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(Original Signature of Member)

112TH CONGRESS
1ST SESSION

H. R.

To amend titles 23 and 49, United States Code, to establish procedures to advance the use of cleaner construction equipment on Federal-aid highway and public transportation construction projects, to make the acquisition and installation of emission control technology an eligible expense in carrying out such projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HANNA (for himself and Ms. EDWARDS) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend titles 23 and 49, United States Code, to establish procedures to advance the use of cleaner construction equipment on Federal-aid highway and public transportation construction projects, to make the acquisition and installation of emission control technology an eligible expense in carrying out such projects, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Clean Construction
3 Act of 2011”.

4 **SEC. 2. HIGHWAY CONSTRUCTION PROJECTS.**

5 (a) IN GENERAL.—Chapter 3 of title 23, United
6 States Code is amended by adding at the end the fol-
7 lowing:

8 **“§ 330. Construction equipment and vehicles**

9 “(a) DEFINITIONS.—In this section:

10 “(1) CHANGE ORDER.—The term ‘change
11 order’ means a written document that—

12 “(A) modifies any provision of a contract
13 to carry out a covered highway construction
14 project; and

15 “(B) is issued by a State transportation
16 department that is a party to that contract to
17 implement a diesel emission control technology.

18 “(2) COVERED EQUIPMENT.—

19 “(A) IN GENERAL.—The term ‘covered
20 construction equipment’ means any off-road
21 diesel equipment and any on-road diesel equip-
22 ment that is operated on a covered highway
23 construction project for not less than 80 hours
24 over the life of the project.

25 “(B) EXCLUSIONS.—The term ‘covered
26 construction equipment’ does not include—

1 “(i) equipment with an engine that
2 meets or exceeds any particulate matter
3 emission standards for the applicable en-
4 gine power group issued by the Environ-
5 mental Protection Agency relating to par-
6 ticulate matter exhaust for new diesel en-
7 gines that are in effect on the date on
8 which the highway construction project
9 commences;

10 “(ii) equipment with diesel exhaust
11 control technology that was installed dur-
12 ing the 6-year period ending on the date of
13 award of the contract for the covered high-
14 way construction project;

15 “(iii) large cranes, such as Sky cranes
16 or Link Belt cranes, that are responsible
17 for critical lift operations, if the emission
18 control technology would adversely affect
19 lift capacity; and

20 “(iv) additional or replacement equip-
21 ment brought on the job site after work
22 has commenced to prevent or remedy harm
23 to human beings or to address an emer-
24 gency.

1 “(3) COVERED HIGHWAY CONSTRUCTION
2 PROJECT.—

3 “(A) IN GENERAL.—The term ‘covered
4 highway construction project’ means a Federal-
5 aid highway construction project carried out
6 under this title or any other Federal law.

7 “(B) INCLUSIONS.—The term ‘covered
8 highway construction project’ includes—

9 “(i) projects funded, in whole or in
10 part, by amounts from the Highway Trust
11 Fund; and

12 “(ii) projects funded, in whole or in
13 part, by amounts from the general fund of
14 the Treasury.

15 “(C) EXCLUSIONS.—Notwithstanding any
16 other provision of this paragraph, the term ‘cov-
17 ered highway construction project’ does not in-
18 clude a project—

19 “(i) with a total budgeted cost of
20 \$5,000,000 or less; and

21 “(ii) that an applicable State has
22 elected to exclude from treatment as a cov-
23 ered highway construction project for pur-
24 poses of this paragraph.

1 “(4) DIESEL EMISSION CONTROL TECH-
2 NOLOGY.—

3 “(A) IN GENERAL.—Subject to subpara-
4 graph (B), the term ‘diesel emission control
5 technology’ means a technology that—

6 “(i) is—

7 “(I) a diesel exhaust control tech-
8 nology;

9 “(II) a diesel engine upgrade;

10 “(III) a diesel engine repower; or

11 “(IV) an idle reduction control
12 technology; and

13 “(ii) reduces PM_{2.5} emissions from
14 covered equipment by—

15 “(I) not less than 85 percent
16 control of any emission of particulate
17 matter; or

18 “(II) the maximum achievable re-
19 duction of any emission of particulate
20 matter.

21 “(B) CRITERIA.—

22 “(i) IN GENERAL.—To be considered
23 a ‘diesel emission control technology’, the
24 technology described in subparagraph

1 (A)(i) shall meet the criteria described in
2 clauses (ii) through (v), as applicable.

