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

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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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Climate Smart Ports Act''.

SEC. 2. CLIMATE SMART PORTS GRANT PROGRAM.

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

(b) USE OF GRANTS.—

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

(2) PROHIBITED USE.—

(A) IN GENERAL.—An eligible entity may not use a grant awarded under this section to purchase or install fully automated cargo handling equipment or terminal infrastructure that is designed for fully automated cargo handling equipment.

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

(3) COST SHARE.—

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

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

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

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

(4) PROJECT LABOR.—An eligible entity that uses a grant awarded under this section to install zero emissions port equipment and technology shall ensure, to the greatest extent practicable, that any subgrantee of such eligible entity, and any subgrantee thereof at any tier, that carries out such installation employs laborers or mechanics for such installation that—

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

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

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

(D) have a disability.

(c) WAGES.—

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

as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

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

(d) APPLICATION.—

(1) IN GENERAL.—To be eligible to be awarded a grant under this section, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(2) PRIORITY.—The Administrator shall prioritize awarding grants under this section to eligible entities based on the following:

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

(i) reduce greenhouse gas emissions;

(ii) reduce emissions of any criteria pollutant and precursor thereof;

(iii) reduce hazardous air pollutant emissions; and

(iv) reduce public health disparities in communities that receive a disproportionate quantity of air pollution from a port.

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

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

(D) As applicable, whether the applicant will meet the utilization requirements for registered apprentices established by the Secretary of Labor or a State Apprenticeship Agency.

(E) As applicable, whether the applicant will recruit and retain skilled workers through a State-approved joint labor management apprenticeship program.

(e) OUTREACH.—

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

plain the grant program established under subsection (a) to prospective grant recipients.

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

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

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

(C) explain to prospective grant recipients the benefits of participating in the grant program established under this section; and

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

(f) REPORTS.—

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

port containing such information as the Administrator shall require.

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

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

(B) the amount of such grant that the eligible entity was awarded;

(C) the name and location of the port where the zero emissions port equipment and technology that was purchased, and as applicable installed, with such grant is used;

(D) an estimate of the impact of such zero emissions port equipment and technology on reducing—

(i) greenhouse gas emissions;

(ii) emissions of criteria pollutants and precursors thereof;

(iii) hazardous air pollutant emissions; and

(iv) public health disparities; and

(E) any other information the Administrator determines necessary to understand the impact of grants awarded under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—

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

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

(h) DEFINITIONS.—In this section:

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

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) ALTERNATIVE EMISSIONS CONTROL TECHNOLOGY.—The term ''alternative emissions control

technology'' means a technology, technique, or measure that—

(A) captures the emissions of nitrogen oxide, particulate matter, reactive organic compounds, and greenhouse gases from the auxiliary engine and auxiliary boiler of an ocean-going vessel at berth;

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

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

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

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

(ii) 0.03 g/kW-hr for particulate matter 2.5; and

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

(E) reduces the emissions of the auxiliary engine and boiler of an ocean-going vessel at berth by at least 80 percent of the default emissions 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.

(6) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a port authority;

(B) a State, regional, local, or Tribal agency that has jurisdiction over a port authority or a port;

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

(D) a private or nonprofit entity, applying for a grant awarded under this section in collaboration with another entity described in subparagraphs (A) through (C), that owns or uses cargo or transportation equipment at a port.

(7) ENERGY STORAGE SYSTEM.—The term ''energy storage system'' means a system, equipment, facility, or technology that—

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

(B) uses a mechanical, electrical, chemical, electrochemical, or thermal process to store energy that—

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

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

(8) FULLY AUTOMATED CARGO HANDLING EQUIPMENT.—The term ''fully automated cargo handling equipment'' means cargo handling equipment that—

(A) is remotely operated or remotely monitored; and

(B) with respect to the use of such equipment, does not require the exercise of human intervention or control.

(9) NONATTAINMENT AREA.—The term ''nonattainment area'' has the meaning given such term in section 171 of the Clean Air Act (42 U.S.C. 7501).

(10) PORT.—The term ''port'' includes a maritime port and an inland port.

(11) PORT AUTHORITY.—The term ''port authority'' means a governmental or quasi-governmental authority formed by a legislative body to operate a port.

(12) PROJECT LABOR AGREEMENT.—The term ''project labor agreement'' means a pre-hire collective bargaining agreement with one or more labor

organization that establishes the terms and conditions of employment for a specific construction project and is described in section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).

(13) REGISTERED APPRENTICE.—The term ''registered apprentice'' means a person who is participating in a registered apprenticeship program.

(14) REGISTERED APPRENTICESHIP PROGRAM.—The term ''registered apprenticeship program'' means a program registered pursuant to the Act of August 16, 1937 (commonly known as the ''National Apprenticeship Act''; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.).

(15) SHORE POWER.—The term ''shore power'' means the provision of shoreside electrical power to a ship at berth that has shut down main and auxiliary engines.

(16) STATE APPRENTICESHIP AGENCY.—The term ''State Apprenticeship Agency'' has the meaning given such term in section 29.2 of title 29, Code of Federal Regulations (as in effect on January 1, 2020).

(17) ZERO EMISSIONS PORT EQUIPMENT AND TECHNOLOGY.—

(A) IN GENERAL.—The term ''zero emissions port equipment and technology'' means equipment and technology, including the equipment and technology described in subparagraph (B), that—

(i) is used at a port; and

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

(aa) any criteria pollutant and precursor thereof; and

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

(II) captures 100 percent of the exhaust emissions produced by an ocean-going vessel at berth.

(B) EQUIPMENT AND TECHNOLOGY DESCRIBED.—The equipment and technology described in this subparagraph is the following:

(i) Any equipment that handles cargo.

(ii) A drayage truck that transports cargo.

(iii) A train that transports cargo.

(iv) Port harbor craft.

(v) A distributed energy resource.

(vi) An energy storage system.

(vii) Electrical charging infrastructure.

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

(ix) An electric transport refrigeration unit.

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

Section 797 of the Energy Policy Act of 2005 (42 U.S.C. 16137) is amended by adding at the end the following:

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

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