

U.S. DEPARTMENT OF ENERGY

**ADVANCED TECHNOLOGY VEHICLES
MANUFACTURING LOAN PROGRAM**

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OPENING REMARKS

MR. SEWARD: I am pleased to welcome you here to this briefing on the Advanced Technology Vehicles Manufacturing Loan Program. I am Lachlan Seward the Director of the office responsible for this program. And with me on this panel are: Carol Battershell, Senior Advisor of Energy Efficiency and Renewable Energy; Pat Davis, also from the same office; Dan Cohen, Assistant General Counsel for Legislation and Regulatory Law; and Matthew McMillen, the NEPA Compliance Officer for the Office of the Chief Financial Officer, who will be answering questions on their specific areas.

At the outset, I want to be clear what the purpose is for today's meeting. We are here to provide information to potential applicants, answer their questions concerning the application process, and receive comments on the Interim Final Rule.

As you know, this program has been in the news quite a lot. We will not discuss policy questions concerning the Advanced Technology Vehicles Program generally, events currently in the news, or any of the potential future Congressional actions regarding the automobile industry.

In addition, while we have said that we have received five applications, we will not discuss any of those applications or the applicants.

We have prepared an information package for you which I hope you've all picked up on the way in. It includes a copy of the authorizing statute, the interim final rule, technical information on what constitutes a substantially similar vehicle, and information on how to mark confidential information in your application. There was a little bit of confusion on that in the initial go round.

As detailed in the Interim Final Rule comments on the Interim Final Rule must be received by DOE by December 12th, 2008. I think that's a week from Friday. Comments may be submitted through a number of routes. The preferred route is the Federal e-Rulemaking Portal, a dedicated email address or by mail or courier to DOE.



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As set forth in the final rule, applicants must either be an automobile manufacturer that meets approved fuel economy standards or a manufacturer of qualifying components as detailed in the law in the Interim Final Rule.

We will initially provide some background information about the program and then I will begin by giving an overview of the application process. Then Carol Battershell will describe certain of the technical requirements. Matt McMillen will discuss the environmental requirements and finally Dan Cohen will review the rulemaking process.

After these presentations are complete, we will proceed to a question and answer format. At that time you will be able to ask a question or provide a comment on the Interim Final Rule. When you are recognized to ask a question or provide a comment, please use the microphones stationed in the aisles and state your name and organization and then your question or comment.

We will post all questions and comments on the Web site, www.atvmloan.energy.gov. And I urge you to check the Web site regularly as we will post all information relevant to the program on that Web site.

So now we will do a quick run through specific to the program. It was authorized by Section 136 of the Energy Independence and Security Act of 2007 and actually funded by the continuing resolution of 2009 which was signed into law, I believe, on September 30th. Providing for up to \$25 billion in direct loans funded by the Federal Finance Bank an arm of the Treasury and supported by a \$7.5 billion appropriation to cover the risk of default.

DOE issued the Interim Final Rule on the 5th of November. It was actually published on the 12th of November and hence the 30-day comment period began then.

The timeline for issuance of funds will depend on the applications that are submitted, application thoroughness and processing of required permits and approvals. That's always one of everyone's questions: how long is it going to take? It will all depend on what we get in.



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Criteria for projects and costs eligible to receive direct loans are set by Congress. The key criteria for the ATVM program are manufacturing facilities need to be located in the U.S.; engineering integration is to be performed in the U.S. and be part of an ATVM project; cost must be reasonably related to the reequipping, expanding, or establishing a manufacturing facility in the U.S.; and costs of the engineering integration need to be performed in the U.S.

Loans are not available for cost incurred on a retroactive basis with the exception that some costs may be included in the equity of the project which we'll get into in a minute.

The Interim Final Rule establishes the base year for CAFE standards as the year 2005. For comparative purposes, DOE has grouped vehicles with substantially similar attributes by classes previously defined by EPA and additional subclasses for performance vehicles. Carol will explain this in more detail in a minute.

In order to qualify as an advanced technology vehicle, the applicant must demonstrate that the vehicle has a fuel economy performance of at least 125 percent of the average model year 2005 fuel economy standards appropriate to those classes.

