

ures shall not be considered “mandated”, regardless of whether the reductions are included in the State implementation plan of a State.

**(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 part.

**(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.

**(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.

(Pub. L. 109–58, title VII, §792, Aug. 8, 2005, 119 Stat. 839; Pub. L. 111–364, §2(b), Jan. 4, 2011, 124 Stat. 4056.)

**Editorial Notes**

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (d)(2)(A), 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.

AMENDMENTS

2011—Pub. L. 111–364, §2(b)(1), inserted “, rebate,” after “grant” in section catchline.

Subsec. (a). Pub. L. 111–364, §2(b)(2)(A), substituted “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,” for “to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities” in introductory provisions.

Subsec. (a)(1). Pub. L. 111–364, §2(b)(2)(B), struck out “tons of” before “pollution produced”.

Subsec. (b)(2). Pub. L. 111–364, §2(b)(3)(A), (B), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text read as follows: “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.”

Subsec. (b)(2)(A). Pub. L. 111–364, §2(b)(3)(C)(i), substituted “95” for “90” in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 111–364, §2(b)(3)(C)(ii), substituted “5 percent” for “10 percent”.

Subsec. (b)(2)(B)(ii). Pub. L. 111–364, §2(b)(3)(C)(iii), substituted “a verification application” for “the application under subsection (c)”.

Subsec. (b)(3). Pub. L. 111–364, §2(b)(3)(B), redesignated par. (3) as (2).

Subsec. (c). Pub. L. 111–364, §2(b)(4)(A), (B), added pars. (1) and (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: “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.”

Subsec. (c)(3)(G). Pub. L. 111–364, §2(b)(4)(C), inserted “in the case of an application relating to nonroad engines or vehicles,” before “a description of the diesel”.

Subsec. (c)(4). Pub. L. 111–364, §2(b)(4)(D)(i), inserted “, rebate,” after “grant” and “highest” before “priority” in introductory provisions.

Subsec. (c)(4)(C)(iii). Pub. L. 111–364, §2(b)(4)(D)(ii), substituted “diesel fleets” for “a diesel fleets” and inserted “construction sites, schools,” after “terminals.”

Subsec. (c)(4)(E) to (G). Pub. L. 111–364, §2(b)(4)(D)(iii)–(v), inserted “and” at end of subpar. (E), substituted a period for “; and” in subpar. (F), and struck out subpar. (G) which read as follows: “use diesel fuel with a sulfur content of less than or equal to 15 parts per million, as the Administrator determines to be appropriate.”

Subsec. (d)(1). Pub. L. 111–364, §2(b)(5)(A), inserted “, rebate,” after “grant” in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 111–364, §2(b)(5)(B), substituted “grant, rebate, or loan provided, or contract entered into,” for “grant or loan provided” and “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” for “Federal, State or local law”.

Subsecs. (e), (f). Pub. L. 111–364, §2(b)(6), added subsecs. (e) and (f).

**Statutory Notes and Related Subsidiaries**

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.

**§ 16133. State grant, rebate, and loan programs**

**(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 part to support grant, rebate, 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, rebate, or loan funds under this section, including information regarding—

- (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)—

(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**

**(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 part for a fiscal year, the Administrator shall provide to each State qualified for an allocation for the fiscal year an allocation equal to  $\frac{1}{3}$  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  $\frac{1}{3}$  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.

**(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 part 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 16132 of this title.

**(d) Administration**

**(1) In general**

Subject to paragraphs (2) and (3) and, to the extent practicable, the priority areas listed in section 16132(c)(3) of this title, a State shall use any funds provided under this section to develop and implement such grant, rebate, 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 chief executive of a State that receives funding under this section may determine the portion of funds to be provided as grants, rebates, or loans.

**(3) Use of funds**

A grant, rebate, or loan provided under this section shall be used for a project relating to—

(A) a certified engine configuration; or

(B) a verified technology.

**(4) Priority**

In providing grants, rebates, and loans under this section, a State shall use the priorities in section 16132(c)(4) of this title.

**(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—

(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.

(Pub. L. 109–58, title VII, §793, Aug. 8, 2005, 119 Stat. 841; Pub. L. 110–255, §3(b), June 30, 2008, 122 Stat. 2424; Pub. L. 111–364, §2(c), Jan. 4, 2011, 124 Stat. 4059.)

**Editorial Notes**

AMENDMENTS

2011—Pub. L. 111–364, §2(c)(1), inserted “, rebate,” after “grant” in section catchline.

Subsec. (a). Pub. L. 111–364, §2(c)(2), inserted “, rebate,” after “grant”.

Subsec. (b)(1). Pub. L. 111–364, §2(c)(3), inserted “, rebate,” after “grant” in introductory provisions.

Subsec. (c)(2). Pub. L. 111–364, §2(c)(4), amended par. (2) generally. Prior to amendment, par. (2) related to allocation of funds.

Subsec. (d)(1). Pub. L. 111-364, §2(c)(5)(A), inserted “, rebate,” after “grant”.

Subsec. (d)(2). Pub. L. 111-364, §2(c)(5)(B), inserted “, rebates,” after “grants”.

Subsec. (d)(3). Pub. L. 111-364, §2(c)(5)(C), substituted “grant, rebate, or loan provided under this section shall be used” for “grant or loan provided under this section may be used” in introductory provisions.

Subsec. (d)(4), (5). Pub. L. 111-364, §2(c)(5)(D), added pars. (4) and (5).

2008—Subsec. (c)(2)(A). Pub. L. 110-255, §3(b)(2), substituted “51” for “50” and “1.96 percent” for “2 percent”.

Subsec. (c)(2)(B). Pub. L. 110-255, §3(b)(2), substituted “51” for “50” in introductory provisions.

Subsec. (c)(2)(B)(ii). Pub. L. 110-255, §3(b)(2), which directed substitution of “1.96 percent” for “2 percent”, was executed by making the substitution for “2-percent”, to reflect the probable intent of Congress.

Subsec. (d)(2). Pub. L. 110-255, §3(b)(1), substituted “chief executive” for “Governor”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-364 effective Oct. 1, 2011, except that amendment by section 2(c)(4) of Pub. L. 111-364 effective Jan. 4, 2011, see section 4 of Pub. L. 111-364, set out as a note under section 16131 of this title.

#### § 16134. Evaluation and report

##### (a) In general

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

##### (b) Inclusions

The report shall include a description of—

(1) the total number of grant applications received;

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

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

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

(5) the problems encountered by projects for which a grant, rebate, or loan is provided under this part;

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

(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.

(Pub. L. 109-58, title VII, §794, Aug. 8, 2005, 119 Stat. 843; Pub. L. 111-364, §2(d), Jan. 4, 2011, 124 Stat. 4060.)

#### Editorial Notes

##### AMENDMENTS

2011—Subsec. (b)(2) to (5). Pub. L. 111-364, §2(d)(1), inserted “, rebate,” after “grant” wherever appearing.

Subsec. (b)(7). Pub. L. 111-364, §2(d)(2)–(4), added par. (7).

#### Statutory Notes and Related Subsidiaries

##### 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.

#### § 16135. Outreach and incentives

##### (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 7410 of this title.

##### (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.

(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.)

#### Editorial Notes

##### 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.