less than—

16 (i) 2.8 g/kW-hr for nitrogen oxide;

17 (ii) 0.03 g/kW-hr for particulate mat-
18 ter 2.5; and

19 (iii) 0.1 g/kW-hr for reactive organic
20 compounds; and

21 (E) reduces the emissions of the auxiliary
22 engine and boiler of an ocean-going vessel at
23 berth by at least 80 percent of the default emis-
24 sions rate, which is 13.8 g.

(4) CRITERIA POLLUTANT.—The term “criteria pollutant” means each of the following:

(A) Ground-level ozone.

(B) Particulate matter.

(C) Carbon monoxide.

(D) Lead.

(E) Sulfur dioxide.

(F) Nitrogen dioxide.

(5) DISTRIBUTED ENERGY RESOURCE.—

(A) IN GENERAL.—The term “distributed energy resource” means an energy resource that—

(i) is located on or near a customer site;

(ii) is operated on the customer side of the electric meter; and

(iii) is interconnected with the electric grid.

(B) INCLUSIONS.—The term “distributed energy resource” includes—

(i) clean electric generation;

(ii) customer electric efficiency measures;

(iii) electric demand flexibility; and

(iv) energy storage.

1 (6) ELIGIBLE ENTITY.—The term “eligible enti-
2 ty” means—

3 (A) a port authority;

4 (B) a State, regional, local, or Tribal agen-
5 cy that has jurisdiction over a port authority or
6 a port;

7 (C) an air pollution control district or air
8 quality management district; or

9 (D) a private or nonprofit entity, applying
10 for a grant awarded under this section in col-
11 laboration with another entity described in sub-
12 paragraphs (A) through (C), that owns or uses
13 cargo or transportation equipment at a port.

14 (7) ENERGY STORAGE SYSTEM.—The term “en-
15 ergy storage system” means a system, equipment,
16 facility, or technology that—

17 (A) is capable of absorbing energy, storing
18 energy for a period of time, and dispatching the
19 stored energy; and

20 (B) uses a mechanical, electrical, chemical,
21 electrochemical, or thermal process to store en-
22 ergy that—

23 (i) was generated at an earlier time
24 for use at a later time; or

1 (ii) was generated from a mechanical
2 process, and would otherwise be wasted,
3 for delivery at a later time.

4 (8) FULLY AUTOMATED CARGO HANDLING
5 EQUIPMENT.—The term “fully automated cargo
6 handling equipment” means cargo handling equip-
7 ment that—

8 (A) is remotely operated or remotely mon-
9 itored; and

10 (B) with respect to the use of such equip-
11 ment, does not require the exercise of human
12 intervention or control.

13 (9) NONATTAINMENT AREA.—The term “non-
14 attainment area” has the meaning given such term
15 in section 171 of the Clean Air Act (42 U.S.C.
16 7501).

17 (10) PORT.—The term “port” includes a mari-
18 time port and an inland port.

19 (11) PORT AUTHORITY.—The term “port au-
20 thority” means a governmental or quasi-govern-
21 mental authority formed by a legislative body to op-
22 erate a port.

23 (12) PROJECT LABOR AGREEMENT.—The term
24 “project labor agreement” means a pre-hire collec-
25 tive bargaining agreement with one or more labor

1 organization that establishes the terms and condi-
2 tions of employment for a specific construction
3 project and is described in section 8(f) of the Na-
4 tional Labor Relations Act (29 U.S.C. 158(f)).

5 (13) REGISTERED APPRENTICE.—The term
6 “registered apprentice” means a person who is par-
7 ticipating in a registered apprenticeship program.

8 (14) REGISTERED APPRENTICESHIP PRO-
9 GRAM.—The term “registered apprenticeship pro-
10 gram” means a program registered pursuant to the
11 Act of August 16, 1937 (commonly known as the
12 “National Apprenticeship Act”; 50 Stat. 664, chap-
13 ter 663; 29 U.S.C. 50 et seq.).

14 (15) SHORE POWER.—The term “shore power”
15 means the provision of shoreside electrical power to
16 a ship at berth that has shut down main and auxil-
17 iary engines.

18 (16) STATE APPRENTICESHIP AGENCY.—The
19 term “State Apprenticeship Agency” has the mean-
20 ing given such term in section 29.2 of title 29, Code
21 of Federal Regulations (as in effect on January 1,
22 2020).

23 (17) ZERO EMISSIONS PORT EQUIPMENT AND
24 TECHNOLOGY.—

1 (A) IN GENERAL.—The term “zero emis-
 2 sions port equipment and technology” means
 3 equipment and technology, including the equip-
 4 ment and technology described in subparagraph
 5 (B), that—

6 (i) is used at a port; and

7 (ii)(I) produces zero exhaust emissions
 8 of—

9 (aa) any criteria pollutant and
 10 precursor thereof; and

11 (bb) any greenhouse gas, other
 12 than water vapor; or

13 (II) captures 100 percent of the ex-
 14 haust emissions produced by an ocean-
 15 going vessel at berth.

16 (B) EQUIPMENT AND TECHNOLOGY DE-
 17 SCRIBED.—The equipment and technology de-
 18 scribed in this subparagraph is the following:

19 (i) Any equipment that handles cargo.

20 (ii) A drayage truck that transports
 21 cargo.

22 (iii) A train that transports cargo.

23 (iv) Port harbor craft.

24 (v) A distributed energy resource.

25 (vi) An energy storage system.

1 (vii) Electrical charging infrastruc-
2 ture.

3 (viii) Shore power or an alternative
4 emissions control technology.

5 (ix) An electric transport refrigeration
6 unit.

7 **SEC. 3. ENERGY POLICY ACT OF 2005 AUTHORIZATION OF**
8 **APPROPRIATIONS FOR PORT AUTHORITIES.**

9 Section 797 of the Energy Policy Act of 2005 (42
10 U.S.C. 16137) is amended by adding at the end the fol-
11 lowing:

12 “(c) PORT AUTHORITIES.—There is authorized to be
13 appropriated \$50,000,000 for each of fiscal years 2021
14 through 2025 to award grants, rebates, or loans, under
15 section 792, to eligible entities to carry out projects that
16 reduce emissions at ports.”.

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