3 “(ii) DIESEL EXHAUST CONTROL
4 TECHNOLOGY.—For a diesel exhaust con-
5 trol technology, the technology shall be—

6 “(I) installed on a diesel engine
7 or vehicle;

8 “(II) included on a list of verified
9 retrofit technologies maintained by
10 the Environmental Protection Agency
11 or the California Air Resources
12 Board; and

13 “(III) certified by the installer as
14 having been installed in accordance
15 with the specifications included on the
16 list referred to in subclause (II) for
17 achieving a reduction in 1 or more air
18 quality criteria for air pollutants
19 under section 109 of the Clean Air
20 Act (42 U.S.C. 7409).

21 “(iii) DIESEL ENGINE UPGRADE.—
22 For a diesel engine upgrade, the upgrade
23 shall be performed on an engine that is—

24 “(I) rebuilt using new compo-
25 nents that collectively appear as a sys-

1 tem, such as a kit, on a list of verified
2 retrofit technologies maintained by
3 the Environmental Protection Agency
4 or the California Air Resources
5 Board; and

6 “(II) certified by the installer to
7 have been installed in accordance with
8 the specifications included on the list
9 referred to in subclause (I) for achiev-
10 ing a reduction in 1 or more air qual-
11 ity criteria for air pollutants under
12 section 109 of the Clean Air Act (42
13 U.S.C. 7409).

14 “(iv) DIESEL ENGINE REPOWER.—
15 For a diesel engine repower, the repower
16 shall be conducted using a new or remanu-
17 factured diesel engine that—

18 “(I) is installed as a replacement
19 for an engine used in the existing
20 equipment, subject to the condition
21 that the replaced engine is—

22 “(aa) used for scrap;

23 “(bb) permanently disabled;

24 or

1 “(cc) returned to the origi-
2 nal manufacturer for remanufac-
3 ture; and

4 “(II) meets more stringent emis-
5 sions standards than the engine re-
6 placed.

7 “(v) IDLE REDUCTION CONTROL
8 TECHNOLOGY.—For an idle reduction con-
9 trol technology, the technology shall be—

10 “(I) installed on a diesel engine
11 or vehicle;

12 “(II) included on a list of verified
13 retrofit technologies maintained by
14 the Environmental Protection Agency
15 or the California Air Resources
16 Board; and

17 “(III) certified by the installer as
18 having been installed in accordance
19 with the specifications included on the
20 list referred to in subclause (II) for
21 achieving a reduction in 1 or more air
22 quality criteria for air pollutants
23 under section 109 of the Clean Air
24 Act (42 U.S.C. 7409).

1 “(5) ELIGIBLE ENTITY.—The term ‘eligible en-
2 tity’ means an entity that has entered into a prime
3 contract or agreement with a State to carry out a
4 covered highway construction project.

5 “(6) OFF-ROAD DIESEL EQUIPMENT.—

6 “(A) IN GENERAL.—The term ‘off-road
7 diesel equipment’ means a vehicle, including
8 covered equipment, that is—

9 “(i) powered by a nonroad diesel en-
10 gine of not less than 50 horsepower; and

11 “(ii) not intended for highway use.

12 “(B) INCLUSIONS.—The term ‘off-road
13 diesel equipment’ includes a backhoe, bulldozer,
14 compressor, crane, excavator, generator, and
15 similar equipment.

16 “(C) EXCLUSIONS.—The term ‘off-road
17 diesel equipment’ does not include a locomotive
18 or marine vessel.

19 “(7) ON-ROAD DIESEL EQUIPMENT.—The term
20 ‘on-road diesel equipment’ means any self-propelled
21 vehicle that—

22 “(A) operates on diesel fuel;

23 “(B) is designed to transport persons or
24 property on a street or highway; and

1 “(C) has a gross vehicle weight rating of at
2 least 14,000 pounds.

3 “(8) PM_{2.5} NONATTAINMENT OR MAINTENANCE
4 AREA.—The term ‘PM_{2.5} nonattainment or mainte-
5 nance area’ means a nonattainment or maintenance
6 area designated under section 107(d)(6) of the
7 Clean Air Act (42 U.S.C. 7407(d)(6)).

