

In the Senate of the United States,

December 16, 2010.

Resolved, That the bill from the House of Representatives (H.R. 5809) entitled “An Act to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.”, do pass with the following

AMENDMENTS:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Diesel Emissions Reduc-*
3 *tion Act of 2010”.*

4 ***SEC. 2. DIESEL EMISSIONS REDUCTION PROGRAM.***

5 *(a) DEFINITIONS.—Section 791 of the Energy Policy*
6 *Act of 2005 (42 U.S.C. 16131) is amended—*

7 *(1) in paragraph (3)—*

8 *(A) in subparagraph (A), by striking “and”*

9 *at the end;*

1 (B) in subparagraph (B), by striking the
2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(C) any private individual or entity
5 that—

6 “(i) is the owner of record of a diesel
7 vehicle or fleet operated pursuant to a con-
8 tract, license, or lease with a Federal de-
9 partment or agency or an entity described
10 in subparagraph (A); and

11 “(ii) meets such timely and appro-
12 priate requirements as the Administrator
13 may establish for vehicle use and for notice
14 to and approval by the Federal department
15 or agency or entity described in subpara-
16 graph (A) with respect to which the owner
17 has entered into a contract, license, or lease
18 as described in clause (i).”;

19 (2) in paragraph (4), by inserting “currently, or
20 has not been previously,” after “that is not”;

21 (3) by striking paragraph (9);

22 (4) by redesignating paragraph (8) as para-
23 graph (9);

(5) in paragraph (9) (as so redesignated), in the matter preceding subparagraph (A), by striking “, advanced truckstop electrification system,”; and

(6) by inserting after paragraph (7) the following:

“(8) *STATE*.—The term ‘State’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.”.

(b) *NATIONAL GRANT, REBATE, AND LOAN PROGRAMS*.—Section 792 of the Energy Policy Act of 2005 (42 U.S.C. 16132) is amended—

(1) in the section heading, by inserting “, **REBATE**,” after “**GRANT**”;

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities” and inserting “to provide grants, rebates, or low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities, including through contracts entered into under subsection (e) of this section,”; and

1 (B) in paragraph (1), by striking “tons of”;
 2 (3) in subsection (b)—

3 (A) by striking paragraph (2);

4 (B) by redesignating paragraph (3) as
 5 paragraph (2); and

6 (C) in paragraph (2) (as so redesignated)—

7 (i) in subparagraph (A), in the matter
 8 preceding clause (i), by striking “90” and
 9 inserting “95”;

10 (ii) in subparagraph (B)(i), by strik-
 11 ing “10 percent” and inserting “5 percent”;
 12 and

13 (iii) in subparagraph (B)(ii), by strik-
 14 ing “the application under subsection (c)”
 15 and inserting “a verification application”;

16 (4) in subsection (c)—

17 (A) by redesignating paragraphs (2) and
 18 (3) as paragraphs (3) and (4), respectively;

19 (B) by striking paragraph (1) and inserting
 20 the following:

21 “(1) *EXPEDITED PROCESS.*—

22 “(A) *IN GENERAL.*—The Administrator
 23 shall develop a simplified application process for
 24 all applicants under this section to expedite the
 25 provision of funds.

1 “(B) *REQUIREMENTS.*—*In developing the*
 2 *expedited process under subparagraph (A), the*
 3 *Administrator—*

4 “(i) *shall take into consideration the*
 5 *special circumstances affecting small fleet*
 6 *owners; and*

7 “(ii) *to avoid duplicative procedures,*
 8 *may require applicants to include in an ap-*
 9 *plication under this section the results of a*
 10 *competitive bidding process for equipment*
 11 *and installation.*

12 “(2) *ELIGIBILITY.*—

13 “(A) *GRANTS.*—*To be eligible to receive a*
 14 *grant under this section, an eligible entity shall*
 15 *submit to the Administrator an application at*
 16 *such time, in such manner, and containing such*
 17 *information as the Administrator may require.*

18 “(B) *REBATES AND LOW-COST LOANS.*—*To*
 19 *be eligible to receive a rebate or a low-cost loan*
 20 *under this section, an eligible entity shall submit*
 21 *an application in accordance with such guidance*
 22 *as the Administrator may establish—*

23 “(i) *to the Administrator; or*

24 “(ii) *to an entity that has entered into*
 25 *a contract under subsection (e).”;*

1 (C) in paragraph (3)(G) (as redesignated
 2 by subparagraph (A)), by inserting “in the case
 3 of an application relating to nonroad engines or
 4 vehicles,” before “a description of the diesel”; and
 5 (D) in paragraph (4) (as redesignated by
 6 subparagraph (A))—

7 (i) in the matter preceding subpara-
 8 graph (A)—

9 (I) by inserting “, rebate,” after
 10 “grant”; and

11 (II) by inserting “highest” after
 12 “shall give”;

