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DIESEL EMISSIONS REDUCTION ACT OF 2005

SEPTEMBER 7, 2005.—Ordered to be printed

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

REPORT

[to accompany S. 1265]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1265) to make grants and loans available to States and other organizations to strengthen the economy, public health, and environment of the United States by reducing emissions from diesel engines, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

Diesel engines are an important part of the American economy, but they emit harmful emissions. On-road heavy duty diesel vehicles, such as transit buses and garbage trucks, and non-road diesel vehicles, such as construction equipment and tractors, account for roughly one-half of the nitrogen oxide and particulate matter emissions from mobile sources nationwide. These emissions contribute to ozone formation and fine particulate matter, and they contain numerous other chemicals that are listed by the Environmental Protection Agency (EPA) as hazardous air pollutants.

EPA has finalized diesel fuel and new engine regulations that will reduce diesel emissions from new diesel buses, freight trucks, and non-road equipment by more than 80 percent from 2000 levels. EPA's 2001 Highway and 2004 Non-road Diesel Engine rules will greatly improve the environment and protect public health, but the full benefits will not be realized until 2030 because of the long lifetime of the 11 million existing engines. The durability of the diesel engines used to power school buses, trucks and railroads, agri-

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culture processes, and emergency response vehicles can last for hundreds of thousands of miles over a lifetime of more than 30 years.

Additionally, EPA has designated 495 counties nationally as in nonattainment for the new ozone and/or particulate matter air quality standards. States must develop State Implementation Plans to achieve ozone and particulate matter reductions to meet these new standards.

In order to help States and communities meet these standards and reduce exposure to harmful diesel emissions, substantial reductions in those emissions from the nation's aging diesel fleets are necessary. The voluntary program established in this bill should build off proven State and local programs that retrofit, repower, or replace older engines. Such an initiative would cost-effectively provide emissions reductions and dramatically accelerate the public health benefits.

OBJECTIVES OF THE LEGISLATION

The Diesel Emissions Reduction Act of 2005 (S. 1265) would establish voluntary national and State-level grant and loan programs for diesel emission reduction projects and programs. Addressing emissions from existing diesel engines is one of the most important steps that can be taken to improve air quality and protect public health.

S. 1265 would:

- Authorize $1 billion over 5 years ($200 million annually for fiscal years 2007 through 2011);
- Provide that 70 percent of the funds be distributed by EPA;
- Allocate 20 percent of funds to States to develop retrofit programs with an additional 10 percent available as an incentive for State's to match the Federal dollars being provided;
- Establish priority areas for projects—such as those that are more cost-effective and affect the most amount of people—and focuses the Federal program on public fleets; and
- Institute programs to help develop new technologies, encourage more action through non-financial incentives, and require EPA to conduct outreach to stakeholders and report on the success of the program.

In developing this legislation, the committee worked with environmental, industry, and public officials from across the country. This legislation represents a carefully considered, bipartisan effort to reduce emissions from existing diesel engines.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section provides that the Act may be cited as the 'Diesel Emissions Reduction Act of 2005'.

Sec. 2. Definitions.

This section provides definitions for terms used in the Act, including "certified engine configuration," "eligible entity," "emerging technology," "fleet," "heavy-duty truck," "medium-duty truck," and "verified technology."

The term "fleet" is defined to make it clear that the Act applies to all diesel engines whether stationary or mobile. It also clarifies that a grant or loan can be provided to address one engine or many.

The committee intends for the idling provisions (advanced truck-stop electrification system and auxillary power unit as listed under the definition of "verified technology") be implemented through EPA's Smartway Transport Partnership. Idling technology verification means the technology is commercially available and is listed through the Smartway Transport Partnership program.

Sec. 3. National grant and loan programs.

Section 3(a) would establish a national grant and loan program to be administered by the EPA. The EPA Administrator is to use 70 percent of the funds made available each fiscal year to provide grants and low-cost revolving loans to regional, State, local, or tribal agencies or port authority with jurisdiction over transportation or air quality and to nonprofit organizations and institutions that represents or provides pollution reduction or educational services to persons or organizations that own or operate diesel fleets or have as their principal purpose the promotion of air quality or transportation. Grants and loans are to achieve significant reductions in diesel emissions in terms of 1) tons of pollution produced and 2) exposure to the emissions, particularly in poor air quality areas.

