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PUBLIC LAW 109–58—AUG. 8, 2005

ENERGY POLICY ACT OF 2005

or micro fuel cell in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee of the Task Force.

(c) ENERGY SAVINGS GOALS.—An agency that leases or purchases a stationary, portable, or micro fuel cell in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal described in section 808 of this Act that is applicable to the agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007;

(3) $75,000,000 for fiscal year 2008;

(4) $100,000,000 for fiscal year 2009;

(5) $100,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fiscal years 2011 through 2015.

Subtitle G—Diesel Emissions Reduction

42 USC 16131.

SEC. 791. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) CERTIFIED ENGINE CONFIGURATION.—The term "certified engine configuration" means a new, rebuilt, or remanufactured engine configuration—

(A) that has been certified or verified by—

(i) the Administrator; or

(ii) the California Air Resources Board;

(B) that meets or is rebuilt or remanufactured to a more stringent set of engine emission standards, as determined by the Administrator; and

(C) in the case of a certified engine configuration involving the replacement of an existing engine or vehicle, an engine configuration that replaced an engine that was—

(i) removed from the vehicle; and

(ii) returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for scrappage.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a regional, State, local, or tribal agency or port authority with jurisdiction over transportation or air quality; and

(B) a nonprofit organization or institution that—

(i) represents or provides pollution reduction or educational services to persons or organizations that own or operate diesel fleets; or

(ii) has, as its principal purpose, the promotion of transportation or air quality.

(4) EMERGING TECHNOLOGY.—The term "emerging technology" means a technology that is not certified or verified by the Administrator or the California Air Resources Board but for which an approvable application and test plan has been submitted for verification to the Administrator or the California Air Resources Board.

(5) FLEET.—The term "fleet" means one or more diesel vehicles or mobile or stationary diesel engines.

(6) HEAVY-DUTY TRUCK.—The term "heavy-duty truck" has the meaning given the term "heavy duty vehicle" in section 202 of the Clean Air Act (42 U.S.C. 7521).

(7) MEDIUM-DUTY TRUCK.—The term "medium-duty truck" has such meaning as shall be determined by the Administrator, by regulation.

(8) VERIFIED TECHNOLOGY.—The term "verified technology" means a pollution control technology, including a retrofit technology, advanced truckstop electrification system, or auxiliary power unit, that has been verified by—

(A) the Administrator; or

(B) the California Air Resources Board.

SEC. 792. NATIONAL GRANT AND LOAN PROGRAMS. 42 USC 16132.

(a) IN GENERAL.—The Administrator shall use 70 percent of the funds made available to carry out this subtitle for each fiscal year to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities to achieve significant reductions in diesel emissions in terms of—

(1) tons of pollution produced; and

(2) diesel emissions exposure, particularly from fleets operating in areas designated by the Administrator as poor air quality areas.

(b) DISTRIBUTION.—

(1) IN GENERAL.—The Administrator shall distribute funds made available for a fiscal year under this subtitle in accordance with this section.

(2) FLEETS.—The Administrator shall provide not less than 50 percent of funds available for a fiscal year under this section to eligible entities for the benefit of public fleets.

(3) ENGINE CONFIGURATIONS AND TECHNOLOGIES.—

(A) CERTIFIED ENGINE CONFIGURATIONS AND VERIFIED TECHNOLOGIES.—The Administrator shall provide not less than 90 percent of funds available for a fiscal year under this section to eligible entities for projects using—

(i) a certified engine configuration; or

(ii) a verified technology.

(B) EMERGING TECHNOLOGIES.—

(i) IN GENERAL.—The Administrator shall provide not more than 10 percent of funds available for a fiscal year under this section to eligible entities for the development and commercialization of emerging technologies.

(ii) APPLICATION AND TEST PLAN.—To receive funds under clause (i), a manufacturer, in consultation with an eligible entity, shall submit for verification to the Administrator or the California Air Resources Board

a test plan for the emerging technology, together with the application under subsection (c).