8 “(b) HIGHWAY CONSTRUCTION PROJECTS FOR PM_{2.5}
9 NONATTAINMENT AND MAINTENANCE AREAS.—Subject
10 to subsection (c)(2), all covered equipment used on a cov-
11 ered highway construction project within a PM_{2.5} non-
12 attainment or maintenance area shall have installed and
13 employ diesel emission control technology.

14 “(c) FUNDING FOR COSTS OF ACQUIRING AND IN-
15 STALLING EMISSION CONTROL TECHNOLOGY.—

16 “(1) IN GENERAL.—The Secretary shall ap-
17 prove as part of the Federal share of the cost of a
18 covered highway construction project an amount
19 equal to the amount required to be expended under
20 paragraph (2) for the purpose of acquiring and in-
21 stalling diesel emission control technology.

22 “(2) REQUIRED EXPENDITURE.—A State shall
23 be in compliance with subsection (b) with respect to
24 a covered highway construction project, if, in order

1 to comply with subsection (b), the State expends an
2 amount that is equal to the lesser of—

3 “(A) 1 percent of the cost of the project;

4 or

5 “(B) the amount necessary to install diesel
6 emission control technology on all covered
7 equipment used on the project.

8 “(3) USE OF CERTAIN AMOUNTS.—

9 “(A) IN GENERAL.—Notwithstanding any
10 other provision of law, a State may obligate
11 funds apportioned to that State under section
12 104(b)(2) to meet the requirements of sub-
13 section (b).

14 “(B) FEDERAL SHARE.—The Federal
15 share of the cost of an activity carried out to
16 meet the requirements of subsection (b) shall be
17 100 percent if the activity is carried out using
18 funds apportioned under section 104(b)(2).

19 “(C) STREAMLINED PROCESS.—A State
20 may obligate funds under subparagraph (A)
21 without regard to any process or other require-
22 ment established under section 149.

23 “(d) IMPLEMENTATION.—

24 “(1) PLAN FOR ELIGIBLE ENTITIES.—As soon
25 as practicable after the date on which a State

1 awards a construction contract for a covered high-
2 way construction project to an eligible entity, the eli-
3 gible entity shall submit to the State a written plan
4 that includes—

5 “(A) an estimate of the quantity of equip-
6 ment that the eligible entity intends to operate
7 onsite;

8 “(B) any relevant information on each
9 piece of equipment the eligible entity intends to
10 operate onsite, including—

11 “(i) the vehicle serial number, identi-
12 fier, type, manufacturer, model, and model
13 year; and

14 “(ii) the engine serial number, manu-
15 facturer, model, engine family, model year,
16 horsepower, and displacement;

17 “(C) an estimate of the number of hours
18 that the eligible entity expects to operate each
19 piece of equipment onsite;

20 “(D) the options for modifying any covered
21 equipment to employ diesel emission control
22 technology, including—

23 “(i) an itemized estimate of the rea-
24 sonable expected cost of modifying each

1 piece of covered equipment to reduce the
2 emissions of that equipment;

3 “(ii) a reasonable estimate of the
4 emission reduction that would directly re-
5 sult from each modification;

6 “(iii) a reasonable estimate of the
7 time required to perform each modifica-
8 tion; and

9 “(iv) a reasonable estimate of the im-
10 pact that each modification would have on
11 the schedule of the covered highway con-
12 struction project; and

13 “(E) at the discretion of the eligible entity,
14 the options for modifying equipment that is not
15 covered equipment to employ diesel emission
16 control technology, including the estimates re-
17 quired under clauses (i), (ii), (iii), and (iv) of
18 subparagraph (D).

19 “(2) SUPPLEMENTAL PLAN FOR SUBCONTRAC-
20 TORS.—If the total estimated cost of the modifica-
21 tions described in paragraph (1)(D) that is sub-
22 mitted by an eligible entity to a State in accordance
23 with paragraph (1) is less than the amount required
24 to be expended by the eligible entity under sub-
25 section (c)(2)(A), the eligible entity shall submit to

1 the State a supplemental written plan that includes,
2 with respect to the equipment that a subcontractor
3 of the eligible entity intends to operate onsite, the
4 information required to be submitted under para-
5 graph (1).

6 “(3) BIDDER REQUIREMENTS.—By change
7 order and in accordance with the requirements and
8 procedures of this subsection, a State shall require
9 the successful bidder of a covered highway construc-
10 tion project to install and use diesel emission control
11 technology on the pieces of covered equipment se-
12 lected by the State as having the greatest potential
13 of meeting the requirements of subsection (b).

