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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.

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IN THE HOUSE OF REPRESENTATIVES

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

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**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 with a total budgeted cost of  
19 \$5,000,000 or less that an applicable State has  
20 elected to exclude from treatment as a covered  
21 highway construction project for purposes of  
22 this paragraph.

23           “(4) DIESEL EMISSION CONTROL TECH-  
24 NOLOGY.—

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

4                   “(i) is—

5                   “(I) a diesel exhaust control tech-  
6 nology;

7                   “(II) a diesel engine upgrade;

8                   “(III) a diesel engine repower; or

9                   “(IV) an idle reduction control  
10 technology; and

11                   “(ii) reduces PM<sub>2.5</sub> emissions from  
12 covered equipment by—

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

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

19                   “(B) CRITERIA.—

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

1           “(ii) DIESEL EXHAUST CONTROL  
2 TECHNOLOGY.—For a diesel exhaust 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           “(iii) DIESEL ENGINE UPGRADE.—  
20 For a diesel engine upgrade, the upgrade  
21 shall be performed on an engine that is—

22                   “(I) rebuilt using new compo-  
23 nents that collectively appear as a sys-  
24 tem, such as a kit, on a list of verified  
25 retrofit technologies maintained by

1 the Environmental Protection Agency  
2 or the California Air Resources  
3 Board; and

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

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

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

20 “(aa) used for scrap;

21 “(bb) permanently disabled;

22 or

23 “(cc) returned to the origi-  
24 nal manufacturer for remanufac-  
25 ture; and

1                   “(II) meets more stringent emis-  
2                   sions standards than the engine re-  
3                   placed.

4                   “(v) IDLE REDUCTION CONTROL  
5                   TECHNOLOGY.—For an idle reduction con-  
6                   trol technology, the technology shall be—

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

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

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

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

1 “(6) OFF-ROAD DIESEL EQUIPMENT.—

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

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

7 “(ii) not intended for highway use.

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

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

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

18 “(A) operates on diesel fuel;

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

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

23 “(8) PM<sub>2.5</sub> NONATTAINMENT OR MAINTENANCE  
24 AREA.—The term ‘PM<sub>2.5</sub> nonattainment or mainte-  
25 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 “(b) HIGHWAY CONSTRUCTION PROJECTS FOR PM<sub>2.5</sub>  
4 NONATTAINMENT AND MAINTENANCE AREAS.—Subject  
5 to subsection (c)(2), all covered equipment used on a cov-  
6 ered highway construction project within a PM<sub>2.5</sub> non-  
7 attainment or maintenance area shall have installed and  
8 employ diesel emission control technology.

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

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

17 “(2) REQUIRED EXPENDITURE.—A State shall  
18 be in compliance with subsection (b) with respect to  
19 a covered highway construction project, if, in order  
20 to comply with subsection (b), the State expends an  
21 amount that is equal to the lesser of—

22 “(A) 1 percent of the budgeted cost of the  
23 project; or

1           “(B) the amount necessary to install diesel  
2           emission control technology on all covered  
3           equipment used on the project.

4           “(3) USE OF CERTAIN AMOUNTS.—

5           “(A) IN GENERAL.—Notwithstanding any  
6           other provision of law, a State may obligate  
7           funds apportioned to that State under section  
8           104(b)(2) to meet the requirements of sub-  
9           section (b).

10           “(B) FEDERAL SHARE.—The Federal  
11           share of the cost of an activity carried out to  
12           meet the requirements of subsection (b) shall be  
13           100 percent if the activity is carried out using  
14           funds apportioned under section 104(b)(2).

15           “(C) STREAMLINED PROCESS.—A State  
16           may obligate funds under subparagraph (A)  
17           without regard to any process or other require-  
18           ment established under section 149.

19           “(d) IMPLEMENTATION.—

20           “(1) PLAN FOR ELIGIBLE ENTITIES.—As soon  
21           as practicable after the date on which a State  
22           awards a construction contract for a covered high-  
23           way construction project to an eligible entity, the eli-  
24           gible entity shall submit to the State a written plan  
25           that includes—

1           “(A) an estimate of the quantity of equip-  
2           ment that the eligible entity intends to operate  
3           onsite;

4           “(B) any relevant information on each  
5           piece of equipment the eligible entity intends to  
6           operate onsite, including—

7                   “(i) the vehicle serial number, identi-  
8                   fier, type, manufacturer, model, and model  
9                   year; and

10                   “(ii) the engine serial number, manu-  
11                   facturer, model, engine family, model year,  
12                   horsepower, and displacement;

13           “(C) an estimate of the number of hours  
14           that the eligible entity expects to operate each  
15           piece of equipment onsite;