(c) APPLICATIONS.—

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

(2) INCLUSIONS.—An application under this subsection shall include—

(A) a description of the air quality of the area served by the eligible entity;

(B) the quantity of air pollution produced by the diesel fleets in the area served by the eligible entity;

(C) a description of the project proposed by the eligible entity, including—

(i) any certified engine configuration, verified technology, or emerging technology to be used or funded by the eligible entity; and

(ii) the means by which the project will achieve a significant reduction in diesel emissions;

(D) an evaluation (using methodology approved by the Administrator or the National Academy of Sciences) of the quantifiable and unquantifiable benefits of the emissions reductions of the proposed project;

(E) an estimate of the cost of the proposed project;

(F) a description of the age and expected lifetime control of the equipment used or funded by the eligible entity;

(G) a description of the diesel fuel available in the areas to be served by the eligible entity, including the sulfur content of the fuel; and

(H) provisions for the monitoring and verification of the project.

(3) PRIORITY.—In providing a grant or loan under this section, the Administrator shall give priority to proposed projects that, as determined by the Administrator—

(A) maximize public health benefits;

(B) are the most cost-effective;

(C) serve areas—

(i) with the highest population density;

(ii) that are poor air quality areas, including areas identified by the Administrator as—

(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant;

(II) Federal Class I areas; or

(III) areas with toxic air pollutant concerns;

(iii) that receive a disproportionate quantity of air pollution from a diesel fleets, including truckstops, ports, rail yards, terminals, and distribution centers; or

(iv) that use a community-based multistakeholder collaborative process to reduce toxic emissions;

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life;

(E) will maximize the useful life of any certified engine configuration, verified technology, or emerging technology used or funded by the eligible entity;

(F) conserve diesel fuel; and

(G) use diesel fuel with a sulfur content of less than or equal to 15 parts per million, as the Administrator determines to be appropriate.

(d) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity may use a grant or loan provided under this section to fund the costs of—

(A) a retrofit technology (including any incremental costs of a repowered or new diesel engine) that significantly reduces emissions through development and implementation of a certified engine configuration, verified technology, or emerging technology for—

(i) a bus;

(ii) a medium-duty truck or a heavy-duty truck;

(iii) a marine engine;

(iv) a locomotive; or

(v) a nonroad engine or vehicle used in—

(I) construction;

(II) handling of cargo (including at a port or airport);

(III) agriculture;

(IV) mining; or

(V) energy production; or

(B) programs or projects to reduce long-duration idling using verified technology involving a vehicle or equipment described in subparagraph (A).

(2) REGULATORY PROGRAMS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), no grant or loan provided under this section shall be used to fund the costs of emissions reductions that are mandated under Federal, State or local law.

(B) MANDATED.—For purposes of subparagraph (A), voluntary or elective emission reduction measures shall not be considered "mandated", regardless of whether the reductions are included in the State implementation plan of a State.

SEC. 793. STATE GRANT AND LOAN PROGRAMS. 42 USC 16133.

(a) IN GENERAL.—Subject to the availability of adequate appropriations, the Administrator shall use 30 percent of the funds made available for a fiscal year under this subtitle to support grant and loan programs administered by States that are designed to achieve significant reductions in diesel emissions.

(b) APPLICATIONS.—The Administrator shall—

(1) provide to States guidance for use in applying for grant or loan funds under this section, including information regarding— Guidelines.

(A) the process and forms for applications;

(B) permissible uses of funds received; and

(C) the cost-effectiveness of various emission reduction technologies eligible to be carried out using funds provided under this section; and

(2) establish, for applications described in paragraph (1)— Procedures.

Deadline.

(A) an annual deadline for submission of the applications;

(B) a process by which the Administrator shall approve or disapprove each application; and

(C) a streamlined process by which a State may renew an application described in paragraph (1) for subsequent fiscal years.