13 (ii) in subparagraph (C)(iii)—

14 (I) by striking “a diesel fleets”
 15 and inserting “diesel fleets”; and

16 (II) by inserting “construction
 17 sites, schools,” after “terminals,”;

18 (iii) in subparagraph (E), by adding
 19 “and” at the end;

20 (iv) in subparagraph (F), by striking
 21 “; and” and inserting a period; and

22 (v) by striking subparagraph (G);

23 (5) in subsection (d)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting “, rebate,” after “grant”; and

(B) in paragraph (2)(A)—

(i) by striking “grant or loan provided” and inserting “grant, rebate, or loan provided, or contract entered into,”; and

(ii) by striking “Federal, State or local law” and inserting “any Federal law, except that this subparagraph shall not apply to a mandate in a State implementation plan approved by the Administrator under the Clean Air Act”; and

(6) by adding at the end the following:

“(e) *CONTRACT PROGRAMS.*—

“(1) *AUTHORITY.*—In addition to the use of contracting authority otherwise available to the Administrator, the Administrator may enter into contracts with eligible contractors described in paragraph (2) for the administration of programs for providing rebates or loans, subject to the requirements of this subtitle.

“(2) *ELIGIBLE CONTRACTORS.*—The Administrator may enter into a contract under this subsection

1 *with a for-profit or nonprofit entity that has the ca-*
 2 *capacity—*

3 “(A) *to sell diesel vehicles or equipment to,*
 4 *or to arrange financing for, individuals or enti-*
 5 *ties that own a diesel vehicle or fleet; or*

6 “(B) *to upgrade diesel vehicles or equipment*
 7 *with verified or Environmental Protection Agen-*
 8 *cy-certified engines or technologies, or to arrange*
 9 *financing for such upgrades.*

10 “(f) *PUBLIC NOTIFICATION.—Not later than 60 days*
 11 *after the date of the award of a grant, rebate, or loan, the*
 12 *Administrator shall publish on the website of the Environ-*
 13 *mental Protection Agency—*

14 “(1) *for rebates and loans provided to the owner*
 15 *of a diesel vehicle or fleet, the total number and dollar*
 16 *amount of rebates or loans provided, as well as a*
 17 *breakdown of the technologies funded through the re-*
 18 *bates or loans; and*

19 “(2) *for other rebates and loans, and for grants,*
 20 *a description of each application for which the grant,*
 21 *rebate, or loan is provided.”.*

22 “(c) *STATE GRANT, REBATE, AND LOAN PROGRAMS.—*
 23 *Section 793 of the Energy Policy Act of 2005 (42 U.S.C.*
 24 *16133) is amended—*

(1) *in the section heading, by inserting “, **RE-**
BATE,” after “**GRANT**”;*

(2) *in subsection (a), by inserting “, rebate,”
after “grant”;*

(3) *in subsection (b)(1), by inserting “, rebate,”
after “grant”;*

(4) *by amending subsection (c)(2) to read as fol-
lows:*

“(2) ALLOCATION.—

*“(A) IN GENERAL.—Except as provided in
subparagraphs (B) and (C), using not more than
20 percent of the funds made available to carry
out this subtitle for a fiscal year, the Adminis-
trator shall provide to each State qualified for
an allocation for the fiscal year an allocation
equal to $\frac{1}{53}$ of the funds made available for that
fiscal year for distribution to States under this
paragraph.*

“(B) CERTAIN TERRITORIES.—

*“(i) IN GENERAL.—Except as provided
in clause (ii), Guam, the United States Vir-
gin Islands, American Samoa, and the
Commonwealth of the Northern Mariana Is-
lands shall collectively receive an allocation
equal to $\frac{1}{53}$ of the funds made available for*

1 *that fiscal year for distribution to States*
 2 *under this subsection, divided equally*
 3 *among those 4 States.*

4 “(ii) *EXCEPTION.—If any State de-*
 5 *scribed in clause (i) does not qualify for an*
 6 *allocation under this paragraph, the share*
 7 *of funds otherwise allocated for that State*
 8 *under clause (i) shall be reallocated pursu-*
 9 *ant to subparagraph (C).*

10 “(C) *REALLOCATION.—If any State does*
 11 *not qualify for an allocation under this para-*
 12 *graph, the share of funds otherwise allocated for*
 13 *that State under this paragraph shall be reallo-*
 14 *cated to each remaining qualified State in an*
 15 *amount equal to the product obtained by multi-*
 16 *plying—*

17 “(i) *the proportion that the population*
 18 *of the State bears to the population of all*
 19 *States described in paragraph (1); by*

20 “(ii) *the amount otherwise allocatable*
 21 *to the nonqualifying State under this para-*
 22 *graph.”;*

23 (5) *in subsection (d)—*

24 (A) *in paragraph (1), by inserting “, re-*
 25 *bate,” after “grant”;*

1 (B) in paragraph (2), by inserting “, re-
2 bates,” after “grants”;

3 (C) in paragraph (3), in the matter pre-
4 ceding subparagraph (A), by striking “grant or
5 loan provided under this section may be used”
6 and inserting “grant, rebate, or loan provided
7 under this section shall be used”; and

8 (D) by adding at the end the following:

9 “(4) *PRIORITY.*—In providing grants, rebates,
10 and loans under this section, a State shall use the
11 priorities in section 792(c)(4).

