

(5) Plug-in electric drive vehicle

The term “plug-in electric drive vehicle” means a vehicle that—

- (A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;
- (B) can be recharged from an external source of electricity for motive power; and
- (C) is a light-, medium-, or heavy duty motor vehicle or nonroad vehicle (as those terms are defined in section 7550 of this title).

(b) In general**(1) Allocation**

The Secretary shall allocate a credit to a fleet or covered person that is required to acquire an alternative fueled vehicle under this subchapter, if that fleet or person acquires an alternative fueled vehicle in excess of the number that fleet or person is required to acquire under this subchapter or acquires an alternative fueled vehicle before the date that fleet or person is required to acquire an alternative fueled vehicle under such subchapter.

(2) Electric vehicles

Not later than January 31, 2009, the Secretary shall—

(A) allocate credit in an amount to be determined by the Secretary for—

- (i) acquisition of—
 - (I) a hybrid electric vehicle;
 - (II) a plug-in electric drive vehicle;
 - (III) a fuel cell electric vehicle;
 - (IV) a neighborhood electric vehicle; or
 - (V) a medium- or heavy-duty electric vehicle; and

(ii) investment in qualified alternative fuel infrastructure or nonroad equipment, as determined by the Secretary; and

(B) allocate more than 1, but not to exceed 5, credits for investment in an emerging technology relating to any vehicle described in subparagraph (A) to encourage—

- (i) a reduction in petroleum demand;
- (ii) technological advancement; and
- (iii) a reduction in vehicle emissions.

(c) Allocation

In allocating credits under subsection (b) of this section, the Secretary shall allocate one credit for each alternative fueled vehicle the fleet or covered person acquires that exceeds the number of alternative fueled vehicles that fleet or person is required to acquire under this subchapter or that is acquired before the date that fleet or person is required to acquire an alternative fueled vehicle under such subchapter. In the event that a vehicle is acquired before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is acquired before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier acquired vehicle.

(d) Use of credits

At the request of a fleet or covered person allocated a credit under this section, the Secretary shall treat the credit as the acquisition of one alternative fueled vehicle of the type for

which the credit is allocated in the year designated by that fleet or person when determining whether that fleet or person has complied with this subchapter in the year designated. A credit may be counted toward compliance for only one year.

(e) Transferability

A fleet or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another fleet or person who is required to comply with this subchapter. At the request of the fleet or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by the fleet or person to whom the credit is transferred when determining whether that fleet or person has complied with this subchapter in the year designated. A transferred credit may be counted toward compliance for only one year. In the case of the alternative fuel provider program under section 13251 of this title, a transferred credit may be counted toward compliance only if the requirement of section 13251(a)(4) of this title is met.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2013.

(Pub. L. 102-486, title V, §508, Oct. 24, 1992, 106 Stat. 2897; Pub. L. 110-140, title I, §133, Dec. 19, 2007, 121 Stat. 1511.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-140, §133(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 110-140, §133(1), (3), redesignated subsec. (a) as (b), designated existing provisions as par. (1), inserted par. heading, and added par. (2). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 110-140, §133(1), (4), redesignated subsec. (b) as (c) and substituted “subsection (b)” for “subsection (a)”. Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 110-140, §133(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (f). Pub. L. 110-140, §133(5), added subsec. (f).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 13259. Secretary’s recommendations to Congress**(a) Recommendations to require availability or acquisition**

If the Secretary determines, under section 13257(f) of this title, that a fleet requirement program under section 13257 of this title is not necessary, the Secretary shall so notify the Congress. If the Secretary so notifies the Congress, the Secretary shall, within 2 years after such notification and by rule, prepare and submit to the Congress recommendations for requirements or incentives for—

- (1) fuel suppliers to make available to the public replacement fuels, including providing

for the construction or availability of related fuel delivery systems;

(2) suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services; and

(3) motor vehicle drivers to use replacement fuels,

to the extent necessary to achieve such goals of replacement fuel use and to ensure that the availability of alternative fuels and of alternative fueled vehicles are consistent with each other.