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—For each fiscal year, the Administrator shall allocate among States for which applications are approved by the Administrator under subsection (b)(2)(B) funds made available to carry out this section for the fiscal year.

(2) ALLOCATION.—Using not more than 20 percent of the funds made available to carry out this subtitle for a fiscal year, the Administrator shall provide to each State described in paragraph (1) for the fiscal year an allocation of funds that is equal to—

(A) if each of the 50 States qualifies for an allocation, an amount equal to 2 percent of the funds made available to carry out this section; or

(B) if fewer than 50 States qualifies for an allocation, an amount equal to the amount described in subparagraph (A), plus an additional amount equal to the product obtained by multiplying—

(i) the proportion that—

(I) the population of the State; bears to

(II) the population of all States described in paragraph (1); by

(ii) the amount of funds remaining after each State described in paragraph (1) receives the 2-percent allocation under this paragraph.

(3) STATE MATCHING INCENTIVE.—

(A) IN GENERAL.—If a State agrees to match the allocation provided to the State under paragraph (2) for a fiscal year, the Administrator shall provide to the State for the fiscal year an additional amount equal to 50 percent of the allocation of the State under paragraph (2).

(B) REQUIREMENTS.—A State—

(i) may not use funds received under this subtitle to pay a matching share required under this subsection; and

(ii) shall not be required to provide a matching share for any additional amount received under subparagraph (A).

(4) UNCLAIMED FUNDS.—Any funds that are not claimed by a State for a fiscal year under this subsection shall be used to carry out section 792.

(d) ADMINISTRATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3) and, to the extent practicable, the priority areas listed in section 792(c)(3), a State shall use any funds provided under this section to develop and implement such grant and low-cost revolving loan programs in the State as are appropriate to meet State needs and goals relating to the reduction of diesel emissions.

(2) APPORTIONMENT OF FUNDS.—The Governor of a State that receives funding under this section may determine the portion of funds to be provided as grants or loans.

(3) USE OF FUNDS.—A grant or loan provided under this section may be used for a project relating to—

(A) a certified engine configuration; or

(B) a verified technology.

SEC. 794. EVALUATION AND REPORT. 42 USC 16134.

(a) IN GENERAL.—Not later than 1 year after the date on which funds are made available under this subtitle, and biennially thereafter, the Administrator shall submit to Congress a report evaluating the implementation of the programs under this subtitle.

(b) INCLUSIONS.—The report shall include a description of—

(1) the total number of grant applications received;

(2) each grant or loan made under this subtitle, including the amount of the grant or loan;

(3) each project for which a grant or loan is provided under this subtitle, including the criteria used to select the grant or loan recipients;

(4) the actual and estimated air quality and diesel fuel conservation benefits, cost-effectiveness, and cost-benefits of the grant and loan programs under this subtitle;

(5) the problems encountered by projects for which a grant or loan is provided under this subtitle; and

(6) any other information the Administrator considers to be appropriate.

SEC. 795. OUTREACH AND INCENTIVES. 42 USC 16135.

(a) DEFINITION OF ELIGIBLE TECHNOLOGY.—In this section, the term "eligible technology" means—

(1) a verified technology; or

(2) an emerging technology.

(b) TECHNOLOGY TRANSFER PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program under which the Administrator—

(A) informs stakeholders of the benefits of eligible technologies; and

(B) develops nonfinancial incentives to promote the use of eligible technologies.

(2) ELIGIBLE STAKEHOLDERS.—Eligible stakeholders under this section include—

(A) equipment owners and operators;

(B) emission and pollution control technology manufacturers;

(C) engine and equipment manufacturers;

(D) State and local officials responsible for air quality management;

(E) community organizations; and

(F) public health, educational, and environmental organizations.