14 “(4) STRUCTURE OF CHANGE ORDER.—A State
15 may structure a change order as the State deter-
16 mines to be necessary, if the State determines that
17 the change order does not—

18 “(A) materially delay the commencement
19 of construction of the covered highway con-
20 struction project;

21 “(B) materially increase the time required
22 to carry out the covered highway construction
23 project;

24 “(C) cause any material interruption of the
25 covered highway construction project;

1 “(D) increase any risk to the safety or
2 health of any construction worker of the cov-
3 ered highway construction project; or

4 “(E) result in the successful bidder for the
5 covered highway construction project recovering
6 less than 100 percent of the cost of imple-
7 menting each diesel emission control technology.

8 “(e) SAVINGS CLAUSE.—Nothing in this section
9 modifies or otherwise affects any authority or restrictions
10 established under the Clean Air Act (42 U.S.C. 7401 et
11 seq.).”.

12 (b) APPLICABILITY.—Section 330 of title 23, United
13 States Code, as added by this section, shall apply to each
14 highway construction project that is initiated, as deter-
15 mined by the Secretary, after the date that is 30 days
16 after the date of enactment of this Act.

17 (c) TECHNICAL AMENDMENT.—The analysis for
18 chapter 3 of title 23, United States Code is amended by
19 adding at the end the following:

“Sec. 330. Construction equipment and vehicles.”.

20 **SEC. 3. PUBLIC TRANSPORTATION CONSTRUCTION**
21 **PROJECTS.**

22 (a) IN GENERAL.—Chapter 53 of title 49, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 **“§ 5341. Construction equipment and vehicles**

2 “(a) DEFINITIONS.—In this section:

3 “(1) CHANGE ORDER.—The term ‘change
4 order’ means a written document that—

5 “(A) modifies any provision of a contract
6 to carry out a covered public transportation
7 construction project; and

8 “(B) is issued by a recipient that is a
9 party to that contract to implement a diesel
10 emission control technology.

11 “(2) COVERED EQUIPMENT.—

12 “(A) IN GENERAL.—The term ‘covered
13 construction equipment’ means any off-road
14 diesel equipment and any on-road diesel equip-
15 ment that is operated on a covered public trans-
16 portation construction project for not less than
17 80 hours over the life of the project.

18 “(B) EXCLUSIONS.—The term ‘covered
19 construction equipment’ does not include—

20 “(i) equipment with an engine that
21 meets or exceeds any particulate matter
22 emission standards for the applicable en-
23 gine power group issued by the Environ-
24 mental Protection Agency relating to par-
25 ticulate matter exhaust for new diesel en-
26 gines that are in effect on the date on

1 which the public transportation construc-
2 tion project commences;

3 “ (ii) equipment with a diesel exhaust
4 control technology that was installed dur-
5 ing the 6-year period ending on the date of
6 award of the contract for the covered pub-
7 lic transportation construction project;

8 “ (iii) large cranes, such as Sky cranes
9 or Link Belt cranes, that are responsible
10 for critical lift operations, if the emission
11 control technology would adversely affect
12 lift capacity; and

13 “ (iv) additional or replacement equip-
14 ment brought on the job site after work
15 has commenced to prevent or remedy harm
16 to human beings or to address an emer-
17 gency.

18 “(3) COVERED PUBLIC TRANSPORTATION CON-
19 STRUCTION PROJECT.—

20 “(A) IN GENERAL.—The term ‘covered
21 public transportation construction project’
22 means a project that receives Federal funding
23 for the construction of a public transportation
24 facility.

1 “(B) INCLUSIONS.—The term ‘covered
2 public transportation construction project’ in-
3 cludes—

4 “(i) projects funded, in whole or in
5 part, by amounts from the Mass Transit
6 Account of the Highway Trust Fund; and

7 “(ii) projects funded, in whole or in
8 part, by amounts from the general fund of
9 the Treasury.

10 “(C) EXCLUSIONS.—Notwithstanding any
11 other provision of this paragraph, the term ‘cov-
12 ered public transportation construction project’
13 does not include a project—

14 “(i) with a total budgeted cost of
15 \$5,000,000 or less; and

16 “(ii) that an applicable recipient has
17 elected to exclude from treatment as a cov-
18 ered public transportation construction
19 project for purposes of this paragraph.