(b) Fair and equitable application

In carrying out this section, the Secretary shall recommend the imposition of requirements proportionately on all appropriate fuel suppliers and purchasers of motor fuels and suppliers and purchasers of motor vehicles in a fair and equitable manner.

(Pub. L. 102-486, title V, §509, Oct. 24, 1992, 106 Stat. 2898.)

§ 13260. Effect on other laws

(a) In general

Nothing in this Act or the amendments made by this Act shall be construed to alter, affect, or modify the provisions of the Clean Air Act [42 U.S.C. 7401 et seq.], or regulations issued thereunder.

(b) Compliance by alternative fueled vehicles

Alternative fueled vehicles, whether dedicated vehicles or dual fueled vehicles, and the alternative fuels for operating such vehicles, shall comply with requirements of the Clean Air Act [42 U.S.C. 7401 et seq.] applicable to such vehicles and fuels.

(Pub. L. 102-486, title V, §510, Oct. 24, 1992, 106 Stat. 2898.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

§ 13261. Prohibited acts

It shall be unlawful for any person to violate any provision of section 13251, 13253(b), 13257, or 13263a of this title, or any regulation issued under such sections.

(Pub. L. 102-486, title V, §511, Oct. 24, 1992, 106 Stat. 2899; Pub. L. 109-58, title VII, §703(b), Aug. 8, 2005, 119 Stat. 816.)

AMENDMENTS

2005—Pub. L. 109-58 substituted “13257, or 13263a” for “or 13257”.

§ 13262. Enforcement

(a) Violation

Whoever violates section 13261 of this title shall be subject to a civil penalty of not more than \$5,000 for each violation.

(b) Willful violation

Whoever willfully violates section 13261 of this title shall be fined not more than \$10,000 for each violation.

(c) Knowing and willful violation following prior violation and penalty

Any person who knowingly and willfully violates section 13261 of this title after having been subjected to a civil penalty for a prior violation of section 13261 of this title shall be fined not more than \$50,000.

(Pub. L. 102-486, title V, §512, Oct. 24, 1992, 106 Stat. 2899.)

§ 13263. Powers of Secretary

For the purpose of carrying out subchapter I of this chapter, subchapter II of this chapter, this subchapter, and subchapter IV of this chapter, the Secretary, or the duly designated agent of the Secretary, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary of Transportation is authorized to do under section 32910(a)(1) of title 49.

(Pub. L. 102-486, title V, §513, Oct. 24, 1992, 106 Stat. 2899.)

REFERENCES IN TEXT

Subchapter I of this chapter, referred to in text, was in the original “title III” meaning title III of Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2866, which enacted subchapter I of this chapter, amended section 6374 of this title, and repealed provisions set out as a note under section 6374 of this title.

Subchapter II of this chapter, referred to in text, was in the original “title IV” meaning title IV of Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2875, which enacted subchapter II of this chapter, amended sections 6374a to 6374c of this title and sections 717, 717a, 2001, 2002, 2006, and 2013 of Title 15, Commerce and Trade, enacted provisions set out as notes under sections 79b and 717 of Title 15, and repealed provisions set out as a note under section 717c of Title 15.

CODIFICATION

In text, “section 32910(a)(1) of title 49” substituted for “section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(b)(1))” on authority of Pub. L. 103-272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

§ 13263a. Alternative compliance

(a) Application for waiver

Any covered person subject to section 13251 of this title and any State subject to section 13257(o) of this title may petition the Secretary for a waiver of the applicable requirements of section 13251 or 13257(o) of this title.

(b) Grant of waiver

The Secretary shall grant a waiver of the requirements of section 13251 or 13257(o) of this title on a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered person—

(1) will achieve a reduction in the annual consumption of petroleum fuels by the fleet equal to—