(c) STATE IMPLEMENTATION PLANS.—The Administrator shall develop appropriate guidance to provide credit to a State for emission reductions in the State created by the use of eligible technologies through a State implementation plan under section 110 of the Clean Air Act (42 U.S.C. 7410). Guidelines.

(d) INTERNATIONAL MARKETS.—The Administrator, in coordination with the Department of Commerce and industry stakeholders,

shall inform foreign countries with air quality problems of the potential of technology developed or used in the United States to provide emission reductions in those countries.

42 USC 16136.

SEC. 796. EFFECT OF SUBTITLE.

Nothing in this subtitle affects any authority under the Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the day before the date of enactment of this Act.

42 USC 16137.

SEC. 797. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $200,000,000 for each of fiscal years 2007 through 2011, to remain available until expended.

TITLE VIII—HYDROGEN

Spark M. Matsunaga Hydrogen Act of 2005.
42 USC 15801 note.

SEC. 801. HYDROGEN AND FUEL CELL PROGRAM.

This title may be cited as the "Spark M. Matsunaga Hydrogen Act of 2005".

42 USC 16151.

SEC. 802. PURPOSES.

The purposes of this title are—

(1) to enable and promote comprehensive development, demonstration, and commercialization of hydrogen and fuel cell technology in partnership with industry;

(2) to make critical public investments in building strong links to private industry, institutions of higher education, National Laboratories, and research institutions to expand innovation and industrial growth;

(3) to build a mature hydrogen economy that creates fuel diversity in the massive transportation sector of the United States;

(4) to sharply decrease the dependency of the United States on imported oil, eliminate most emissions from the transportation sector, and greatly enhance our energy security; and

(5) to create, strengthen, and protect a sustainable national energy economy.

42 USC 16152.

SEC. 803. DEFINITIONS.

In this title:

(1) FUEL CELL.—The term "fuel cell" means a device that directly converts the chemical energy of a fuel, which is supplied from an external source, and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(2) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a motor vehicle that—

(A) is rated at more than 8,500 pounds gross vehicle weight;

(B) has a curb weight of more than 6,000 pounds; or

(C) has a basic vehicle frontal area in excess of 45 square feet.

(3) INFRASTRUCTURE.—The term "infrastructure" means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).

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PUBLIC LAW 111–364—JAN. 4, 2011

DIESEL EMISSIONS REDUCTION ACT OF 2010

Public Law 111–364
111th Congress

An Act

Jan. 4, 2011
[H.R. 5809]

To amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.

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

Diesel Emissions Reduction Act of 2010.
42 USC 15801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Diesel Emissions Reduction Act of 2010".

SEC. 2. DIESEL EMISSIONS REDUCTION PROGRAM.

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

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) any private individual or entity that—

"(i) is the owner of record of a diesel vehicle or fleet operated pursuant to a contract, license, or lease with a Federal department or agency or an entity described in subparagraph (A); and

"(ii) meets such timely and appropriate requirements as the Administrator may establish for vehicle use and for notice to and approval by the Federal department or agency or entity described in subparagraph (A) with respect to which the owner has entered into a contract, license, or lease as described in clause (i).";

(2) in paragraph (4), by inserting "currently, or has not been previously," after "that is not";

(3) by striking paragraph (9);

(4) by redesignating paragraph (8) as paragraph (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

(B) in paragraph (1), by striking "tons of";

(3) in subsection (b)—

(A) by striking paragraph (2);

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

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

(i) in subparagraph (A), in the matter preceding clause (i), by striking "90" and inserting "95";

(ii) in subparagraph (B)(i), by striking "10 percent" and inserting "5 percent"; and

(iii) in subparagraph (B)(ii), by striking "the application under subsection (c)" and inserting "a verification application";

(4) in subsection (c)—

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

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

"(1) EXPEDITED PROCESS.—

"(A) IN GENERAL.—The Administrator shall develop a simplified application process for all applicants under this section to expedite the provision of funds.