16           “(D) the options for modifying any covered  
17           equipment to employ diesel emission control  
18           technology, including—

19                   “(i) an itemized estimate of the rea-  
20                   sonable expected cost of modifying each  
21                   piece of covered equipment to reduce the  
22                   emissions of that equipment;

23                   “(ii) a reasonable estimate of the  
24                   emission reduction that would directly re-  
25                   sult from each modification;

1                   “(iii) a reasonable estimate of the  
2                   time required to perform each modifica-  
3                   tion; and

4                   “(iv) a reasonable estimate of the im-  
5                   pact that each modification would have on  
6                   the schedule of the covered highway con-  
7                   struction project; and

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

14                  “(2) SUPPLEMENTAL PLAN FOR SUBCONTRAC-  
15                  TORS.—If the total estimated cost of the modifica-  
16                  tions described in paragraph (1)(D) that is sub-  
17                  mitted by an eligible entity to a State in accordance  
18                  with paragraph (1) is less than the amount required  
19                  to be expended by the eligible entity under sub-  
20                  section (c)(2)(A), the eligible entity shall submit to  
21                  the State a supplemental written plan that includes,  
22                  with respect to the equipment that a subcontractor  
23                  of the eligible entity intends to operate onsite, the  
24                  information required to be submitted under para-  
25                  graph (1).

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

9           “(4) STRUCTURE OF CHANGE ORDER.—A State  
10 may structure a change order as the State deter-  
11 mines to be necessary, if the State determines that  
12 the change order does not—

13           “(A) materially delay the commencement  
14 of construction of the covered highway con-  
15 struction project;

16           “(B) materially increase the time required  
17 to carry out the covered highway construction  
18 project;

19           “(C) cause any material interruption of the  
20 covered highway construction project;

21           “(D) increase any risk to the safety or  
22 health of any construction worker of the cov-  
23 ered highway construction project; or

24           “(E) result in the successful bidder for the  
25 covered highway construction project recovering

1 less than 100 percent of the cost of purchase  
2 and installation of each diesel emission control  
3 technology.

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

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

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

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

16 **SEC. 3. PUBLIC TRANSPORTATION CONSTRUCTION**  
17 **PROJECTS.**

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

21 **“§ 5341. Construction equipment and vehicles**

22 “(a) DEFINITIONS.—In this section:

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

1           “(A) modifies any provision of a contract  
2 to carry out a covered public transportation  
3 construction project; and

4           “(B) is issued by a recipient that is a  
5 party to that contract to implement a diesel  
6 emission control technology.

7           “(2) COVERED EQUIPMENT.—

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

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

16           “(i) equipment with an engine that  
17 meets or exceeds any particulate matter  
18 emission standards for the applicable en-  
19 gine power group issued by the Environ-  
20 mental Protection Agency relating to par-  
21 ticulate matter exhaust for new diesel en-  
22 gines that are in effect on the date on  
23 which the public transportation construc-  
24 tion project commences;

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

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

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

16          “(3) COVERED PUBLIC TRANSPORTATION CON-  
17          STRUCTION PROJECT.—

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

23                 “(B) INCLUSIONS.—The term ‘covered  
24                 public transportation construction project’ in-  
25                 cludes—

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

4           “(ii) projects funded, in whole or in  
5           part, by amounts from the general fund of  
6           the Treasury.

7           “(C) EXCLUSIONS.—Notwithstanding any  
8           other provision of this paragraph, the term ‘cov-  
9           ered public transportation construction project’  
10          does not include a project with a total budgeted  
11          cost of \$5,000,000 or less that an applicable re-  
12          cipient has elected to exclude from treatment as  
13          a covered public transportation construction  
14          project for purposes of this paragraph.

15          “(4) DIESEL EMISSION CONTROL TECH-  
16          NOLOGY.—

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

20                         “(i) is—

21                                 “(I) a diesel exhaust control tech-  
22                                 nology;

23                                 “(II) a diesel engine upgrade;

24                                 “(III) a diesel engine repower; or

1 “(IV) an idle reduction control  
2 technology; and

3 “(ii) reduces PM<sub>2.5</sub> emissions from  
4 covered equipment by—

5 “(I) not less than 85 percent  
6 control of any emission of particulate  
7 matter; or

8 “(II) the maximum achievable re-  
9 duction of any emission of particulate  
10 matter.

