

- (1) other Federal, State, regional, and local governments and their representatives;
- (2) industry and its representatives, including members of the energy and transportation industries; and
- (3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

**(b) Regulatory authority**

Nothing in this subchapter shall be construed to alter the regulatory authority of the Department.

(Pub. L. 109–58, title VIII, §819, formerly §814, Aug. 8, 2005, 119 Stat. 855; renumbered §819, Pub. L. 117–58, div. D, title III, §40314(1), Nov. 15, 2021, 135 Stat. 1008.)

**§ 16164. Cost sharing**

The costs of carrying out projects and activities under this subchapter shall be shared in accordance with section 16352 of this title.

(Pub. L. 109–58, title VIII, §820, formerly §815, Aug. 8, 2005, 119 Stat. 855; renumbered §820, Pub. L. 117–58, div. D, title III, §40314(1), Nov. 15, 2021, 135 Stat. 1008.)

**§ 16165. Savings clause**

Nothing in this subchapter shall be construed to affect the authority of the Secretary of Transportation that may exist prior to August 8, 2005, with respect to—

- (1) research into, and regulation of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49;
- (2) regulation of hazardous materials transportation under chapter 51 of title 49;
- (3) regulation of pipeline safety under chapter 601 of title 49;
- (4) encouragement and promotion of research, development, and deployment activities relating to advanced vehicle technologies under section 5506<sup>1</sup> of title 49;
- (5) regulation of motor vehicle safety under chapter 301 of title 49;
- (6) automobile fuel economy under chapter 329 of title 49; or
- (7) representation of the interests of the United States with respect to the activities and programs under the authority of title 49.

(Pub. L. 109–58, title VIII, §821, formerly §816, Aug. 8, 2005, 119 Stat. 855; renumbered §821, Pub. L. 117–58, div. D, title III, §40314(1), Nov. 15, 2021, 135 Stat. 1008.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 5506 of title 49, referred to in par. (4), was repealed by Pub. L. 112–141, div. E, title II, §52010(a), July 6, 2012, 126 Stat. 887.

**§ 16166. Clean hydrogen production qualifications**

**(a) In general**

Not later than 180 days after November 15, 2021, the Secretary, in consultation with the Ad-

ministrator of the Environmental Protection Agency and after taking into account input from industry and other stakeholders, as determined by the Secretary, shall develop an initial standard for the carbon intensity of clean hydrogen production that shall apply to activities carried out under this subchapter.

**(b) Requirements**

**(1) In general**

The standard developed under subsection (a) shall—

(A) support clean hydrogen production from each source described in section 16154(e)(2) of this title;

(B) define the term “clean hydrogen” to mean hydrogen produced with a carbon intensity equal to or less than 2 kilograms of carbon dioxide-equivalent produced at the site of production per kilogram of hydrogen produced; and

(C) take into consideration technological and economic feasibility.

**(2) Adjustment**

Not later than the date that is 5 years after the date on which the Secretary develops the standard under subsection (a), the Secretary, in consultation with the Administrator of the Environmental Protection Agency and after taking into account input from industry and other stakeholders, as determined by the Secretary, shall—

(A) determine whether the definition of clean hydrogen required under paragraph (1)(B) should be adjusted below the standard described in that paragraph; and

(B) if the Secretary determines the adjustment described in subparagraph (A) is appropriate, carry out the adjustment.

**(c) Application**

The standard developed under subsection (a) shall apply to clean hydrogen production from renewable, fossil fuel with carbon capture, utilization, and sequestration technologies, nuclear, and other fuel sources using any applicable production technology.

(Pub. L. 109–58, title VIII, §822, as added Pub. L. 117–58, div. D, title III, §40315(a), Nov. 15, 2021, 135 Stat. 1015.)

**Editorial Notes**

**CODIFICATION**

Section 40315(a) of Pub. L. 117–58, which directed the amendment of the Energy Policy Act of 2005 by adding this section at the end, was executed by adding this section at the end of title VIII of the Act, to reflect the probable intent of Congress.

**Statutory Notes and Related Subsidiaries**

**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.

<sup>1</sup> See References in Text note below.