20 “(4) DIESEL EMISSION CONTROL TECH-
21 NOLOGY.—

22 “(A) IN GENERAL.—Subject to subpara-
23 graph (B), the term ‘diesel emission control
24 technology’ means a technology that—

25 “(i) is—

1 “(I) a diesel exhaust control tech-
2 nology;

3 “(II) a diesel engine upgrade;

4 “(III) a diesel engine repower; or

5 “(IV) an idle reduction control
6 technology; and

7 “(ii) reduces PM_{2.5} emissions from
8 covered equipment by—

9 “(I) not less than 85 percent
10 control of any emission of particulate
11 matter; or

12 “(II) the maximum achievable re-
13 duction of any emission of particulate
14 matter.

15 “(B) CRITERIA.—

16 “(i) IN GENERAL.—To be considered
17 a ‘diesel emission control technology’, the
18 technology described in subparagraph
19 (A)(i) shall meet the criteria described in
20 clauses (ii) through (v), as applicable.

21 “(ii) DIESEL EXHAUST CONTROL
22 TECHNOLOGY.—For a diesel exhaust con-
23 trol technology, the technology shall be—

24 “(I) installed on a diesel engine
25 or vehicle;

1 “(II) included on a list of verified
2 retrofit technologies maintained by
3 the Environmental Protection Agency
4 or the California Air Resources
5 Board; and

6 “(III) certified by the installer as
7 having been installed in accordance
8 with the specifications included on the
9 list referred to in subclause (II) for
10 achieving a reduction in 1 or more air
11 quality criteria for air pollutants
12 under section 109 of the Clean Air
13 Act (42 U.S.C. 7409).

14 “(iii) DIESEL ENGINE UPGRADE.—
15 For a diesel engine upgrade, the upgrade
16 shall be performed on an engine that is—

17 “(I) rebuilt using new compo-
18 nents that collectively appear as a sys-
19 tem, such as a kit, on a list of verified
20 retrofit technologies maintained by
21 the Environmental Protection Agency
22 or the California Air Resources
23 Board; and

24 “(II) certified by the installer to
25 have been installed in accordance with

1 the specifications included on the list
2 referred to in subclause (I) for achiev-
3 ing a reduction in 1 or more air qual-
4 ity criteria for air pollutants under
5 section 109 of the Clean Air Act (42
6 U.S.C. 7409).

7 “(iv) DIESEL ENGINE REPOWER.—
8 For a diesel engine repower, the repower
9 shall be conducted using a new or remanu-
10 factured diesel engine that—

11 “(I) is installed as a replacement
12 for an engine used in the existing
13 equipment, subject to the condition
14 that the replaced engine is—

15 “(aa) used for scrap;

16 “(bb) permanently disabled;

17 or

18 “(cc) returned to the origi-
19 nal manufacturer for remanufac-
20 ture; and

21 “(II) meets more stringent emis-
22 sions standards than the engine re-
23 placed.

1 “(v) IDLE REDUCTION CONTROL
2 TECHNOLOGY.—For an idle reduction con-
3 trol technology, the technology shall be—

4 “(I) installed on a diesel engine
5 or vehicle;

6 “(II) included on a list of verified
7 retrofit technologies maintained by
8 the Environmental Protection Agency
9 or the California Air Resources
10 Board; and

11 “(III) certified by the installer as
12 having been installed in accordance
13 with the specifications included on the
14 list referred to in subclause (II) for
15 achieving a reduction in 1 or more air
16 quality criteria for air pollutants
17 under section 109 of the Clean Air
18 Act (42 U.S.C. 7409).

19 “(5) ELIGIBLE ENTITY.—The term ‘eligible en-
20 tity’ means an entity that has entered into a prime
21 contract or agreement with a recipient to carry out
22 a covered public transportation construction project.

23 “(6) OFF-ROAD DIESEL EQUIPMENT.—

1 “(A) IN GENERAL.—The term ‘off-road
2 diesel equipment’ means a vehicle, including
3 covered equipment, that is—

4 “(i) powered by a nonroad diesel en-
5 gine of not less than 50 horsepower; and

6 “(ii) not intended for highway use.

7 “(B) INCLUSIONS.—The term ‘off-road
8 diesel equipment’ includes a backhoe, bulldozer,
9 compressor, crane, excavator, generator, and
10 similar equipment.

11 “(C) EXCLUSIONS.—The term ‘off-road
12 diesel equipment’ does not include a locomotive
13 or marine vessel.

