

needs and objectives of encouraging and facilitating the greater use of such urban buses by the public, taking into consideration the impact of such application on public transit entities. The Secretary may only initiate one rulemaking under this paragraph.

(3) Rulemakings under paragraph (1) or (2) shall be separate from a rulemaking under subsection (g), but may not occur unless a rulemaking is carried out under subsection (g).

(l) Consideration of factors

In carrying out this section, the Secretary shall take into consideration energy security, costs, safety, lead time requirements, vehicle miles traveled annually, effect on greenhouse gases, technological feasibility, energy requirements, economic impacts, including impacts on workers and the impact on consumers (including users of the alternative fuel for purposes such as for residences, agriculture, process use, and non-fuel purposes) and fleets, the availability of alternative fuels and alternative fueled vehicles, and other relevant factors.

(m) Consultation and participation of other Federal agencies

In carrying out this section and section 13256 of this title, the Secretary shall consult with the Secretary of Transportation, the Administrator, and other appropriate Federal agencies. The Secretary shall provide for the participation of the Secretary of Transportation and the Administrator in the development and issuance of the rule under this section, including the public process concerning such rule.

(n) Petitions

As part of the rule promulgated either pursuant to subsection (b) or (g) of this section, the Secretary shall establish procedures for any fleet owner or operator or motor vehicle manufacturer to request that the Secretary modify or suspend a fleet requirement program established under either subsection nationally, by region, or in an applicable fleet area because, as demonstrated by the petitioner, the infrastructure or fuel supply or distribution system for an applicable alternative fuel is inadequate to meet the needs of a fleet. In the event that the Secretary determines that a modification or suspension of the fleet requirement program on a regional basis would detract from the nationwide character of any fleet requirement program established by rule or would sufficiently diminish the economies of scale for the production of alternative fueled vehicles or alternative fuels and thereafter the practicability and effectiveness of such program, the Secretary may only modify or suspend the program nationally. The procedures shall include provisions for notice and public hearings. The Secretary shall deny or grant the petition within 180 days after filing.

(o) Mandatory State fleet programs

(1) Pursuant to a rule promulgated by the Secretary, beginning in calendar year 1995 (when model year 1996 begins), the following percentages of new light duty motor vehicles acquired annually for State government fleets, including agencies thereof, but not municipal fleets, shall be alternative fueled vehicles:

- (A) 10 percent of the motor vehicles acquired in model year 1996;
- (B) 15 percent of the motor vehicles acquired in model year 1997;
- (C) 25 percent of the motor vehicles acquired in model year 1998;
- (D) 50 percent of the motor vehicles acquired in model year 1999;
- (E) 75 percent of the motor vehicles acquired in model year 2000 and thereafter.

(2)(A) The Secretary shall within 18 months after October 24, 1992, promulgate a rule providing that a State may submit a plan within 12 months after such promulgation containing a light duty alternative fueled vehicle plan for State fleets to meet the annual percentages established under paragraph (1) for the acquisition of light duty motor vehicles. The plan shall provide for the voluntary conversion or acquisition or combination thereof, beyond any acquisition required by this subchapter, of such motor vehicles by State, local, or private fleets, in numbers greater than or equal to the number of State alternative fueled vehicles required pursuant to paragraph (1).

(B) The plan, if approved by the Secretary, would be in lieu of the State meeting such annual percentages solely through purchases of new State-owned vehicles. All conversions or acquisitions or combinations thereof of any alternative fueled vehicles under the plan must be voluntary and must conform with the requirements of section 247 of the Clean Air Act [42 U.S.C. 7587] and must comply with applicable safety requirements. The Secretary of Transportation shall within 3 years after enactment promulgate rules setting forth safety standards in accordance with chapter 301 of title 49 applicable to all conversions.

(Pub. L. 102-486, title V, §507, Oct. 24, 1992, 106 Stat. 2891.)

Editorial Notes

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b)(1)(C)(ii), (g)(4), and (k)(2), 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. Title II of the Act, known as the National Emission Standards Act, is classified generally to subchapter II (§7521 et seq.) of chapter 85 of this title. Part C of title II of the Act is classified generally to part C (§7581 et seq.) of chapter 85 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.

This subchapter, referred to in subsecs. (b)(1)(A), (e)(1)(A), (g)(3), (j), and (o)(2)(A), was in the original "this title" meaning title V of Pub. L. 102-486, Oct. 24, 1992, 102 Stat. 2887, which is classified generally to this subchapter.

CODIFICATION

In subsecs. (b)(1)(C)(ii) and (o)(2)(B), "chapter 301 of title 49" substituted for "the National Traffic and Motor Vehicle Safety Act of 1966 [15 U.S.C. 1381 et seq.]" 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.

§ 13258. Credits

(a) Definitions

In this section:

(1) Fuel cell electric vehicle

The term “fuel cell electric vehicle” means an on-road or non-road vehicle that uses a fuel cell (as defined in section 16152 of this title).

(2) Hybrid electric vehicle

The term “hybrid electric vehicle” means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of title 26).

(3) Medium- or heavy-duty electric vehicle

The term “medium- or heavy-duty electric vehicle” means an electric, hybrid electric, or plug-in hybrid electric vehicle with a gross vehicle weight of more than 8,501 pounds.

(4) Neighborhood electric vehicle

The term “neighborhood electric vehicle” means a 4-wheeled on-road or nonroad vehicle that—

(A) has a top attainable speed in 1 mile of more than 20 mph and not more than 25 mph on a paved level surface; and

(B) is propelled by an electric motor and on-board, rechargeable energy storage system that is rechargeable using an off-board source of electricity.

(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), 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.)

Editorial Notes**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).

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes

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.)

Editorial Notes

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, subchapter II, this subchapter, and subchapter IV, 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.)

Editorial Notes

REFERENCES IN TEXT

Subchapter I, referred to in text, was in the original “title III” meaning title III of Pub. L. 102-486, Oct. 24,