"(B) REQUIREMENTS.—In developing the expedited process under subparagraph (A), the Administrator—

"(i) shall take into consideration the special circumstances affecting small fleet owners; and

"(ii) to avoid duplicative procedures, may require applicants to include in an application under this section the results of a competitive bidding process for equipment and installation.

"(2) ELIGIBILITY.—

"(A) GRANTS.—To be eligible to receive 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.

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

"(i) to the Administrator; or

"(ii) to an entity that has entered into a contract under subsection (e).";

(C) in paragraph (3)(G) (as redesignated by subparagraph (A)), by inserting "in the case of an application

relating to nonroad engines or vehicles," before "a description of the diesel"; and

(D) in paragraph (4) (as redesignated by subparagraph (A))—

(i) in the matter preceding subparagraph (A)—

(I) by inserting ", rebate," after "grant"; and

(II) by inserting "highest" after "shall give";

(ii) in subparagraph (C)(iii)—

(I) by striking "a diesel fleets" and inserting "diesel fleets"; and

(II) by inserting "construction sites, schools," after "terminals,";

(iii) in subparagraph (E), by adding "and" at the end;

(iv) in subparagraph (F), by striking "; and" and inserting a period; and

(v) by striking subparagraph (G);

(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 with a for-profit or nonprofit entity that has the capacity—

"(A) to sell diesel vehicles or equipment to, or to arrange financing for, individuals or entities that own a diesel vehicle or fleet; or

"(B) to upgrade diesel vehicles or equipment with verified or Environmental Protection Agency-certified engines or technologies, or to arrange financing for such upgrades.

Deadline. Web posting.

"(f) PUBLIC NOTIFICATION.—Not later than 60 days after the date of the award of a grant, rebate, or loan, the Administrator shall publish on the website of the Environmental Protection Agency—

"(1) for rebates and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of rebates or loans provided, as well as a breakdown of the technologies funded through the rebates or loans; and

"(2) for other rebates and loans, and for grants, a description of each application for which the grant, rebate, or loan is provided.".

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

(1) in the section heading, by inserting "**, REBATE,**" 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 follows:

"(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 Administrator shall provide to each State qualified for an allocation for the fiscal year an allocation equal to 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 Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall collectively receive an allocation equal to 1/53 of the funds made available for that fiscal year for distribution to States under this subsection, divided equally among those 4 States.

"(ii) EXCEPTION.—If any State described in clause (i) does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under clause (i) shall be reallocated pursuant to subparagraph (C).

"(C) REALLOCATION.—If any State does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under this paragraph shall be reallocated to each remaining qualified State in an amount equal to the product obtained by multiplying—

"(i) the proportion that the population of the State bears to the population of all States described in paragraph (1); by

"(ii) the amount otherwise allocatable to the nonqualifying State under this paragraph.";

(5) in subsection (d)—

(A) in paragraph (1), by inserting ", rebate," after "grant";

(B) in paragraph (2), by inserting ", rebates," after "grants";

(C) in paragraph (3), in the matter preceding subparagraph (A), by striking "grant or loan provided under this section may be used" and inserting "grant, rebate, or loan provided under this section shall be used"; and

(D) by adding at the end the following:

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

"(5) PUBLIC NOTIFICATION.—Not later than 60 days after the date of the award of a grant, rebate, or loan by a State, the State shall publish on the Web site of the State— Deadline. Web posting.

"(A) for rebates, grants, and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of rebates, grants, or loans provided, as well as a breakdown of the technologies funded through the rebates, grants, or loans; and

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

(d) EVALUATION AND REPORT.—Section 794(b) of the Energy Policy Act of 2005 (42 U.S.C. 16134(b)) is amended—

(1) in each of paragraphs (2) through (5) by inserting ", rebate," after "grant" each place it appears;

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(7) in the last report sent to Congress before January 1, 2016, an analysis of the need to continue the program, including an assessment of the size of the vehicle and engine fleet that could provide benefits from being retrofit under this program and a description of the number and types of applications that were not granted in the preceding year.".