14 “(7) ON-ROAD DIESEL EQUIPMENT.—The term
15 ‘on-road diesel equipment’ means any self-propelled
16 vehicle that—

17 “(A) operates on diesel fuel;

18 “(B) is designed to transport persons or
19 property on a street or highway; and

20 “(C) has a gross vehicle weight rating of at
21 least 14,000 pounds.

22 “(8) PM_{2.5} NONATTAINMENT OR MAINTENANCE
23 AREA.—The term ‘PM_{2.5} nonattainment or mainte-
24 nance area’ means a nonattainment or maintenance

1 area designated under section 107(d)(6) of the
2 Clean Air Act (42 U.S.C. 7407(d)(6)).

3 “(9) RECIPIENT.—The term ‘recipient’ means
4 an entity that receives Federal funding to carry out
5 a covered public transportation construction project.

6 “(b) PUBLIC TRANSPORTATION CONSTRUCTION
7 PROJECTS FOR PM_{2.5} NONATTAINMENT AND MAINTENANCE
8 AREAS.—Subject to subsection (c)(2), all covered
9 equipment used on a covered public transportation con-
10 struction project within a PM_{2.5} nonattainment or mainte-
11 nance area shall have installed and employ diesel emission
12 control technology.

13 “(c) FUNDING FOR COSTS OF ACQUIRING AND IN-
14 STALLING EMISSION CONTROL TECHNOLOGY.—

15 “(1) IN GENERAL.—The Secretary shall ap-
16 prove as part of the Federal share of the cost of a
17 covered public transportation construction project an
18 amount equal to the amount required to be expended
19 under paragraph (2) for the purpose of acquiring
20 and installing diesel emission control technology.

21 “(2) REQUIRED EXPENDITURE.—A recipient
22 shall be in compliance with subsection (b) with re-
23 spect to a covered public transportation construction
24 project if, in order to comply with subsection (b), the

1 recipient expends an amount that is equal to the
2 lesser of—

3 “(A) 1 percent of the cost of the project;

4 or

5 “(B) the amount necessary to install emis-
6 sion control technology on all covered equip-
7 ment used on the project.

8 “(3) USE OF CERTAIN AMOUNTS.—

9 “(A) IN GENERAL.—Notwithstanding any
10 other provision of law, a State may obligate
11 funds apportioned to that State under section
12 104(b)(2) of title 23 to meet the requirements
13 of subsection (b).

14 “(B) FEDERAL SHARE.—The Federal
15 share of the cost of an activity to meet the re-
16 quirements of subsection (b) shall be 100 per-
17 cent if the activity is carried out using funds
18 apportioned under section 104(b)(2) of title 23.

19 “(C) STREAMLINED PROCESS.—A State
20 may obligate funds under subparagraph (A)
21 without regard to any process or other require-
22 ment established under section 149 of title 23.

23 “(d) IMPLEMENTATION.—

24 “(1) PLAN FOR ELIGIBLE ENTITIES.—As soon
25 as practicable after the date on which a recipient

1 awards a construction contract for a covered public
2 transportation construction project to an eligible en-
3 tity, the eligible entity shall submit to the recipient
4 a written plan that includes—

5 “(A) an estimate of the quantity of equip-
6 ment that the eligible entity intends to operate
7 onsite;

8 “(B) any relevant information on each
9 piece of equipment the eligible entity intends to
10 operate onsite, including—

11 “(i) the vehicle serial number, identi-
12 fier, type, manufacturer, model, and model
13 year; and

14 “(ii) the engine serial number, manu-
15 facturer, model, engine family, model year,
16 horsepower, and displacement;

17 “(C) an estimate of the number of hours
18 that the eligible entity expects to operate each
19 piece of equipment onsite;

20 “(D) the options for modifying any covered
21 equipment to employ diesel emission control
22 technology, including—

23 “(i) an itemized estimate of the rea-
24 sonable expected cost of modifying each

1 piece of covered equipment to reduce the
2 emissions of that equipment;

3 “(ii) a reasonable estimate of the
4 emission reduction that would directly re-
5 sult from each modification;

6 “(iii) a reasonable estimate of the
7 time required to perform each modifica-
8 tion; and

9 “(iv) a reasonable estimate of the im-
10 pact that each modification would have on
11 the schedule of the covered public trans-
12 portation construction project; and

13 “(E) at the discretion of the eligible entity,
14 the options for modifying equipment that is not
15 covered equipment to employ diesel emission
16 control technology, including the estimates re-
17 quired under clauses (i), (ii), (iii), and (iv) of
18 subparagraph (D).