12 “(5) *PUBLIC NOTIFICATION.*—Not later than 60
13 days after the date of the award of a grant, rebate,
14 or loan by a State, the State shall publish on the Web
15 site of the State—

16 “(A) for rebates, grants, and loans provided
17 to the owner of a diesel vehicle or fleet, the total
18 number and dollar amount of rebates, grants, or
19 loans provided, as well as a breakdown of the
20 technologies funded through the rebates, grants,
21 or loans; and

22 “(B) for other rebates, grants, and loans, a
23 description of each application for which the
24 grant, rebate, or loan is provided.”.

1 (d) *EVALUATION AND REPORT.*—Section 794(b) of the
 2 *Energy Policy Act of 2005* (42 U.S.C. 16134(b)) is amend-
 3 ed—

4 (1) in each of paragraphs (2) through (5) by in-
 5 serting “, rebate,” after “grant” each place it ap-
 6 pears;

7 (2) in paragraph (5), by striking “and” at the
 8 end;

9 (3) in paragraph (6), by striking the period at
 10 the end and inserting “; and”; and

11 (4) by adding at the end the following new para-
 12 graph:

13 “(7) in the last report sent to Congress before
 14 January 1, 2016, an analysis of the need to continue
 15 the program, including an assessment of the size of
 16 the vehicle and engine fleet that could provide benefits
 17 from being retrofit under this program and a descrip-
 18 tion of the number and types of applications that
 19 were not granted in the preceding year.”.

20 (e) *AUTHORIZATION OF APPROPRIATIONS.*—Section
 21 797 of the *Energy Policy Act of 2005* (42 U.S.C. 16137)
 22 is amended to read as follows:

23 **“SEC. 797. AUTHORIZATION OF APPROPRIATIONS.**

24 “(a) *IN GENERAL.*—There is authorized to be appro-
 25 priated to carry out this subtitle \$100,000,000 for each of

1 *fiscal years 2012 through 2016, to remain available until*
 2 *expended.*

3 “(b) *MANAGEMENT AND OVERSIGHT.—The Adminis-*
 4 *trator may use not more than 1 percent of the amounts*
 5 *made available under subsection (a) for each fiscal year for*
 6 *management and oversight purposes.”.*

7 **SEC. 3. AUDIT.**

8 (a) *IN GENERAL.—Not later than 360 days after the*
 9 *date of enactment of this Act, the Comptroller General of*
 10 *the United States shall carry out an audit to identify—*

11 (1) *all Federal mobile source clean air grant, re-*
 12 *bate, or low cost revolving loan programs under the*
 13 *authority of the Administrator of the Environmental*
 14 *Protection Agency, the Secretary of Transportation,*
 15 *or other relevant Federal agency heads that are de-*
 16 *signed to address diesel emissions from, or reduce die-*
 17 *sel fuel usage by, diesel engines and vehicles; and*

18 (2) *whether, and to what extent, duplication or*
 19 *overlap among, or gaps between, these Federal mobile*
 20 *source clean air programs exists.*

21 (b) *REPORT.—The Comptroller General of the United*
 22 *States shall—*

23 (1) *submit to the Committee on Environment*
 24 *and Public Works of the Senate and the Committee on*

1 *Energy and Commerce of the House of Representa-*
 2 *tives a copy of the audit under subsection (a); and*

3 *(2) make a copy of the audit under subsection*
 4 *(a) available on a publicly accessible Internet site.*

5 *(c) OFFSET.—All unobligated amounts provided to*
 6 *carry out the pilot program under title I of division G of*
 7 *the Omnibus Appropriations Act, 2009 (Public Law 111–*
 8 *8; 123 Stat. 814) under the heading “MISCELLANEOUS*
 9 *ITEMS” are rescinded.*

10 **SEC. 4. EFFECTIVE DATE.**

11 *(a) GENERAL RULE.—Except as provided in sub-*
 12 *section (b), the amendments made by section 2 shall take*
 13 *effect on October 1, 2011.*

14 *(b) EXCEPTION.—The amendments made by sub-*
 15 *sections (a)(4) and (6) and (c)(4) of section 2 shall take*
 16 *effect on the date of enactment of this Act.*

Amend the title so as to read: “An Act to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.”.

Attest:

Secretary.

11TH CONGRESS
2^D Session

H.R. 5809

AMENDMENTS