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

"SEC. 797. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

"(b) MANAGEMENT AND OVERSIGHT.—The Administrator may use not more than 1 percent of the amounts made available under subsection (a) for each fiscal year for management and oversight purposes.".

SEC. 3. AUDIT.

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

(1) all Federal mobile source clean air grant, rebate, or low cost revolving loan programs under the authority of the Administrator of the Environmental Protection Agency, the Secretary of Transportation, or other relevant Federal agency heads that are designed to address diesel emissions from, or reduce diesel fuel usage by, diesel engines and vehicles; and

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

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

(1) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a copy of the audit under subsection (a); and

Web posting.

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

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

SEC. 4. EFFECTIVE DATE.

42 USC 16131 note.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by section 2 shall take effect on October 1, 2011.

(b) EXCEPTION.—The amendments made by subsections (a)(4) and (6) and (c)(4) of section 2 shall take effect on the date of enactment of this Act.

Approved January 4, 2011.

LEGISLATIVE HISTORY—H.R. 5809:

HOUSE REPORTS: No. 111–618, Pt. 1 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 156 (2010):
Sept. 22, considered and passed House.
Dec. 16, considered and passed Senate, amended.
Dec. 21, House concurred in Senate amendments.

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(PART 1)*

PUBLIC LAW 116–260—DEC. 27, 2020

CONSOLIDATED APPROPRIATIONS ACT, 2021

*Editorial note: Part 1 contains pages 134 Stat. 1182 through 134 Stat. 2247. See note at the end.

valve, or other pressure-limiting devices appropriate for the configuration and siting of the station and, in the case of a regulator station that employs the primary and monitor regulator design, the operator shall eliminate the common mode of failure or provide backup protection capable of either shutting the flow of gas, relieving gas to the atmosphere to fully protect the distribution system from overpressurization events, or there must be technology in place to eliminate a common mode of failure; and

"(iv) if the Secretary determines that it is not operationally possible for an operator to implement the requirements under clause (iii), the Secretary shall require such operator to identify actions in their plan that minimize the risk of an overpressurization event.". Determination.

DIVISION S—INNOVATION FOR THE ENVIRONMENT

SEC. 101. REAUTHORIZATION OF DIESEL EMISSIONS REDUCTION PROGRAM.

Section 797(a) of the Energy Policy Act of 2005 (42 U.S.C. 16137(a)) is amended by striking "2016" and inserting "2024".

SEC. 102. ENCOURAGING PROJECTS TO REDUCE EMISSIONS.

Utilizing Significant Emissions with Innovative Technologies Act. 42 USC 4321 note.

(a) SHORT TITLE.—This section may be cited as the "Utilizing Significant Emissions with Innovative Technologies Act" or the "USE IT Act".

(b) RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES.—Section 103 of the Clean Air Act (42 U.S.C. 7403) is amended—

(1) in subsection (c)(3), in the first sentence of the matter preceding subparagraph (A), by striking "percursors" and inserting "precursors"; and

(2) in subsection (g)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(B) in the undesignated matter following subparagraph (D) (as so redesignated)—

(i) in the second sentence, by striking "The Administrator" and inserting the following:

"(5) COORDINATION AND AVOIDANCE OF DUPLICATION.—The Administrator"; and

(ii) in the first sentence, by striking "Nothing" and inserting the following:

"(4) EFFECT OF SUBSECTION.—Nothing";

(C) in the matter preceding subparagraph (A) (as so redesignated)—

(i) in the third sentence, by striking "Such program" and inserting the following:

"(3) PROGRAM INCLUSIONS.—The program under this subsection";

(ii) in the second sentence—

(I) by inserting "States, institutions of higher education," after "scientists,"; and

(II) by striking "Such strategies and technologies shall be developed" and inserting the following:

