

- (K) laminated products; and
- (L) exceptions from the requirements of regulations promulgated pursuant to this subsection for products and components containing de minimis amounts of composite wood products.

The Administrator shall not provide under subparagraph (L) exceptions to the formaldehyde emission standard requirements in subsection (b).

(3) Sell-through provisions

(A) In general

Sell-through provisions established by the Administrator under this subsection, with respect to composite wood products and finished goods containing regulated composite wood products (including recreational vehicles, manufactured homes, and modular homes), shall—

- (i) be based on a designated date of manufacture (which shall be no earlier than the date 180 days following the promulgation of the regulations pursuant to this subsection) of the composite wood product or finished good, rather than date of sale of the composite wood product or finished good; and
- (ii) provide that any inventory of composite wood products or finished goods containing regulated composite wood products, manufactured before the designated date of manufacture of the composite wood products or finished goods, shall not be subject to the formaldehyde emission standard requirements under subsection (b)(1).

(B) Implementing regulations

The regulations promulgated under this subsection shall—

- (i) prohibit the stockpiling of inventory to be sold after the designated date of manufacture; and
- (ii) not require any labeling or testing of composite wood products or finished goods containing regulated composite wood products manufactured before the designated date of manufacture.

(C) Definition

For purposes of this paragraph, the term “stockpiling” means manufacturing or purchasing a composite wood product or finished good containing a regulated composite wood product between July 7, 2010, and the date 180 days following the promulgation of the regulations pursuant to this subsection at a rate which is significantly greater (as determined by the Administrator) than the rate at which such product or good was manufactured or purchased during a base period (as determined by the Administrator) ending before July 7, 2010.

(4) Import regulations

Not later than July 1, 2013, the Administrator, in coordination with the Commissioner of U.S. Customs and Border Protection and other appropriate Federal departments and agencies, shall revise regulations promulgated pursuant to section 2612 of this title as the Ad-

ministrator determines to be necessary to ensure compliance with this section.

(5) Successor standards and test methods

The Administrator may, after public notice and opportunity for comment, substitute an industry standard or test method referenced in this section with its successor version.

(e) Prohibited acts

An individual or entity that violates any requirement under this section (including any regulation promulgated pursuant to subsection (d)) shall be considered to have committed a prohibited act under section 2614 of this title.

(Pub. L. 94-469, title VI, § 601, as added Pub. L. 111-199, § 2(a), July 7, 2010, 124 Stat. 1359; amended Pub. L. 114-125, title VIII, § 802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs and Border Protection” in subsec. (d)(4) to reflect the probable intent of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security, which provided that on or after Feb. 24, 2016, any reference to the “Commissioner of Customs” or the “Commissioner of the Customs Service” would be deemed to be a reference to the Commissioner of U.S. Customs and Border Protection.

MODIFICATION OF REGULATION

Pub. L. 111-199, § 4, July 7, 2010, 124 Stat. 1367, provided that: “Not later than 180 days after the date of promulgation of regulations pursuant to section 601(d) of the Toxic Substances Control Act [15 U.S.C. 2697(d)] (as amended by section 2), the Secretary of Housing and Urban Development shall update the regulation contained in section 3280.308 of title 24, Code of Federal Regulations (as in effect on the date of enactment of this Act [July 7, 2010]), to ensure that the regulation reflects the standards established by section 601 of the Toxic Substances Control Act [15 U.S.C. 2697].”

CHAPTER 54—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

Sec.	
2701.	Congressional findings and purpose.
2702.	Definitions.
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2709.	Reports to Congress by Secretary of Energy.
2710.	Authorization of appropriations.

§ 2701. Congressional findings and purpose

(a) The Congress finds that—

- (1) existing automobile propulsion systems, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress, in this chapter to—

(1)(A) direct the Department of Energy to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of February 25, 1978, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

(Pub. L. 95-238, title III, §302, Feb. 25, 1978, 92 Stat. 78.)

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 95-238, title III, §301, Feb. 25, 1978, 92 Stat. 78, provided that: "This title [enacting this chapter and amending section 2451 of Title 42, The Public Health and Welfare] may be cited as the 'Automotive Propulsion Research and Development Act of 1978'."