I want to -- I don't think I have it here -- at any rate, I want to go over some of the key provisions in the regulation. I realize some of you probably have not had a chance to review that before you got here. The application requirements are found under Section 611.101 of the Regulation. In particular there are several sections that you need to be aware of. One is the requirement for a finding of financial viability by the government that you need to demonstrate that your project is financially viable without the award of this particular loan. Another is that you are presenting information sufficient for us to make a finding that you comply with the National Environmental Protection Act. Another is that you present either a model or data that will allow us to make a determination with respect to the technical aspects of meeting the technical qualifications for the vehicles. Another is that you may submit an application for multiple projects. However, we need to be able to look at each project individually and qualify each project individually. Some applicants are submitting applications for a number of projects at one time.



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You need to certify that you've met the standards with regard to labor at prevailing wage rates in your locality. I think those are the key elements.

With that I'm going to turn it over to Carol to let her explain the technical aspects and then that will be followed by Matt and by Dan.

TECHNICAL ASPECTS

MS. BATTERSHELL: So I have the pleasure of explaining to you the driest section with all the technical charts and that. What I wanted to do is go over the technical aspects that I find are the most complex and that seem to be misunderstood by people sometimes. So I'll focus on those areas, but be happy to answer any questions when we get to the Q&A portion.

So I wanted to kind of walk through the technical qualifications kind of in the order that you run into them. There are both technical rules about eligibility of the company to even make an application and then there are rules about whether the project or the vehicle or the component is eligible for a loan.

So I'll start with the ones for the manufacturer. One of the important points to note about those qualifications is there is a test of eligibility for the company or the manufacturer if your project is for a vehicle, but there is not a similar qualification for the component manufacturers. So this first test that I'm going to talk about is just for the vehicle manufacturers. And confusingly two of the tests both for the company whether it's eligible and the project have 2005 in it. So I suppose in some way that's supposed to make it simple, but I find it does complicate it a bit.

So this first test has 2005 in it and it says, for vehicles -- and this is in two parts -- if you had a fleet in 2005, then this is your test. If you're a vehicle manufacturer and you had a fleet in 2005, you need the miles per gallon, the harmonic mean of your entire fleet now to be at least as good as the fleet that you had in 2005. And I'll read you specifically out of the rule. It's on 66723, the first column about in the middle. And so this is which data you are to use to talk about your current fleet that you're evaluating. "It's the most recent year for which data are available"; so this is the most recent model year for which a manufacturer has final data for the purposes of compliance with the fuel economy standard.



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So this is the CFR Part 531. So as much as possible we tried to refer to already agreed sets of data. So that's why that one was chosen.

So if you had a fleet in 2005, you are to look at the most recent compliance data you had for your fleet and compare it to your 2005 fleet. And the reason I emphasize that is the test is different if you are a new manufacturer or for some other reason you didn't have a fleet in 2005. So if you had a 2005 fleet, it's your 2005 fleet data compared to your most recent data that you submitted for compliance with CFR Part 531.

Now, if you didn't have a fleet in 2005 then the test is different. And instead of your most recent fleet, it revolves around the vehicle or vehicles that you are submitting an application for. So you take the miles per gallon of that vehicle and you compare it -- because you didn't have a fleet in 2005 you have to compare it to something else, so you compare it to the U.S. fleet in 2005. And if you are, say, submitting an application for a vehicle that's a car, then you test it against all the cars in 2005. And if it's a light-duty truck, then you compare it against all the light-duty trucks because that's the way the NHTSA data is broken down.

All right. So that was eligibility for the manufacturer. Two different types of eligibility tests if you have vehicles and no eligibility test if you are a component manufacturer. So see how clear and simple that is?

If you move then on to the project and whether your project is eligible, the components have a more straightforward test and it's basically straight out of the Rule. It's on page 66728. It's in the first column and it's in kind of small indented language. And so if you're submitting a component, the component needs to have these aspects: "Secretary determines it to be: designed for advanced technology vehicles; and installed for the purpose of meeting the performance requirements of advanced technology vehicles." So it's a more qualitative assessment but that's the test that applies for the components.



Now, for the vehicles, it's a more involved test and there are three parts to it. A and B, if you look into the Rule A and B are both about air emission standards, it's meeting tier something, bin something, I always get the numbers mixed up. So I'm not going to say them without reading them. But it's both that and also compliance with new regulations. So it's a that three-part test. A and B are about emission standards and C is about the miles per gallon. And then C itself has three parts. It's 125 percent fuel efficiency as compared to the base year and substantially similar attributes. So I'm going to go into those three parts: the 125 percent calculation, the base year selection and what substantially similar attributes means. I'll kind of do the simplest one first.

