

To the office of U.S. Representative Vince Fong

Re: HJRES 210 (119th Congress), Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Environmental Protection Agency relating to "California State Nonroad Engine Pollution Control Standards; Ocean-Going Vessels At-Berth; Notice of Decision". • Latest action (2026-09-16): Received in the Senate.

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Office of record (Congress.gov): 243 Cannon House Office Building, Washington, DC • (202) 225-2915

Port Clean Air Pilot and Federal Review Act

The measure, as described from the official record: Reduce air pollution from ocean-going vessels while docked by expanding emissions controls to more vessel types. The mechanism in the source is congressional disapproval of federal authorization for California to enforce that expansion.

THE PROPOSAL

Congress, not one state, must set the national rule for interstate shipping. The official summary states the resolution would nullify federal authorization for California to expand its Ocean-Going Vessels At-Berth Regulation to more vessel categories. Under Article I, Section 8, Clause 3, interstate commerce requires a uniform federal answer, and under the Tenth Amendment the states retain their police powers over local health. This proposal would respect both by replacing a yes-or-no fight over a California mandate with a time-limited federal pilot under the Spending Clause in Article I, Section 8, Clause 1.

The proposal would direct the Environmental Protection Agency to run a five-year At-Berth Clean Air Pilot with major commercial ports. The pilot would fund shore power hookups, cleaner auxiliary engine practices, and emissions monitoring while vessels are docked. Participation by ports and vessel operators would be voluntary and supported by grants. The goal is to cut dockside pollution where people live near ports without letting one state set de facto national shipping rules.

The strongest objection is that a voluntary pilot is too weak to protect port neighborhoods. The answer is that measured cuts plus yearly cost and air-quality data would give Congress the evidence to pass a durable national standard if mandates prove necessary and workable.

The proposal would measure what works. The Agency would publish yearly data on emissions cuts, costs to ports and carriers, delays, and air quality near participating ports. An independent review would compare grant-supported voluntary steps with stricter mandates. Congress would then decide whether broader federal standards are needed.

The proposal would add firm taxpayer and fairness protections. Spending would be capped and drawn from existing clean-air grant funds. Authority would end after five years unless Congress renews it. Rules for grants, monitoring, and reports would be public, with fair notice and a

chance to respond before any adverse finding against a participant, consistent with Fifth Amendment Due Process.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Effective Date	Enactment, with pilot and reporting requirements starting 180 days after enactment.
Enforcement Mechanism	EPA administers voluntary port agreements and public reporting; no new civil penalty is created and existing Clean Air Act enforcement is unchanged.
Funding Amount	Capped at \$120 million total over the authorization period for grants and monitoring.
Funding Source	Existing EPA Diesel Emissions Reduction Act appropriations and port-related grant balances, with no new tax or fee.
Oversight Body	Environmental Protection Agency with annual public reports and Government Accountability Office review in year four.
Sunset Years	5 years

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 3
- Article I, Section 8, Clause 1
- Tenth Amendment
- Fifth Amendment Due Process

Concerns with the measure as written:

- A single-state emissions standard with practical nationwide shipping effects raises federalism and interstate commerce concerns under Article I, Section 8, Clause 3 and the Tenth Amendment.
 - Congressional disapproval by itself leaves port emissions and compliance duties without a uniform federal answer.
 - Expanded vessel requirements without a stated cost review and fair notice path for carriers and ports raise fairness concerns under Fifth Amendment Due Process.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Republicans and conservatives gain protection against a single state setting de facto national shipping rules, plus a capped budget, no new tax, and a five-year sunset. Democrats and progressives gain continued action on dockside air pollution, grant funding for shore power and monitoring, and yearly public data to support future standards if the evidence warrants them.

Strongest objection, and the answer: The strongest objection is that a voluntary pilot is too weak to protect port neighborhoods. The answer is that measured cuts plus yearly cost and air-quality data would give Congress the evidence to pass a durable national standard if mandates prove necessary and workable.

CHECK BEFORE RELYING ON THIS

Basis: The public text is based on the Congress.gov summary of House Joint Resolution 210 in the 119th Congress, which states the resolution would nullify EPA authorization for California to amend its Ocean-Going Vessels At-Berth Regulation to cover more vessel categories.

The full bill text, current Clean Air Act requirements, eligibility rules for California authorizations, existing appeal rights, fiscal effects, and likely votes are not stated in the official summary and should be verified at Congress.gov before action.

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