

**§ 17013. Advanced technology vehicles manufacturing incentive program**

**(a) Definitions**

In this section:

**(1) Advanced technology vehicle**

The term “advanced technology vehicle” means an ultra efficient vehicle or a light duty vehicle that meets—

(A) the Bin 5 Tier II emission standard established in regulations issued by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or a lower-numbered Bin emission standard;

(B) any new emission standard in effect for fine particulate matter prescribed by the Administrator under that Act (42 U.S.C. 7401 et seq.); and

(C) at least 125 percent of the average base year combined fuel economy for vehicles with substantially similar attributes.

**(2) Combined fuel economy**

The term “combined fuel economy” means—

(A) the combined city/highway miles per gallon values, as reported in accordance with section 32904 of title 49; and

(B) in the case of an electric drive vehicle with the ability to recharge from an off-board source, the reported mileage, as determined in a manner consistent with the Society of Automotive Engineers recommended practice for that configuration or a similar practice recommended by the Secretary.

**(3) Engineering integration costs**

The term “engineering integration costs” includes the cost of engineering tasks relating to—

(A) incorporating qualifying components into the design of advanced technology vehicles; and

(B) designing tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced technology vehicles.

**(4) Qualifying components**

The term “qualifying components” means components that the Secretary determines to be—

(A) designed for advanced technology vehicles; and

(B) installed for the purpose of meeting the performance requirements of advanced technology vehicles.

**(5) Ultra efficient vehicle**

The term “ultra efficient vehicle” means a fully closed compartment vehicle designed to carry at least 2 adult passengers that achieves—

(A) at least 75 miles per gallon while operating on gasoline or diesel fuel;

(B) at least 75 miles per gallon equivalent while operating as a hybrid electric-gasoline or electric-diesel vehicle; or

(C) at least 75 miles per gallon equivalent while operating as a fully electric vehicle.

**(b) Advanced vehicles manufacturing facility**

The Secretary shall provide facility funding awards under this section to automobile manu-

facturers, ultra efficient vehicle manufacturers, and component suppliers to pay not more than 30 percent of the cost of—

(1) reequipping, expanding, or establishing a manufacturing facility in the United States to produce—

(A) qualifying advanced technology vehicles;

(B) qualifying components; or

(C) ultra efficient vehicles; and

(2) engineering integration performed in the United States of qualifying vehicles, ultra efficient vehicles, and qualifying components.

**(c) Period of availability**

An award under subsection (b) shall apply to—

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on December 19, 2007, and ending on December 30, 2020.

**(d) Direct loan program**

**(1) In general**

Not later than 1 year after December 19, 2007, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than \$25,000,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b). The loans shall be made through the Federal Financing Bank, with the full faith and credit of the United States Government on the principal and interest. The full credit subsidy shall be paid by the Secretary using appropriated funds.

**(2) Application**

An applicant for a loan under this subsection shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a written assurance that—

(A) all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a loan under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40; and

(B) the Secretary of Labor shall, with respect to the labor standards described in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40.

**(3) Selection of eligible projects**

The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(C) has met such other criteria as may be established and published by the Secretary.

**(4) Rates, terms, and repayment of loans**

A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and<sup>1</sup>

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary; and

(D) shall be made by the Federal Financing Bank.

**(e) Improvement**

Not later than 60 days after September 30, 2008, the Secretary shall promulgate an interim final rule establishing regulations that the Secretary deems necessary to administer this section and any loans made by the Secretary pursuant to this section. Such interim final rule shall require that, in order for an automobile manufacturer to be eligible for an award or loan under this section during a particular year, the adjusted average fuel economy of the manufacturer for light duty vehicles produced by the manufacturer during the most recent year for which data are available shall be not less than the average fuel economy for all light duty vehicles of the manufacturer for model year 2005. In order to determine fuel economy baselines for eligibility of a new manufacturer or a manufacturer that has not produced previously produced equivalent vehicles, the Secretary may substitute industry averages.

**(f) Fees**

Administrative costs shall be no more than \$100,000 or 10 basis point<sup>2</sup> of the loan.

**(g) Priority**

The Secretary shall, in making awards or loans to those manufacturers that have existing facilities, give priority to those facilities that are oldest or have been in existence for at least 20 years or are utilized primarily for the manufacture of ultra efficient vehicles. Such facilities can currently be sitting idle.

**(h) Set aside for small automobile manufacturers and component suppliers**

**(1) Definition of covered firm**

In this subsection, the term “covered firm” means a firm that—

(A) employs less than 500 individuals; and

(B) manufactures ultra efficient vehicles, automobiles, or components of automobiles.

**(2) Set aside**

Of the amount of funds that are used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

**(i) 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 2012.

**(j) Appointment and pay of personnel**

(1) The Secretary may use direct hiring authority pursuant to section 3304(a)(3) of title 5 to appoint such professional and administrative personnel as the Secretary deems necessary to the discharge of the Secretary’s functions under this section.

(2) The rate of pay for a person appointed pursuant to paragraph (1) shall not exceed the maximum rate payable for GS-15 of the General Schedule under chapter 53 such<sup>3</sup> title 5.

(3) The Secretary may retain such consultants as the Secretary deems necessary to the discharge of the functions required by this section, pursuant to section 1901 of title 41.

(Pub. L. 110–140, title I, §136, Dec. 19, 2007, 121 Stat. 1514; Pub. L. 110–329, div. A, §129(c), Sept. 30, 2008, 122 Stat. 3578; Pub. L. 111–85, title III, §312(a), Oct. 28, 2009, 123 Stat. 2874.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(1)(B), 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.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (d)(2)(B), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (j)(3), “section 1901 of title 41” substituted for “section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427)” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–85, §312(a)(1)(A), inserted “an ultra efficient vehicle or” after “means” in introductory provisions.