Section 3(b) would provide that not less than 50 percent of the funds available under the national grant and loan program are to be provided for the benefit of public fleets. Not less than 90 percent of the funds available under Section 3 shall be provided for projects using an engine configuration certified by EPA or the California Air Resources Board (CARB) or a pollution control technology verified by EPA or CARB. Not more than 10 percent of the funds available under the section would be provided for the development and commercialization of emerging technologies.

Section 3(c) establishes detailed requirements for grant or loan applications. The Administrator is required to give priority to projects that a) maximize public health benefits; b) are the most cost-effective; c) serve areas with the highest population density; that are poor air quality areas, including nonattainment or maintenance areas, Class I areas, or areas with toxic air pollutant concerns; that receive a disproportionate quantity of air pollution from a diesel fleet, including ports, rail yards, truckstops, terminals, or distribution centers; or that use a community-based multi-stakeholder collaborative process to reduce toxic emissions; d) include a technology that has a long expected useful life; e) will maximize the useful life of any retrofit technology; f) conserve diesel fuel; and g) use ultra low sulfur diesel fuel.

Section 3(c)(3)(F) would give priority to proposed projects that use diesel fuel with a sulfur content of less than 15 parts per million, as the Administrator determines to be appropriate. Since railroads will not be subject to a 15 parts per million (ppm) fuel requirement until 2012, the committee does not expect this priority to be applied to proposed railroad projects.

Under Section 3(d), funds may be used to retrofit buses, medium- and heavy-duty trucks, marine engines, locomotives, or non-road engines used in construction, cargo-handling, agriculture, mining,

or energy production equipment. Funds may also be used for idle-reduction programs.

Subsection 3(d)(2) of the bill prohibits the use of grants and loans provided under this section for any emission reduction mandated under Federal, State, or local law. Voluntary or elective measures are not mandated and are not subject to this funding prohibition. For example, voluntary or elective measures could include, but are not limited to, early emissions reductions, reductions in excess of existing regulatory requirements, non-regulatory public fleet reductions, and reductions to meet eligibility requirements for public works projects or public service contracts. Additionally, reductions should not be considered mandated if they are the result of voluntary or elective programs or projects included in a State Implementation Plan.

Sec. 4. State grant and loan programs.

Section 4(a) provides that the Administrator shall use 30 percent of the funds available in a fiscal year to support grant and loan programs administered by States that are designed to achieve significant reductions in diesel emissions. The Administrator is to provide this funding to the States "subject to the availability of adequate appropriations." Funding for this Act is dependent upon annual appropriations, and the legislation divides the funding between national and State programs. Due to this funding structure, there is likely a level of funding at which it does not make sense to have a State program because the funding would not even provide enough to administer a State program. Thus, based on the amount appropriated for a fiscal year and the number of States that apply and qualify for funding, the committee expects EPA to make a determination each year as to whether the States would be provided under this section. If EPA determines that there are not adequate appropriations, then all of the funding provided for the Act would be administered through the national program.

Section 4(b) requires the Administrator to provide guidance to the States regarding the application process, permissible uses of funds, and the cost-effectiveness of emission reduction technologies, and it requires the establishment of application procedures.

Section 4(c) establishes an allocation formula for the State grant programs. Using not more than 20 percent of the funds made available to carry out Section 4, EPA is to provide each of the States 2 percent of the total funds available, if each of the 50 States qualifies for an allocation. If fewer than 50 States qualify, the remaining funds are to be allocated among the qualifying States in proportion to their population. If a State agrees to match its allocation, the Administrator shall provide it an additional amount equal to 50 percent of its allocation. No funds provided under the Act are allowed to be used by a State as matching funds. Any funds not claimed by a State for a fiscal year are to be used to carry out the national program under Section 3.

Section 4(d) provides States with flexibility to establish programs under this section to meet their needs. The section provides that Governors may determine the portion of funds to be provided as grants or loans. A grant or loan may be used for certified engine configurations or verified pollution control technologies.

Sec. 5. Evaluation and report.

Not later than 1 year funds are first made available, and biennially thereafter, the Administrator shall submit to Congress a report evaluating the implementation of the programs under this Act. Section 5(b) provides a list of six items to be included in these reports.

Sec. 6. Outreach and incentives.

Section 6(b) requires the EPA Administrator to establish a technology transfer program. The purpose of the program is to inform stakeholders of the benefits of verified and emerging technologies and to develop non-financial incentives for those technologies. Eligible stakeholders include: equipment owners and operators; engine, equipment, and emission and pollution control manufacturers; State and local air quality officials; and community, public health, educational, and environmental organizations.