11 “(B) CRITERIA.—

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

17 “(ii) DIESEL EXHAUST CONTROL  
18 TECHNOLOGY.—For a diesel exhaust con-  
19 trol technology, the technology shall be—

20 “(I) installed on a diesel engine  
21 or vehicle;

22 “(II) included on a list of verified  
23 retrofit technologies maintained by  
24 the Environmental Protection Agency

1 or the California Air Resources  
2 Board; and

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

11 “(iii) DIESEL ENGINE UPGRADE.—  
12 For a diesel engine upgrade, the upgrade  
13 shall be performed on an engine that is—

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

21 “(II) certified by the installer to  
22 have been installed in accordance with  
23 the specifications included on the list  
24 referred to in subclause (I) for achiev-  
25 ing a reduction in 1 or more air qual-

1           ity criteria for air pollutants under  
2           section 109 of the Clean Air Act (42  
3           U.S.C. 7409).

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

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

12                           “(aa) used for scrap;  
13                           “(bb) permanently disabled;

14                           or

15                           “(cc) returned to the origi-  
16                           nal manufacturer for remanufac-  
17                           ture; and

18                   “(II) meets more stringent emis-  
19                   sions standards than the engine re-  
20                   placed.

21           “(v) IDLE REDUCTION CONTROL  
22           TECHNOLOGY.—For an idle reduction 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                   “(5) ELIGIBLE ENTITY.—The term ‘eligible en-  
15 tity’ means an entity that has entered into a prime  
16 contract or agreement with a recipient to carry out  
17 a covered public transportation construction project.

18                   “(6) OFF-ROAD DIESEL EQUIPMENT.—

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

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

24                   “(ii) not intended for highway use.

1           “(B) INCLUSIONS.—The term ‘off-road  
2           diesel equipment’ includes a backhoe, bulldozer,  
3           compressor, crane, excavator, generator, and  
4           similar equipment.

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

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

11           “(A) operates on diesel fuel;

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

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

16          “(8) PM<sub>2.5</sub> NONATTAINMENT OR MAINTENANCE  
17          AREA.—The term ‘PM<sub>2.5</sub> nonattainment or mainte-  
18          nance area’ means a nonattainment or maintenance  
19          area designated under section 107(d)(6) of the  
20          Clean Air Act (42 U.S.C. 7407(d)(6)).

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

24          “(b) PUBLIC TRANSPORTATION CONSTRUCTION  
25          PROJECTS FOR PM<sub>2.5</sub> NONATTAINMENT AND MAINTENANCE

1 NANCE AREAS.—Subject to subsection (c)(2), all covered  
2 equipment used on a covered public transportation con-  
3 struction project within a PM<sub>2.5</sub> nonattainment or mainte-  
4 nance area shall have installed and employ diesel emission  
5 control technology.

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

8 “(1) IN GENERAL.—The Secretary shall ap-  
9 prove as part of the Federal share of the cost of a  
10 covered public transportation construction project an  
11 amount equal to the amount required to be expended  
12 under paragraph (2) for the purpose of acquiring  
13 and installing diesel emission control technology.

14 “(2) REQUIRED EXPENDITURE.—A recipient  
15 shall be in compliance with subsection (b) with re-  
16 spect to a covered public transportation construction  
17 project if, in order to comply with subsection (b), the  
18 recipient expends an amount that is equal to the  
19 lesser of—

20 “(A) 1 percent of the budgeted cost of the  
21 project; or

22 “(B) the amount necessary to install emis-  
23 sion control technology on all covered equip-  
24 ment used on the project.

25 “(3) USE OF CERTAIN AMOUNTS.—

1           “(A) IN GENERAL.—Notwithstanding any  
2           other provision of law, a State may obligate  
3           funds apportioned to that State under section  
4           104(b)(2) of title 23 to meet the requirements  
5           of subsection (b).

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

11          “(C) STREAMLINED PROCESS.—A State  
12          may obligate funds under subparagraph (A)  
13          without regard to any process or other require-  
14          ment established under section 149 of title 23.

15          “(d) IMPLEMENTATION.—

16          “(1) PLAN FOR ELIGIBLE ENTITIES.—As soon  
17          as practicable after the date on which a recipient  
18          awards a construction contract for a covered public  
19          transportation construction project to an eligible en-  
20          tity, the eligible entity shall submit to the recipient  
21          a written plan that includes—

22                  “(A) an estimate of the quantity of equip-  
23                  ment that the eligible entity intends to operate  
24                  onsite;

1           “(B) any relevant information on each  
2 piece of equipment the eligible entity intends to  
3 operate onsite, including—

4           “(i) the vehicle serial number, identi-  
5 fier, type, manufacturer, model, and model  
6 year; and

7           “(ii) the engine serial number, manu-  
8 facturer, model, engine family, model year,  
9 horsepower, and displacement;

10          “(C) an estimate of the number of hours  
11 that the eligible entity expects to operate each  
12 piece of equipment onsite;