Subsec. (a)(5). Pub. L. 111–85, §312(a)(1)(B), added par. (5).

Subsec. (b). Pub. L. 111–85, §312(a)(2)(A), inserted “, ultra efficient vehicle manufacturers,” after “automobile manufacturers” in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 111–85, §312(a)(2)(B), added subpar. (C).

Subsec. (b)(2). Pub. L. 111–85, §312(a)(2)(C), inserted “, ultra efficient vehicles,” after “qualifying vehicles”.

Subsec. (g). Pub. L. 111–85, §312(a)(3), inserted “or are utilized primarily for the manufacture of ultra efficient vehicles” after “20 years”.

Subsec. (h)(1)(B). Pub. L. 111–85, §312(a)(4), substituted “ultra efficient vehicles, automobiles,” for “automobiles”.

2008—Subsec. (d)(1). Pub. L. 110–329, §129(c)(1), inserted at end “The loans shall be made through the Federal Financing Bank, with the full faith and credit of the United States Government on the principal and

<sup>1</sup> So in original. Probably should be “or”.

<sup>2</sup> So in original. Probably should be “points”.

<sup>3</sup> So in original. Probably should be “of such”.

interest. The full credit subsidy shall be paid by the Secretary using appropriated funds.”

Subsec. (e). Pub. L. 110-329, §129(c)(2), substituted “Not later than 60 days after September 30, 2008, the Secretary shall promulgate an interim final rule establishing regulations that the Secretary deems necessary to administer this section and any loans made by the Secretary pursuant to this section. Such interim final rule shall require that,” for “The Secretary shall issue regulations that require that.”

Subsec. (j). Pub. L. 110-329, §129(c)(3), added subsec. (j).

#### RECONSIDERATION OF PRIOR APPLICATIONS

Pub. L. 111-85, title III, §312(b), Oct. 28, 2009, 123 Stat. 2875, provided that: “The Secretary of Energy shall reconsider applications for assistance under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) that were—

“(1) timely filed under that section before January 1, 2009;

“(2) rejected on the basis that the vehicles to which the proposal related were not advanced technology vehicles; and

“(3) related to ultra efficient vehicles.”

### SUBCHAPTER II—ENERGY SECURITY THROUGH INCREASED PRODUCTION OF BIOFUELS

#### PART A—RENEWABLE FUEL STANDARD

#### § 17021. Biomass-based diesel and biodiesel labeling

##### (a) In general

Each retail diesel fuel pump shall be labeled in a manner that informs consumers of the percent of biomass-based diesel or biodiesel that is contained in the biomass-based diesel blend or biodiesel blend that is offered for sale, as determined by the Federal Trade Commission.

##### (b) Labeling requirements

Not later than 180 days after December 19, 2007, the Federal Trade Commission shall promulgate biodiesel labeling requirements as follows:

(1) Biomass-based diesel blends or biodiesel blends that contain less than or equal to 5 percent biomass-based diesel or biodiesel by volume and that meet ASTM D975 diesel specifications shall not require any additional labels.

(2) Biomass-based diesel blends or biodiesel blends that contain more than 5 percent biomass-based diesel or biodiesel by volume but not more than 20 percent by volume shall be labeled “contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent”.

(3) Biomass-based diesel or biodiesel blends that contain more than 20 percent biomass based or biodiesel by volume shall be labeled “contains more than 20 percent biomass-based diesel or biodiesel”.

##### (c) Definitions

In this section:

##### (1) ASTM

The term “ASTM” means the American Society of Testing and Materials.

##### (2) Biomass-based diesel

The term “biomass-based diesel” means biodiesel as defined in section 13220(f) of this title.

##### (3) Biodiesel

The term “biodiesel” means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet—

(A) the registration requirements for fuels and fuel additives under this section; and

(B) the requirements of ASTM standard D6751.

##### (4) Biomass-based diesel and biodiesel blends

The terms “biomass-based diesel blend” and “biodiesel blend” means a blend of “biomass-based diesel” or “biodiesel” fuel that is blended with petroleum-based diesel fuel.

(Pub. L. 110-140, title II, §205, Dec. 19, 2007, 121 Stat. 1529.)

#### § 17022. Grants for production of advanced biofuels

##### (a) In general

The Secretary of Energy shall establish a grant program to encourage the production of advanced biofuels.

##### (b) Requirements and priority

In making grants under this section, the Secretary—

(1) shall make awards to the proposals for advanced biofuels with the greatest reduction in lifecycle greenhouse gas emissions compared to the comparable motor vehicle fuel lifecycle emissions during calendar year 2005; and

(2) shall not make an award to a project that does not achieve at least an 80 percent reduction in such lifecycle greenhouse gas emissions.

##### (c) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$500,000,000 for the period of fiscal years 2008 through 2015.

(Pub. L. 110-140, title II, §207, Dec. 19, 2007, 121 Stat. 1531.)

#### PART B—BIOFUELS RESEARCH AND DEVELOPMENT

#### § 17031. Biodiesel

##### (a) Biodiesel study

Not later than 180 days after December 19, 2007, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report on any research and development challenges inherent in increasing the proportion of diesel fuel sold in the United States that is biodiesel.

##### (b) Material for the establishment of standards

The Director of the National Institute of Standards and Technology, in consultation with the Secretary, shall make publicly available the physical property data and characterization of biodiesel and other biofuels as appropriate.

(Pub. L. 110-140, title II, §221, Dec. 19, 2007, 121 Stat. 1533.)

#### § 17032. Grants for biofuel production research and development in certain States

##### (a) In general

The Secretary shall provide grants to eligible entities for research, development, demonstra-