§ 2702. Definitions

As used in this chapter, the term—

(1) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(2) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(3) "fuel" means any energy source capable of propelling an automobile;

(4) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 7525 of title 42;

(5) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(6) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(7) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(8) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

(Pub. L. 95-238, title III, §303, Feb. 25, 1978, 92 Stat. 79.)

Editorial Notes

REFERENCES IN TEXT

Section 7525 of title 42, referred to in par. (4), was in the original "section 206 of the Clean Air Act (42 U.S.C. 1857f-5)", meaning act July 14, 1955, ch. 360, §206, as added Dec. 31, 1970, Pub. L. 91-604, §8(a), 84 Stat. 1694, which was formerly classified to section 1857f-5 of Title 42, The Public Health and Welfare, and which is classified to section 7525 of Title 42 pursuant to the general revision of the Clean Air Act by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685.

§ 2703. Advanced systems program implementation by Secretary of Energy

(a) Establishment and conduct of program

The Secretary of Energy shall establish, within the Department of Energy, a program to insure the development of advanced automobile propulsion systems within 5 years after February 25, 1978, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Secretary of Energy shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this chapter supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) Contracts and grants with Federal agencies, laboratories, etc.

The Secretary of Energy shall, in fulfilling his responsibilities under this chapter, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) Federal laboratories; priority for financial assistance; functions

In providing financial assistance under this chapter, the Secretary of Energy shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 2710 of this title shall be directly expended in Federal laboratories. In accordance with section 2706 of this title, such laboratories shall be available for testing components and subsystems which, in the Secretary of Energy's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) Evaluations, testing, information dissemination, and reporting functions

The Secretary of Energy shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 2706 of this title and submit reports required under section 2709 of this title.

(e) Intensification of research in basic areas by Department of Energy

The Department of Energy shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) Program provisions and requirements; administrative and judicial procedures applicable to contracts, grants, or projects; additional information for reports and budget submissions; nonretroactivity of provisions and requirements

(1) The Secretary of Energy shall insure that the conduct of the program as defined in subsection (a) of this section—

(A) supplements the automotive propulsion system research and development efforts of industry;

(B) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(C) avoids duplication of private research and development.

(2) To that end, the Secretary of Energy shall issue administrative regulations, within 60 days after February 25, 1978, which shall specify pro-

cedures, standards, and criteria for the timely review for compliance of each new contract, grant, Department of Energy project, or other agency project funded or to be funded under the authority of this Act. Such regulations shall require that the Secretary of Energy or his designee shall certify that each such contract, grant, or project satisfies the requirement of this subsection, and shall include in such certification a discussion of the relationship of any related or comparable industry research and development, in terms of this subsection, to the proposed research and development under the authority of this Act. The discussion shall also address related issues, such as cost sharing and patent rights.

(3) Such certifications shall be available to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The provisions of chapter 5 of title 5 shall not apply to such certifications and no court shall have any jurisdiction to review the preparation or adequacy of such certifications; but section 553 of title 5 and section 5916 of title 42 shall apply to public disclosure of such certifications.

(4) The Secretary of Energy also shall include in the report required by section 2709(a) of this title a detailed discussion of how each research and development contract, grant, or project funded under the authority of this Act satisfies the requirement of this subsection.

(5) Further, the Secretary of Energy in each annual budget submission to the Congress, or amendment thereto, for the programs authorized by this Act shall describe how each identified research and development effort in such submission satisfies the requirements of this subsection.

(6) The provisions and requirements of this subsection shall not apply with respect to any contract, grant, or project which was entered into, made, or formally approved and initiated prior to February 25, 1978, or with respect to any renewal or extension thereof.

(Pub. L. 95-238, title III, §304, Feb. 25, 1978, 92 Stat. 79; Pub. L. 103-437, §5(b)(4), Nov. 2, 1994, 108 Stat. 4582.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (f), is Pub. L. 95-238, Feb. 25, 1978, 92 Stat. 47, known as the Department of Energy Act of 1978—Civilian Applications. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Subsec. (f)(3). Pub. L. 103-437 substituted "Committee on Science, Space, and Technology" for "Committee on Science and Technology".

§2704. Evaluation by Secretary of Transportation on utilization of advanced technology by automobile industry

The Secretary of Transportation, in furtherance of the purposes of this chapter, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it.