"(2) PARTICIPATION REQUIREMENT.—Such strategies and technologies described in paragraph (1) shall be developed"; and

(iii) in the first sentence, by striking "In carrying out" and inserting the following:

"(1) IN GENERAL.—In carrying out"; and

(D) by adding at the end the following:

"(6) CERTAIN CARBON DIOXIDE ACTIVITIES.—

"(A) IN GENERAL.—In carrying out paragraph (3)(A) with respect to carbon dioxide, the Administrator—

"(i) is authorized to carry out the activities described in subparagraph (B); and

"(ii) shall carry out the activities described in subparagraph (C).

"(B) DIRECT AIR CAPTURE RESEARCH.—

"(i) DEFINITIONS.—In this subparagraph:

"(I) BOARD.—The term 'Board' means the Direct Air Capture Technology Advisory Board established by clause (iii)(I).

"(II) DILUTE.—The term 'dilute' means a concentration of less than 1 percent by volume.

"(III) DIRECT AIR CAPTURE.—

"(aa) IN GENERAL.—The term 'direct air capture', with respect to a facility, technology, or system, means that the facility, technology, or system uses carbon capture equipment to capture carbon dioxide directly from the air.

"(bb) EXCLUSION.—The term 'direct air capture' does not include any facility, technology, or system that captures carbon dioxide—

"(AA) that is deliberately released from a naturally occurring subsurface spring; or

"(BB) using natural photosynthesis.

"(IV) INTELLECTUAL PROPERTY.—The term 'intellectual property' means—

"(aa) an invention that is patentable under title 35, United States Code; and

"(bb) any patent on an invention described in item (aa).

"(ii) TECHNOLOGY PRIZES.—

Deadline.
Consultation.

"(I) IN GENERAL.—Not later than 1 year after the date of enactment of the Utilizing Significant Emissions with Innovative Technologies Act, the Administrator, in consultation with the Secretary of Energy, is authorized to establish a program to provide financial awards on a competitive basis for direct air capture from media in which the concentration of carbon dioxide is dilute.

"(II) DUTIES.—In carrying out this clause, the Administrator shall—

"(aa) subject to subclause (III), develop specific requirements for—

"(AA) the competition process; and

"(BB) the demonstration of performance of approved projects;

"(bb) offer financial awards for a project designed—

"(AA) to the maximum extent practicable, to capture more than 10,000 tons of carbon dioxide per year;

"(BB) to operate in a manner that would be commercially viable in the foreseeable future (as determined by the Board); and

"(CC) to improve the technologies or information systems that enable monitoring and verification methods for direct air capture projects; and

"(cc) to the maximum extent practicable, make financial awards to geographically diverse projects, including at least—

"(AA) 1 project in a coastal State; and

"(BB) 1 project in a rural State.

"(III) PUBLIC PARTICIPATION.—In carrying out subclause (II)(aa), the Administrator shall—

"(aa) provide notice of and, for a period of not less than 60 days, an opportunity for public comment on, any draft or proposed version of the requirements described in subclause (II)(aa); and

Notice.
Time period.

"(bb) take into account public comments received in developing the final version of those requirements.

"(iii) DIRECT AIR CAPTURE TECHNOLOGY ADVISORY BOARD.—

"(I) ESTABLISHMENT.—The Administrator may establish an advisory board to be known as the 'Direct Air Capture Technology Advisory Board'.

"(II) COMPOSITION.—The Board, on the establishment of the Board, shall be composed of 9 members appointed by the Administrator, who shall provide expertise in—

Appointment.

"(aa) climate science;

"(bb) physics;

"(cc) chemistry;

"(dd) biology;

"(ee) engineering;

"(ff) economics;

"(gg) business management; and

"(hh) such other disciplines as the Administrator determines to be necessary to achieve the purposes of this subparagraph.

"(III) TERM; VACANCIES.—

"(aa) TERM.—A member of the Board shall serve for a term of 6 years.