19 “(2) SUPPLEMENTAL PLAN FOR SUBCONTRAC-
20 TORS.—If the total estimated cost of the modifica-
21 tions described in paragraph (1)(D) that is sub-
22 mitted by an eligible entity to a recipient in accord-
23 ance with paragraph (1) is less than the amount re-
24 quired to be expended by the eligible entity under
25 subsection (c)(2)(A), the eligible entity shall submit

1 to the recipient a supplemental written plan that in-
2 cludes, with respect to the equipment that a subcon-
3 tractor of the eligible entity intends to operate on-
4 site, the information required to be submitted under
5 paragraph (1).

6 “(3) BIDDER REQUIREMENTS.—By change
7 order and in accordance with the requirements and
8 procedures of this subsection, a recipient shall re-
9 quire the successful bidder of a covered public trans-
10 portation construction project to install and employ
11 diesel emission control technology on the pieces of
12 covered equipment selected by the recipient as hav-
13 ing the greatest potential of meeting the require-
14 ments of subsection (b).

15 “(4) STRUCTURE OF CHANGE ORDER.—A re-
16 cipient may structure a change order as the recipi-
17 ent determines to be necessary, if the recipient de-
18 termines that the change order does not—

19 “(A) materially delay the commencement
20 of construction of the covered public transpor-
21 tation construction project;

22 “(B) materially increase the time required
23 to carry out the covered public transportation
24 construction project;

1 “(C) cause any material interruption of the
2 covered public transportation construction
3 project;

4 “(D) increase any risk to the safety or
5 health of any construction worker of the cov-
6 ered public transportation construction project;
7 or

8 “(E) result in the successful bidder for the
9 covered public transportation construction
10 project recovering less than 100 percent of the
11 cost of implementing each diesel emission con-
12 trol technology.

13 “(e) SAVINGS CLAUSE.—Nothing in this section shall
14 be construed to modify or otherwise affect any authority
15 or restriction established under the Clean Air Act (42
16 U.S.C. 7401 et seq.).”.

17 (b) APPLICABILITY.—Section 5341(b) of title 49,
18 United States Code, as added by this section, shall apply
19 to each public transportation construction project that is
20 initiated, as determined by the Secretary of Transpor-
21 tation, after the date that is 30 days after the date of
22 enactment of this Act.

23 (c) CLERICAL AMENDMENT.—The analysis for chap-
24 ter 53 of title 49, United States Code, is amended by add-
25 ing at the end the following:

“5341. Construction equipment and vehicles.”.

1 **SEC. 4. REPORT TO CONGRESS.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of enactment of this Act, the Secretary of Transpor-
4 tation shall submit to the Committee on Transportation
5 and Infrastructure of the House of Representatives, the
6 Committee on Environment and Public Works of the Sen-
7 ate, and the Committee on Banking, Housing, and Urban
8 Affairs of the Senate a report that describes the manners
9 by which section 330 of title 23, United States Code (as
10 added by section 2 of this Act) and section 5341 of title
11 49, United States Code (as added by section 3 of this Act)
12 have been implemented, including the quantity of covered
13 equipment serviced under those sections and the costs as-
14 sociated with servicing the covered equipment.

15 (b) INFORMATION FROM STATES.—The Secretary
16 shall require States and recipients, as a condition of re-
17 ceiving amounts under this Act or under the provisions
18 of any amendments made by this Act, to submit to the
19 Secretary any information that the Secretary determines
20 necessary to complete the report under subsection (a).

21 **SEC. 5. PROCESS FOR STATES.**

22 Not later than 1 year after the date of enactment
23 of this Act, the Secretary of Transportation and the Ad-
24 ministrator of the Environmental Protection Agency shall
25 establish, jointly, a streamlined process to ensure that
26 States may—

1 (1) quantify the emissions reductions achieved
2 under this Act, including the amendments made by
3 this Act;

4 (2) include such emissions reductions in State
5 implementation plans required under section 110 of
6 the Clean Air Act (42 U.S.C. 7410) to help dem-
7 onstrate progress toward, attainment of, or mainte-
8 nance of national ambient air quality standards; and

9 (3) include such emission reductions in con-
10 formity determinations required under section 176
11 of the Clean Air Act (42 U.S.C. 7506).