

holders, 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.

(Pub. L. 109–58, title VII, §795, Aug. 8, 2005, 119 Stat. 843.)

§ 16136. Effect of part

Nothing in this part affects any authority under the Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the day before August 8, 2005.

(Pub. L. 109–58, title VII, §796, Aug. 8, 2005, 119 Stat. 844.)

REFERENCES IN TEXT

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.

§ 16137. Authorization of appropriations

(a) In general

There is authorized to be appropriated to carry out this part \$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.

(Pub. L. 109–58, title VII, §797, Aug. 8, 2005, 119 Stat. 844; Pub. L. 111–364, §2(e), Jan. 4, 2011, 124 Stat. 4060.)

AMENDMENTS

2011—Pub. L. 111–364 amended section generally. Prior to amendment, text read as follows: “There is authorized to be appropriated to carry out this part \$200,000,000 for each of fiscal years 2007 through 2011, to remain available until expended.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–364 effective Oct. 1, 2011, except as otherwise provided, see section 4 of Pub. L. 111–364, set out as a note under section 16131 of this title.

§ 16138. EPA authority to accept diesel emissions reduction Supplemental Environmental Projects

The Administrator of the Environmental Protection Agency (hereinafter, the “Agency”) may accept (notwithstanding sections 3302 and 1301 of title 31) diesel emissions reduction Supplemental Environmental Projects if the projects, as part of a settlement of any alleged violations of environmental law—

- (1) protect human health or the environment;
- (2) are related to the underlying alleged violations;
- (3) do not constitute activities that the defendant would otherwise be legally required to perform; and
- (4) do not provide funds for the staff of the Agency or for contractors to carry out the Agency’s internal operations.

(Pub. L. 110–255, §1, June 30, 2008, 122 Stat. 2423.)

CODIFICATION

Section was not enacted as part of the Energy Policy Act of 2005 which comprises this chapter.

§ 16139. Settlement agreement provisions

In any settlement agreement regarding alleged violations of environmental law in which a defendant agrees to perform a diesel emissions reduction Supplemental Environmental Project, the Administrator of the Environmental Protection Agency shall require the defendant to include in the settlement documents a certification under penalty of law that the defendant would have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction Supplemental Environmental Project if the Administrator were precluded by law from accepting a diesel emission reduction Supplemental Environmental Project. A failure by the Administrator to include this language in such a settlement agreement shall not create a cause of action against the United States under the Clean Air Act [42 U.S.C. 7401 et seq.] or any other law or create a basis for overturning a settlement agreement entered into by the United States.

(Pub. L. 110–255, §2, June 30, 2008, 122 Stat. 2423.)

REFERENCES IN TEXT

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, 69 Stat. 322, 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.

CODIFICATION

Section was not enacted as part of the Energy Policy Act of 2005 which comprises this chapter.

SUBCHAPTER VIII—HYDROGEN

§ 16151. Purposes

The purposes of this subchapter 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.

(Pub. L. 109–58, title VIII, §802, Aug. 8, 2005, 119 Stat. 844.)

SHORT TITLE

For short title of title VIII of Pub. L. 109–58, which enacted this subchapter, as the “Spark M. Matsunaga Hydrogen Act of 2005”, see section 801 of Pub. L. 109–58, set out as a note under section 15801 of this title.

§ 16152. Definitions

In this subchapter:

(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).

(4) Light-duty vehicle

The term “light-duty vehicle” means a motor vehicle that is rated at 8,500 or less pounds gross vehicle weight.

(5) Stationary; portable

The terms “stationary” and “portable”, when used in reference to a fuel cell, include—

- (A) continuous electric power; and
- (B) backup electric power.

(6) Task Force

The term “Task Force” means the Hydrogen and Fuel Cell Technical Task Force established under section 16155 of this title.

(7) Technical Advisory Committee

The term “Technical Advisory Committee” means the independent Technical Advisory Committee established under section 16156 of this title.

(Pub. L. 109–58, title VIII, §803, Aug. 8, 2005, 119 Stat. 844.)

§ 16153. Plan

Not later than 6 months after August 8, 2005, the Secretary shall transmit to Congress a coordinated plan for the programs described in this subchapter and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—

- (1) the agenda for the next 5 years for the programs authorized under this subchapter, including the agenda for each activity enumerated in section 16154(e) of this title;
- (2) the types of entities that will carry out the activities under this subchapter and what role each entity is expected to play;
- (3) the milestones that will be used to evaluate the programs for the next 5 years;
- (4) the most significant technical and non-technical hurdles that stand in the way of achieving the goals described in section 16154 of this title, and how the programs will address those hurdles; and

(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

(Pub. L. 109–58, title VIII, §804, Aug. 8, 2005, 119 Stat. 845.)

§ 16154. Programs**(a) In general**

The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a research and development program on technologies relating to the production, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

(b) Goal

The goal of the program shall be to demonstrate and commercialize the use of hydrogen for transportation (in light-duty vehicles and heavy-duty vehicles), utility, industrial, commercial, and residential applications.

(c) Focus

In carrying out activities under this section, the Secretary shall focus on factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical evolution and cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and end uses of hydrogen that—

- (1) steadily increase production, distribution, and end use efficiency and reduce lifecycle emissions;
- (2) resolve critical problems relating to catalysts, membranes, storage, lightweight materials, electronic controls, manufacturability, and other problems that emerge from the program;
- (3) enhance sources of renewable fuels and biofuels for hydrogen production; and
- (4) enable widespread use of distributed electricity generation and storage.

(d) Public education and research

In carrying out this section, the Secretary shall support enhanced public education and research conducted at institutions of higher education in fundamental sciences, application design, and systems concepts (including education and research relating to materials, subsystems, manufacturability, maintenance, and safety) relating to hydrogen and fuel cells.

(e) Activities

The Secretary, in partnership with the private sector, shall conduct programs to address—

- (1) production of hydrogen from diverse energy sources, including—
 - (A) fossil fuels, which may include carbon capture and sequestration;
 - (B) hydrogen-carrier fuels (including ethanol and methanol);
 - (C) renewable energy resources, including biomass; and
 - (D) nuclear energy;
- (2) use of hydrogen for commercial, industrial, and residential electric power generation;