The 125 is just a calculation but the one thing to note about that is sometimes when you do calculations for fuel efficiency you can get some additional credit for dual fuel cars. That doesn't count in this 125 percent test, but there are some other places in the Rule where you do get some recognition for having dual fuel capability. But in this it's just straight 125 and no calculation for dual fuel.

The base year is 2005. So this is where 2005 comes in. Then we are going to have a series of slides to talk about substantially similar attributes and how we came up with that test.

This gets a little tricky with all the questions at the end because I have no idea if anyone understands anything so far. We'll proceed as if you did.

The first column is really about the EPA classes and something that you are probably familiar with already. So we just kind of reprinted. And this is a table out of the Technical Support Document which I believe was available on the pack. Tables was put in the electronic docket later, but was not a part of the original Federal Register. So I would recommend that you pick this up if you want to understand how we came up with the substantially similar attributes.

So we started with classifications that you should be familiar with which are the EPA vehicle class definitions and already agreed detail there. Then we looked at that middle column of definitions to see was that going to be adequate for the rest of the Rule; and there were two different issues. I'll do the first one is the simpler one. Because we're using 2005 data, for some of the vehicles there were no



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models like that in 2005. So difficult to compare substantially similar attributes if there were no vehicles. And those two were in the pick-up categories there were no small pick-ups. And in the wagon category there were no mid-sized wagons. So for these two we've combined and that's why those went from two EPA classes -- I'm making you crazy; right?

So we combined the mid-size and large wagon and the small pick-up and the standard pick-up. So some people had questions about it. It looks like in some instances you broke the categories into two and other ones combined two categories into one. And indeed we did, but the explanation is for a couple of the vehicle classifications there were no 2005 models.

Then the performance class, the reason why in this third column there are extra classes, sometimes, for example, mid-size sedan is broken into mid-size sedan and mid-size performance sedan as well as a number of the other ones is there really is a fair amount of difference in some of these classes in the power weight ratios and some other attributes. So we went through and we looked at each of the classes to see, within that class, was there something that was a separate set of those vehicles that was a performance class. So the next slide goes through the methodology for that. So what we did was we plotted all of the vehicles in ascending order of the power to weight ratio. And you get a curve that looks something like this. This is the made-up curve. We put each type of variant in this curve that we looked at. This is not an actual set of vehicles.

So for one thing, if there was a hybrid in there, the way that is calculated is different. There's two different drive trains and so those points it's not calculated the same way. It gets kind of an artificially low reading. So we started looking at the lowest non-hybrid power to weight ratio. In this one you can see -- look at the end, some of the vehicles are just substantially different and we didn't feel that that could be included in substantially similar vehicles. So that performance class got pulled out. And this is a chart trying to explain typically how we did that. So we looked, you know, were there generally a straight trend line, those are all grouped in the non-performance class and that peak at the end is the performance class. And as far as how those were set, was typically -- we didn't even look for a jumping off point until



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it was at, at least two times the power to weight ratio. So you know you might look in here and go, well, the trend line changes there, but that was much further back than two times the power to weight ratio. So that's an example. And if you really wanted to, you could draw them for all of them and you would see that basically that's what the data looked like when we split it into performance and nonperformance. And for the ones that we didn't split, it was a much straighter line -- trend line without that peak at the end.

So this is how they came out in the end. This table is in the Rule. The only part I wanted to draw out on this table is that there's a little error in the table. It's been collected in the electronic document now and it's cargo vans. We just put the wrong number in the table. We had calculated it correctly but it got transposed. So the real number here 19.9 and then the calculation flows through as 24.8. So that again has been posted now on the Web site and that's the only thing you should note about this. So this is within the Rule itself.

So I think that's most of what I wanted to go through. The only other thing that we get a number of questions and there seems to be some confusion about on this part of the test is on how do you actually prove the miles per gallon of the vehicle or the component that you're submitting an application for. And what we really need to be able to see in the application is the simulations that you've done with some kind of modeling tool, either PSAT which is the kind of open source industry-wide or more used by the National Labs and that. Of if you use your own model you need to be able to show enough of the input and output data for us to be able to verify those miles per gallon calculations because you can see how key they are both within the eligibility test as well as later in the selection criteria.

Okay. Enough with the technical details. NEPA now, over to Matthew.

NATIONAL ENVIRONMENTAL POLICY ACT

MR. McMillen: Thank you, Carol. So we are going to discuss the National Environmental Policy Act now.