Section 6(c) requires the EPA Administrator to develop guidance to provide credit to a State for emissions reductions created by the use of eligible technologies as part of a Clean Air Act State Implementation Plan. This section should not delay any guidance that EPA is already in the process of developing.

Section 6(d) requires the EPA Administrator, along with the Department of Commerce and industry, to inform foreign countries on the emissions reduction potential of technology developed or used in the United States.

Sec. 7. Effect of Act.

Section 7 affirms that nothing in the bill affects authorities under the Clean Air Act.

Sec. 8. Authorization of appropriations.

Section 8 authorizes $200 million annually for the Act in fiscal years 2007 through 2011.

LEGISLATIVE HISTORY

Senators Voinovich, Carper, Inhofe, Jeffords, Isakson, Clinton, Hutchison, and Feinstein introduced S. 1265, the Diesel Emissions Reduction Act of 2005, on June 16, 2005. It was then referred to the Senate Committee on Environment and Public Works. A legislative hearing was held by the Subcommittee on Clean Air, Climate Change, and Nuclear Safety on July 12, 2005. A full committee business meeting was held on July 20, 2005, and the committee ordered S. 1265, as amended, to be reported to the full Senate.

HEARINGS

The Subcommittee on Clean Air, Climate Change, and Nuclear Safety held a hearing on the bill on July 12, 2005. Witnesses included: Wayne Nastri, Region IX Administrator, U.S. Environmental Protection Agency; Margaret Keliher, County Judge, Dallas, Texas; Joseph P. Koncelik, Director, Ohio Environmental Protection Agency; Michael Cross, Vice President, Cummins Inc., General Manger, Fleetguard Emissions Solutions; Conrad Schneider, Advocacy Director, Clean Air Task Force; Timothy J. Regan, President, Emissions Control Technology Association; and Stuart Nemser, Founder/Chairman, Compact Membrane Systems, Inc.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1265 on July 20, 2005. The committee agreed unanimously to an amendment by Senator Voinovich. The committee approved S. 1265, as amended, by unanimous consent.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes evaluation of the regulatory impact of the reported bill.

The bill 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 finds that S. 1265 would not impose Federal intergovernmental unfunded mandates 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:

S. 1265, Diesel Emissions Reduction Act of 2005, As ordered reported by the Senate Committee on Environment and Public Works on July 20, 2005

Summary

S. 1265 would authorize the appropriation of $200 million for each of fiscal years 2007 through 2011 to the Environmental Protection Agency (EPA) to support grants and loans to States and other organizations working to reduce emissions from diesel engines. Under the bill, EPA would establish a technology transfer program including nonfinancial incentives to promote the use of technologies that reduce diesel emissions. The bill also would require EPA to work with the Department of Commerce to inform foreign countries of the potential of technology used or developed to reduce emissions in the United States. CBO estimates that those outreach activities would cost $2 million annually.

CBO estimates that implementing this legislation would cost $660 million over the next 5 years, assuming appropriation of the necessary amounts. Enacting S. 1265 would not affect direct spending or revenues. S. 1265 contains no intergovernmental or private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA). The bill would benefit local and tribal governments within the State of Alaska; any costs they incur would result from complying with conditions for receiving Federal assistance.

Estimated Cost to the Federal Government

CBO estimates that implementing the bill would cost $660 million over the 2006–2010 period, assuming appropriation of the amounts authorized for each year. Those estimated outlays are based on historical patterns for similar activities. The estimated budgetary impact of S. 1265 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 370 (commerce and housing credit).

By Fiscal Year, in Millions of Dollars

	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Grants and Loans to Support Reductions in Diesel Emissions.					
Authorization Level	0	200	200	200	200
Estimated Outlays	0	100	160	190	200
Outreach Activities.					
Estimated Authorization Level	2	2	2	2	2
Estimated Outlays	2	2	2	2	2
Total Changes.					
Estimated Authorization Level	2	202	202	202	202
Estimated Outlays	2	102	162	192	202

Intergovernmental and Private-Sector Impact

S. 1265 contains no intergovernmental or private-sector mandates as defined by UMRA. The bill would authorize the appropriation of $1 billion for grants and loans to promote the reduction of diesel emissions. States would be eligible to receive a percentage of those funds for their use in the administration of programs that are designed to achieve significant reductions in diesel emissions. Any costs incurred by State, local, or tribal governments would result from complying with conditions for receiving Federal assistance.

Estimate Prepared By: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Selena Caldera.

Estimate Approved By: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires the committee to publish changes in existing law made by the bill as reported. Passage of this bill will make no changes to existing law.

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