(Pub. L. 95-238, title III, §305, Feb. 25, 1978, 92 Stat. 81; Pub. L. 104-66, title I, §1121(i), Dec. 21, 1995, 109 Stat. 724.)

Editorial Notes

AMENDMENTS

1995—Pub. L. 104-66 struck out at end “The Secretary of Transportation shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.”

§ 2705. Coordinating and consulting requirements and authorities of Secretary of Energy

(a) Conduct of overall management responsibilities

The Secretary of Energy shall have overall management responsibility for carrying out the program under section 2703 of this title. In carrying out such program, the Secretary of Energy, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Secretary of Energy; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this chapter, to the extent that the Secretary of Energy determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this chapter.

(b) Exercise of powers by Secretary of Transportation

The Secretary of Transportation, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Secretary of Energy under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Secretary of Energy.

(c) Requests for assistance of Federal departments, etc.

The Secretary of Energy may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary of Energy deems necessary to carry out any duty under this chapter.

(d) Consultations with Administrator of Environmental Protection Agency and Secretary of Transportation; establishment of procedures for periodic consultation with interested groups; establishment and functions of advisory panels

The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may

have special expertise in the area of automobile propulsion system research, development, and technology. The Secretary of Energy may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this chapter.

(e) Responsibilities under other Federal automotive research, development, and demonstration provisions unaffected

Nothing contained in this chapter shall be construed to reduce in any way the responsibilities of the Secretary of Energy for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(Pub. L. 95-238, title III, §306, Feb. 25, 1978, 92 Stat. 81.)

Editorial Notes

REFERENCES IN TEXT

The Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), referred to in subsec. (e), is Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which is classified principally to chapter 73 (§5801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of Title 42 and Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), referred to in subsec. (e), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, which is classified generally to chapter 74 (§5901 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

§ 2706. Informational and testing functions of Secretary of Energy

(a) Evaluations of new or improved technologies pursuant to written submissions

The Secretary of Energy shall, for the purposes of performing his responsibilities under this chapter, consider any reasonable new or improved technology, a description of which is submitted to the Secretary of Energy in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) Testing by Administrator of Environmental Protection Agency of systems developed under research and development program or submitted by Secretary; scope and purposes of tests; submission of test data and results to Secretary

The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this chapter, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Secretary of Energy, to determine whether such vehicle complies with any exhaust emission standards or any other requirements pro-

mulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.) [42 U.S.C. 7401 et seq.], the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Secretary of Energy.

(c) Collection, analysis, and dissemination of information, data, and materials to developers

The Secretary of Energy shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

(Pub. L. 95-238, title III, §307, Feb. 25, 1978, 92 Stat. 82.)

Editorial Notes

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), referred to in subsec. (b), is Pub. L. 92-574, Oct. 27, 1972, 86 Stat. 1234, which is classified principally to chapter 65 (§4901 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4901 of Title 42 and Tables.

§ 2707. Patents and inventions; statutory provisions applicable; contracts or grants covered

Section 5908 of title 42 shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Secretary of Energy under this chapter.

(Pub. L. 95-238, title III, §308, Feb. 25, 1978, 92 Stat. 82.)

§ 2708. Comptroller General audit and examination of books, etc.; statutory provisions applicable; contracts or grants covered

Section 5876 of title 42 shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this chapter; except that for the purposes of this chapter, the term "contract" (as used in section 2206 of title 42, insofar as it relates to such section 5876 of title 42) means "contract or grant".

(Pub. L. 95-238, title III, §309, Feb. 25, 1978, 92 Stat. 82.)

§ 2709. Reports to Congress by Secretary of Energy

(a) Comprehensive program, etc.

As a separate part of the annual report submitted under section 5914(a)¹ of title 42 with respect to the comprehensive plan and program then in effect under section 5905(a) and (b) of title 42, the Secretary of Energy shall submit to Congress an annual report of activities under this chapter. Such report shall include—

(1) a current comprehensive program definition for implementing this chapter;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this chapter;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) Study on financial obligation guarantees

The Secretary of Energy shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Secretary of Energy shall report the results of such survey and study to the Congress within 1 year after February 25, 1978. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

(Pub. L. 95-238, title III, §310, Feb. 25, 1978, 92 Stat. 83.)