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The statute that we are dealing with is NEPA, the National Environmental Policy Act. It's the overarching federal environmental statute. To implement the National Environmental Policy Act the Council on Environmental Quality back in 1978 promulgated regulations. Those regulations are in 40 CFR 1500 through 1508 and they apply to the entire federal government; everybody has to follow those regulations. In those regulations they have also called for every federal agency to adopt their own implementing regulations that supplement the Council on Environmental Quality's regulations. And for the Department of Energy those are in 10 CFR Part 1021.

We also have our internal implementing procedures that address the roles and responsibilities of DOE officials and most can be found in our DOE Order 451.1(b).

Of interest to us here today would be the requirements that were contained in the Interim Final Rule, particularly in Section 611.106. These are the environmental requirements for the applicants. What it indicates in the rule is that we are going to conduct the environmental review in accordance with applicable statutes, regulations and executive orders. And by that we are talking about we're going to review these in terms of NEPA, the National Environmental Policy Act.

What applicants must provide then is information that provides a substantial basis for determining the level of NEPA review that's required. In this case we are talking about environmental assessments or environmental impact statements. I'll discuss that in a little bit more detail in a second.

The detail that needs to be provided has to be commensurate with the complexity of the project and with the potential for significant effects. But what that will do, what that means is that we're going to have to address the conditions and the resources that are affected, any significant environmental effects, any impacts from construction, operation, termination, or any reasonably foreseeable cumulative effects. The applications will also identify any mitigation measures if there are significant environmental effects that need to be addressed. The environmental reports for the application has three separate reports to it. The first is a project-specific report that will go into the description of the project and it's potential effects. The second one is a socioeconomic report that will describe things like the effects on government



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services, schools, whatnot, infrastructure, manpower, payrolls, that kind of thing. The third is a report on potential alternatives. In other words, whether or not there is a way to accomplish the objectives through other means than what's been proposed.

This is just an example of how NEPA works here at the Department of Energy. The Department needs to consider initially what kind of level of analysis is going to be required. So DOE determines the appropriate level through a process whereby the NEPA compliance officer which is -- that's who I am -- for the Chief Financial Officer makes a recommendation to the Chief Financial Officer for what level of NEPA is required for the proposed action. And the agency procedures assist us with that -- those procedures I pointed out before, 10 CFR Part 1021. One of the things that the Council on Environmental Quality's regulations require that every federal agency do was included in their NEPA procedures actions that normally require an environmental impact statement; actions that normally require an environmental assessment; or actions that require neither and can be excluded from any kind of review or for review in an environmental assessment or an environmental impact statement. And those are called categorical exclusions. So the three levels of review that we have -- the potential levels of review would be environmental impact statements which are very detailed analyses that go through resource consumption rates and effluent emission streams and any potential effects associated with those. And they can be very detailed and sometimes they can be time consuming. They are very transparent analyses. Over the past 35 years they've tended to be a little litigious, but they're the most detailed analysis that would be required.

Then there's the environmental assessment which is a much pared down version of the environmental impact statement and it doesn't presume that there's any significant effects. What the environmental assessment is intended to do is to determine whether there's any significant environmental effects and therefore if there are, then an environmental impact statement is required. If not, you can prepare a finding of no significant impact.



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Then the lowest level or the last level would be to identify a category of actions that doesn't require either an environmental assessment or an environmental impact statement. It can be excluded from the NEPA review process.

So those actions or those categories of actions are predetermined by the Department and they are listed in the agency's NEPA implementing procedures and they've been determined to not have significant environmental effect either individually or cumulatively.

So just an example, and this is really just an example, of an environmental assessment process. Because in the United States we probably prepare on the order of 100 to one environmental assessments to environmental impact statements. But at the Department, this is just an example of how the process works. It would be very detailed to get into how the environmental impact statement process works, there's a lot more steps to it. But this is just an example. It doesn't mean to imply that this is the level of NEPA review that will be required for all of the applications, all of the projects in the application. It could be any number of things. But the way it works is the determination needs to be made, and as I pointed out, this is a recommendation to the secretarial officer on what level of NEPA is required. The level would be, in this case, suggested that it's environmental assessment. The secretarial officer would agree. The next thing that would happen is that we would notify the state that we were going to prepare an environmental assessment. During that process of developing the document, developing the analysis, there's many other processes that take place at the same time. The National Environmental Policy Act is an umbrella statute. Everything falls underneath of the National Environmental Policy Act. You're doing a lot of different consultations and a lot of different coordination at the same time. Just three examples that are important, because they can take a serious amount of time, would be to consult with the state's historic preservation officer to comply with Section 106 of the National Historic Preservation Act. That would be an example. As well as to comply with Section 7 of the Endangered Species Act, we have to consult with the Fish and Wildlife Service or perhaps the National Marine Fishery Service. They both have jurisdiction over the Endangered Species Act.