13          “(D) the options for modifying any covered  
14 equipment to employ diesel emission control  
15 technology, including—

16          “(i) an itemized estimate of the rea-  
17 sonable expected cost of modifying each  
18 piece of covered equipment to reduce the  
19 emissions of that equipment;

20          “(ii) a reasonable estimate of the  
21 emission reduction that would directly re-  
22 sult from each modification;

23          “(iii) a reasonable estimate of the  
24 time required to perform each modifica-  
25 tion; and

1                   “(iv) a reasonable estimate of the im-  
2                   pact that each modification would have on  
3                   the schedule of the covered public trans-  
4                   portation construction project; and

5                   “(E) at the discretion of the eligible entity,  
6                   the options for modifying equipment that is not  
7                   covered equipment to employ diesel emission  
8                   control technology, including the estimates re-  
9                   quired under clauses (i), (ii), (iii), and (iv) of  
10                  subparagraph (D).

11                  “(2) SUPPLEMENTAL PLAN FOR SUBCONTRAC-  
12                  TORS.—If the total estimated cost of the modifica-  
13                  tions described in paragraph (1)(D) that is sub-  
14                  mitted by an eligible entity to a recipient in accord-  
15                  ance with paragraph (1) is less than the amount re-  
16                  quired to be expended by the eligible entity under  
17                  subsection (c)(2)(A), the eligible entity shall submit  
18                  to the recipient a supplemental written plan that in-  
19                  cludes, with respect to the equipment that a subcon-  
20                  tractor of the eligible entity intends to operate on-  
21                  site, the information required to be submitted under  
22                  paragraph (1).

23                  “(3) BIDDER REQUIREMENTS.—By change  
24                  order and in accordance with the requirements and  
25                  procedures of this subsection, a recipient shall re-

1       quire the successful bidder of a covered public trans-  
2       portation construction project to install and employ  
3       diesel emission control technology on the pieces of  
4       covered equipment selected by the recipient as hav-  
5       ing the greatest potential of meeting the require-  
6       ments of subsection (b).

7           “(4) STRUCTURE OF CHANGE ORDER.—A re-  
8       recipient may structure a change order as the recipi-  
9       ent determines to be necessary, if the recipient de-  
10      termines that the change order does not—

11           “(A) materially delay the commencement  
12      of construction of the covered public transpor-  
13      tation construction project;

14           “(B) materially increase the time required  
15      to carry out the covered public transportation  
16      construction project;

17           “(C) cause any material interruption of the  
18      covered public transportation construction  
19      project;

20           “(D) increase any risk to the safety or  
21      health of any construction worker of the cov-  
22      ered public transportation construction project;  
23      or

24           “(E) result in the successful bidder for the  
25      covered public transportation construction

1 project recovering less than 100 percent of the  
2 cost of purchase and installation of each diesel  
3 emission control technology.

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

8 (b) APPLICABILITY.—Section 5341(b) of title 49,  
9 United States Code, as added by this section, shall apply  
10 to each public transportation construction project that is  
11 initiated, as determined by the Secretary of Transpor-  
12 tation, after the date that is 30 days after the date of  
13 enactment of this Act.

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

“5341. Construction equipment and vehicles.”.

17 **SEC. 4. REPORT TO CONGRESS.**

18 (a) IN GENERAL.—Not later than 1 year after the  
19 date of enactment of this Act, the Secretary of Transpor-  
20 tation shall submit to the Committee on Transportation  
21 and Infrastructure of the House of Representatives, the  
22 Committee on Environment and Public Works of the Sen-  
23 ate, and the Committee on Banking, Housing, and Urban  
24 Affairs of the Senate a report that describes the manners  
25 by which section 330 of title 23, United States Code (as

1 added by section 2 of this Act) and section 5341 of title  
2 49, United States Code (as added by section 3 of this Act)  
3 have been implemented, including the quantity of covered  
4 equipment serviced under those sections and the costs as-  
5 sociated with servicing the covered equipment.

6 (b) INFORMATION FROM STATES.—The Secretary  
7 shall require States and recipients, as a condition of re-  
8 ceiving amounts under this Act or under the provisions  
9 of any amendments made by this Act, to submit to the  
10 Secretary any information that the Secretary determines  
11 necessary to complete the report under subsection (a).

12 **SEC. 5. PROCESS FOR STATES.**

13 Not later than 1 year after the date of enactment  
14 of this Act, the Secretary of Transportation and the Ad-  
15 ministrator of the Environmental Protection Agency shall  
16 establish, jointly, a streamlined process to ensure that  
17 States may—

18 (1) quantify the emissions reductions achieved  
19 under this Act, including the amendments made by  
20 this Act;

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

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