

One Hundred Tenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday,
the third day of January, two thousand and eight*

An Act

To authorize the Administrator of the Environmental Protection Agency to accept, as part of a settlement, diesel emission reduction Supplemental Environmental Projects, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. EPA AUTHORITY TO ACCEPT DIESEL EMISSIONS REDUC-
TION SUPPLEMENTAL ENVIRONMENTAL PROJECTS.**

The Administrator of the Environmental Protection Agency (hereinafter, the "Agency") may accept (notwithstanding sections 3302 and 1301 of title 31, United States Code) diesel emissions reduction Supplemental Environmental Projects if the projects, as part of a settlement of any alleged violations of environmental law—

- (1) protect human health or the environment;
- (2) are related to the underlying alleged violations;
- (3) do not constitute activities that the defendant would otherwise be legally required to perform; and
- (4) do not provide funds for the staff of the Agency or for contractors to carry out the Agency's internal operations.

SEC. 2. SETTLEMENT AGREEMENT PROVISIONS.

In any settlement agreement regarding alleged violations of environmental law in which a defendant agrees to perform a diesel emissions reduction Supplemental Environmental Project, the Administrator of the Environmental Protection Agency shall require the defendant to include in the settlement documents a certification under penalty of law that the defendant would have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction Supplemental Environmental Project if the Administrator were precluded by law from accepting a diesel emission reduction Supplemental Environmental Project. A failure by the Administrator to include this language in such a settlement agreement shall not create a cause of action against the United States under the Clean Air Act or any other law or create a basis for overturning a settlement agreement entered into by the United States.

**SEC. 3. INCLUSION OF THE DISTRICT OF COLUMBIA IN CERTAIN STATE
AND LOCAL GRANT PROGRAMS FOR DIESEL EMISSION
REDUCTIONS.**

(a) IN GENERAL.—Section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131) is amended by adding at the end thereof the following:

S. 2146—2

“(9) DEFINITION OF STATE.—The term ‘State’ includes the District of Columbia.”

(b) CONFORMING AMENDMENTS.—(1) Section 793(d)(2) of such Act (42 U.S.C. 16133(d)(2)) is amended by striking “Governor” and inserting “chief executive”.

(2) Subparagraphs (A) and (B) of section 793(c)(2) of such Act are each amended by striking “50” and inserting “51” and by striking “2 percent” and inserting “1.96 percent” in each place such terms appear.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*