

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.

§ 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.)

Editorial Notes

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.)

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.

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.)

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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.

FINDINGS; PURPOSE

Pub. L. 117-58, div. D, title III, §40311, Nov. 15, 2021, 135 Stat. 1005, provided that:

“(a) FINDINGS.—Congress finds that—

- “(1) hydrogen plays a critical part in the comprehensive energy portfolio of the United States;
- “(2) the use of the hydrogen resources of the United States—

“(A) promotes energy security and resilience; and

“(B) provides economic value and environmental benefits for diverse applications across multiple sectors of the economy; and

“(3) hydrogen can be produced from a variety of domestically available clean energy sources, including—

“(A) renewable energy resources, including biomass;

“(B) fossil fuels with carbon capture, utilization, and storage; and

“(C) nuclear power.

“(b) PURPOSE.—The purpose of this subtitle [subtitle B (§§40311-40315) of title III of div. D of Pub. L. 117-58, see Tables for classification] is to accelerate research, development, demonstration, and deployment of hydrogen from clean energy sources by—

“(1) providing a statutory definition for the term ‘clean hydrogen’;

“(2) establishing a clean hydrogen strategy and roadmap for the United States;

“(3) establishing a clearing house for clean hydrogen program information at the National Energy Technology Laboratory;

“(4) developing a robust clean hydrogen supply chain and workforce by prioritizing clean hydrogen demonstration projects in major shale gas regions;

“(5) establishing regional clean hydrogen hubs; and

“(6) authorizing appropriations to carry out the Department of Energy Hydrogen Program Plan, dated November 2020, developed pursuant to title VIII of the Energy Policy Act of 2005 (42 U.S.C. 16151 et seq.).”

[For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction,

alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of this title.]

§ 16152. Definitions

In this subchapter:

(1) Clean hydrogen; hydrogen

The terms “clean hydrogen” and “hydrogen” mean hydrogen produced in compliance with the greenhouse gas emissions standard established under section 16166(a) of this title, including production from any fuel source.

(2) 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.

(3) 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.

(4) Infrastructure

The term “infrastructure” means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).

(5) Light-duty vehicle

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

(6) Portable; storage

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

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

(7) Task Force

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

(8) 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; Pub. L. 117-58, div. D, title III, § 40312, Nov. 15, 2021, 135 Stat. 1006.)

Editorial Notes

AMENDMENTS

2021—Pars. (1) to (4). Pub. L. 117-58, § 40312(2), (3), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively. Former par. (4) redesignated (5).

Par. (5). Pub. L. 117-58, § 40312(2), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Pub. L. 117-58, § 40312(1), substituted “Portable; storage” for “Stationary; portable” in heading and “The

terms ‘portable’ and ‘storage’, when” for “The terms ‘stationary’ and ‘portable’, when” in introductory provisions.

Pars. (6) to (8). Pub. L. 117-58, § 40312(2), redesignated pars. (5) to (7) as (6) to (8), respectively.

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WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of this title.

§ 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. Clean hydrogen research and development program

(a) In general

The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a crosscutting research and development program (referred to in this section as the “program”) on technologies relating to the production, processing, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

(b) Goals

The goals of the program shall be—

- (1) to advance research and development to demonstrate and commercialize the use of clean hydrogen in the transportation, utility, industrial, commercial, and residential sectors; and
- (2) to demonstrate a standard of clean hydrogen production in the transportation, utility, industrial, commercial, and residential sectors by 2040.

(c) Focus

In carrying out activities under this section, the Secretary shall focus on factors that are