"(bb) VACANCIES.—A vacancy on the Board—

"(AA) shall not affect the powers of the Board; and

"(BB) shall be filled in the same manner as the original appointment was made.

Deadline.

"(IV) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold the initial meeting of the Board.

"(V) MEETINGS.—The Board shall meet at the call of the Chairperson or on the request of the Administrator.

"(VI) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

"(VII) CHAIRPERSON AND VICE CHAIRPERSON.—The Board shall select a Chairperson and Vice Chairperson from among the members of the Board.

"(VIII) COMPENSATION.—Each member of the Board may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Board.

"(IX) DUTIES.—The Board shall—

"(aa) advise the Administrator on carrying out the duties of the Administrator under this subparagraph; and

"(bb) provide other assistance and advice as requested by the Administrator.

"(iv) INTELLECTUAL PROPERTY.—

"(I) IN GENERAL.—As a condition of receiving a financial award under this subparagraph, an applicant shall agree to vest the intellectual property of the applicant derived from the technology in 1 or more entities that are incorporated in the United States.

"(II) RESERVATION OF LICENSE.—The United States—

"(aa) may reserve a nonexclusive, nontransferable, irrevocable, paid-up license, to have practiced for or on behalf of the United States, in connection with any intellectual property described in subclause (I); but

"(bb) shall not, in the exercise of a license reserved under item (aa), publicly disclose proprietary information relating to the license.

"(III) TRANSFER OF TITLE.—Title to any intellectual property described in subclause (I) shall not be transferred or passed, except to an entity that is incorporated in the United States, until the expiration of the first patent obtained in connection with the intellectual property.

"(v) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subparagraph $35,000,000, to remain available until expended.

"(vi) TERMINATION OF AUTHORITY.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), the Board and all authority provided under this subparagraph shall terminate not later than 12 years after the date of enactment of the Utilizing Significant Emissions with Innovative Technologies Act.

"(C) DEEP SALINE FORMATION REPORT.—

"(i) DEFINITION OF DEEP SALINE FORMATION.—

"(I) IN GENERAL.—In this subparagraph, the term 'deep saline formation' means a formation of subsurface geographically extensive sedimentary rock layers saturated with waters or brines that have a high total dissolved solids content and that are below the depth where carbon dioxide can exist in the formation as a supercritical fluid.

"(II) CLARIFICATION.—In this subparagraph, the term 'deep saline formation' does not include oil and gas reservoirs.

"(ii) REPORT.—In consultation with the Secretary of Energy, and, as appropriate, with the head of any other relevant Federal agency and relevant stakeholders, not later than 1 year after the date of enactment of the Utilizing Significant Emissions with Innovative Technologies Act, the Administrator shall prepare, submit to Congress, and make publicly available a report that includes— Consultation. Public information. Recommendations.

"(I) a comprehensive identification of potential risks and benefits to project developers associated with increased storage of carbon dioxide captured from stationary sources in deep saline formations, using existing research;

"(II) recommendations for managing the potential risks identified under subclause (I), including potential risks unique to public land; and

"(III) recommendations for Federal legislation or other policy changes to mitigate any potential risks identified under subclause (I).

"(D) GAO REPORT.—Not later than 5 years after the date of enactment of the Utilizing Significant Emissions with Innovative Technologies Act, the Comptroller General of the United States shall submit to Congress a report that—

"(i) identifies all Federal grant programs in which a purpose of a grant under the program is to perform research on carbon capture and utilization technologies, including direct air capture technologies; and

"(ii) examines the extent to which the Federal grant programs identified pursuant to clause (i) overlap or are duplicative.".

(c) CARBON UTILIZATION PROGRAM.—

(1) IN GENERAL.—Subtitle F of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16291 et seq.) is amended by inserting after section 968 the following:

Note: See Part 2 for pages 134 Stat. 2248 through 134 Stat. 3305.