

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

**(7) Deployment and distribution**

The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

**(8) Annual report**

**(A)<sup>3</sup> In general**

Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

**(c) Education**

**(1) In general**

Not later than 90 days after August 8, 2005, the Administrator shall develop an education outreach program to promote and explain the grant program.

**(2) Coordination with stakeholders**

The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

**(3) Components**

The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

**(d) Authorization of appropriations**

There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) \$55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

(Pub. L. 109-58, title VII, §741, Aug. 8, 2005, 119 Stat. 821.)

**§ 16091a. Clean school bus program<sup>1</sup>**

**(a) Definitions**

In this section, the following definitions apply:

**(1) Administrator**

The term “Administrator” means the Administrator of the Environmental Protection Agency.

**(2) Alternative fuel**

The term “alternative fuel” means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of August 10, 2005.

**(3) Clean school bus**

The term “clean school bus” means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

**(4) Eligible recipient**

**(A) In general**

Subject to subparagraph (B), the term “eligible recipient” means—

(i) one or more local or State governmental entities responsible for providing school bus service to one or more public school systems or the purchase of school buses;

(ii) one or more contracting entities that provide school bus service to one or more public school systems; or

(iii) a nonprofit school transportation association.

**(B) Special requirements**

In the case of eligible recipients identified under clauses (ii) and (iii) of subparagraph (A), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

**(5) Retrofit technology**

The term “retrofit technology” means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

**(6) Secretary**

The term “Secretary” means the Secretary of Energy.

<sup>1</sup> This section is substantially identical to section 16091 of this title.

**(7) Ultra-low sulfur diesel fuel**

The term “ultra-low sulfur diesel fuel” means diesel fuel that contains sulfur at not more than 15 parts per million.

**(b) Program for retrofit or replacement of certain existing school buses with clean school buses****(1) Establishment****(A) In general**

The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement of, retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses. The awarding of grants for the purchase of alternative fuels should be consistent with the historic funding levels of the program for such purchase.

**(B) Balancing**

In awarding grants under this section, the Administrator shall achieve, to the maximum extent practicable, achieve<sup>2</sup> an appropriate balance between awarding grants—

- (i) to replace school buses;
- (ii) to install retrofit technologies; and
- (iii) to purchase and use alternative fuel.

**(2) Priority of grant applications****(A) Replacement**

In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

**(B) Retrofitting**

In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

**(3) Use of school bus fleet****(A) In general**

All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

**(B) Maintenance, operation, and fueling**

New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

**(4) Retrofit grants**

The Administrator may award grants under this section for up to 100 percent of the retrofit technologies and installation costs.

**(5) Replacement grants****(A) Eligibility for 50 percent grants**

The Administrator may award grants under this section for replacement of school

buses in the amount of up to one-half of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

- (I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and
- (II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

**(B) Eligibility for 25 percent grants**

The Administrator may award grants under this section for replacement of school buses in the amount of up to one-fourth of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

- (I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and
- (II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

**(6) Ultra-low sulfur diesel fuel****(A)<sup>3</sup> In general**

In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

- (i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and
- (ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

**(7) Deployment and distribution**

The Administrator, to the maximum extent practicable, shall—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

<sup>2</sup>So in original. The word “achieve” probably should not appear.

<sup>3</sup>So in original. No subpar. (B) was enacted.

**(8) Annual report****(A)<sup>3</sup> In general**

Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

- (i) evaluates the implementation of this section; and
- (ii) describes—

- (I) the total number of grant applications received;

- (II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

- (III) grants awarded and the criteria used to select the grant recipients;

- (IV) certified engine emission levels of all buses purchased or retrofitted under this section;

- (V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

- (VI) any other information the Administrator considers appropriate.

**(c) Education****(1) In general**

Not later than 90 days after August 10, 2005, the Administrator shall develop an education outreach program to promote and explain the grant program.

**(2) Coordination with stakeholders**

The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

**(3) Components**

The outreach program shall—

- (A) inform potential grant recipients on the process of applying for grants;

- (B) describe the available technologies and the benefits of the technologies;

- (C) explain the benefits of participating in the grant program; and

- (D) include, as appropriate, information from the annual report required under subsection (b)(8).

**(d) Authorization of appropriations**

There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

- (1) \$55,000,000 for each of fiscal years 2006 and 2007; and

- (2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

(Pub. L. 109–59, title VI, § 6015, Aug. 10, 2005, 119 Stat. 1884.)

## CODIFICATION

Section was enacted as part of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or the SAFETEA-LU, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

**§ 16092. Diesel truck retrofit and fleet modernization program****(a) Establishment**

The Administrator, in consultation with the Secretary, shall establish a program for award-

ing grants on a competitive basis to public agencies and entities for fleet modernization programs including installation of retrofit technologies for diesel trucks.

**(b) Eligible recipients**

A grant shall be awarded under this section only to a State or local government or an agency or instrumentality of a State or local government or of two or more State or local governments who will allocate funds, with preference to ports and other major hauling operations.

**(c) Awards****(1) In general**

The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

**(2) Preferences**

In making awards of grants under this section, the Administrator shall give preference to proposals that—

- (A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, and/or particulate matter per proposal or per truck; or

- (B) involve the use of Environmental Protection Agency or California Air Resources Board verified emissions control retrofit technology on diesel trucks that operate solely on ultra-low sulfur diesel fuel after September 2006.

**(d) Conditions of grant**

A grant shall be provided under this section on the conditions that—

- (1) trucks which are replacing scrapped trucks and on which retrofit emissions-control technology are to be demonstrated—

- (A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

- (B) were manufactured in model year 1998 and before; and

- (C) will be used for the transportation of cargo goods especially in port areas or used in goods movement and major hauling operations;

- (2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

- (3) grant recipients will provide at least 50 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit, from any source other than this section.

**(e) Verification**

Not later than 90 days after August 8, 2005, the Administrator shall publish in the Federal Register procedures to—

- (1) make grants pursuant to this section;

- (2) verify that trucks powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur after September 2006; and