Editorial Notes

REFERENCES IN TEXT

Section 5914 of title 42, referred to in subsec. (a), was omitted from the Code.

§ 2710. Authorization of appropriations

There is authorized to be appropriated to carry out the purposes of this chapter, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of \$12,500,000 for the fiscal year ending September 30, 1978.

(Pub. L. 95-238, title III, §312, Feb. 25, 1978, 92 Stat. 83.)

Editorial Notes

REFERENCES IN TEXT

Title I of this Act, referred to in text, is title I (§§101-107) of Pub. L. 95-238, Feb. 25, 1978, 92 Stat. 47.

¹ See References in Text note below.

For complete classification of this title to the Code, see Tables.

CHAPTER 55—PETROLEUM MARKETING PRACTICES

SUBCHAPTER I—FRANCHISE PROTECTION

- Sec.
2801. Definitions.
2802. Franchise relationship.
2803. Trial and interim franchises.
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SUBCHAPTER II—OCTANE DISCLOSURE

2821. Definitions.
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SUBCHAPTER III—SUBSIDIZATION OF MOTOR FUEL MARKETING

2841. Study by Secretary of Energy.

SUBCHAPTER I—FRANCHISE PROTECTION

§ 2801. Definitions

As used in this subchapter:

(1)(A) The term “franchise” means any contract—

- (i) between a refiner and a distributor,
- (ii) between a refiner and a retailer,
- (iii) between a distributor and another distributor, or
- (iv) between a distributor and a retailer,

under which a refiner or distributor (as the case may be) authorizes or permits a retailer or distributor to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark which is owned or controlled by such refiner or by a refiner which supplies motor fuel to the distributor which authorizes or permits such use.

(B) The term “franchise” includes—

(i) any contract under which a retailer or distributor (as the case may be) is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by such refiner or by a refiner which supplies motor fuel to the distributor which authorizes or permits such occupancy;

(ii) any contract pertaining to the supply of motor fuel which is to be sold, consigned or distributed—

(I) under a trademark owned or controlled by a refiner; or

(II) under a contract which has existed continuously since May 15, 1973, and pursuant to which, on May 15, 1973, motor fuel was sold, consigned or distributed under a trademark owned or controlled on such date by a refiner; and

(iii) the unexpired portion of any franchise, as defined by the preceding provisions of this

paragraph, which is transferred or assigned as authorized by the provisions of such franchise or by any applicable provision of State law which permits such transfer or assignment without regard to any provision of the franchise.

(2) The term “franchise relationship” means the respective motor fuel marketing or distribution obligations and responsibilities of a franchisor and a franchisee which result from the marketing of motor fuel under a franchise.

(3) The term “franchisor” means a refiner or distributor (as the case may be) who authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

(4) The term “franchisee” means a retailer or distributor (as the case may be) who is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

(5) The term “refiner” means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person.

(6) The term “distributor” means any person, including any affiliate of such person, who—

(A) purchases motor fuel for sale, consignment, or distribution to another; or

(B) receives motor fuel on consignment for consignment or distribution to his own motor fuel accounts or to accounts of his supplier, but shall not include a person who is an employee of, or merely serves as a common carrier providing transportation service for, such supplier.

(7) The term “retailer” means any person who purchases motor fuel for sale to the general public for ultimate consumption.

(8) The term “marketing premises” means, in the case of any franchise, premises which, under such franchise, are to be employed by the franchisee in connection with sale, consignment, or distribution of motor fuel.

(9) The term “leased marketing premises” means marketing premises owned, leased, or in any way controlled by a franchisor and which the franchisee is authorized or permitted, under the franchise, to employ in connection with the sale, consignment, or distribution of motor fuel.

(10) The term “contract” means any oral or written agreement. For supply purposes, delivery levels during the same month of the previous year shall be prima facie evidence of an agreement to deliver such levels.

(11) The term “trademark” means any trademark, trade name, service mark, or other identifying symbol or name.

(12) The term “motor fuel” means gasoline and diesel fuel of a type distributed for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

(13) The term “failure” does not include—

(A) any failure which is only technical or unimportant to the franchise relationship;

(B) any failure for a cause beyond the reasonable control of the franchisee; or

(C) any failure based on a provision of the franchise which is illegal or unenforceable