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Then another example would be to consult with any affected American Indian or Alaskan Native Tribes or Native Hawaiian organizations. So those are some examples of the kind of consultation that would be taking place during the NEPA process. So in addition to developing a NEPA document and environmental assessment, in this case, we would be doing all this consulting. There's a lot of time frames associated with this, but it's required. So we have to comply with not just the National Environmental Policy Act in the implementing procedures, but all of these other statutes and regulations that apply as well.

And then if all goes well, we develop the environment assessment and submit it to the state and tribes for review. We get comment back from them. Finalize the document and if there are no significant impacts that cannot be mitigated, then we will write a finding of no significant impact. If for some reason there are significant impacts that cannot be mitigated, we would then prepare a notice of intent to prepare an environmental impact statement.

That's an overview. So I will pass it on to Dan.

RULEMAKING PROCESS

MR. COHEN: I just want to cover briefly the rulemaking process that's at issue here. Section 136 of the Energy Independence and Security Act is the organic statute that authorizes this program. It was enacted last December, actually right here on this stage in fact. Actually the President signed the bill right here. And it required regulations to be issued to implement this program. However, through September 30th, we hadn't issued any regulations, in large measure because there had been no money appropriated for the program. So there wasn't a program.

When the Continuing Resolution of '09 was enacted on September 30th, as Lach mentioned, there was money appropriated for this program and then there were two additional requirements. One was that the Department issue an interim final rule to implement the program. And I'll get into what that means in just a moment. And then the second was that the Department issue that rule within 60 days of enactment. So since the continuing resolution was enacted on the 30th of September, that actually meant



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the rule was due by November 29th, this past Saturday, in fact. And we issued the rule on November 5th and as you see it was published on the 12th. So we made that statutory deadline by law, actually.

But let me cover quickly what is an interim final rule. The typical rulemaking process is that an agency would issue a proposed rule, take public comment on that rule and then issue a final rule that responds to the public comment. The final rule takes effect 30 days after it's published. In certain circumstances an agency can do away with that process. And one of those circumstances is when Congress tells us to do something different which is what they did here. They told us to issue an interim final rule. And that's a rule that the agency issues and it takes effect immediately. The agency issues it before it takes public comment. So we then -- we publish the rule, it becomes effective and that's why it's final, but we have an opportunity for public comment after it takes effect, that's why it's interim. So after the public comment period closes, we will respond to any comments we receive and any experience we have in implementing the program, whatever it may be, and, you know, errors that we found in the Interim Final Rule when we issue a final rule. So the comment period on this Interim Final Rule, as Lach mentioned, closes on the 12th of December.

When you look in the Federal Register document at the rule itself, you'll see we have to receive the comments by the 12th of December, not just have it postmarked by that date. So we actually have to have it by the 12th of December.

Today, everything that we say here in terms of anything you give us in terms of comments on the rule, this is a public meeting, this is all on the record for that rulemaking. So any comments received today will go onto the record, it will be posted on the Web site. We will respond to those comments when we issue a final rule. And just the last thing on that, the final rule is not due at any particular time. Although the Congress told us when to issue the Interim Final Rule, they didn't specify a date for the final rule. So it will come at some point after the comment period closes and we have an opportunity to review the comments and develop responses.

That's it. Thank you.



QUESTION AND ANSWER PERIOD

MR. SEWARD: Thanks, Dan. At this time now we would like to take your questions because that's what you're here for. So I said we had a microphone in the aisle. I don't know where they are exactly, but anyway, let's open it up for questions. Yes, sir.

MR. BROWN: Andy Brown with Delphi Corporation. With respect to the requirement in the Interim Final Rule to provide financials related to each of the projects. We would find it very helpful if in fact there was a template or at least a list of the key information requirements so that we can be assured that we're providing the information. And since may be our submission may have a couple of projects in there, we want to make sure that it is compliant with your requirements; is that a possibility?

MR. SEWARD: As you are probably aware, we had a number of comments that said, "Where's the application form?" Because people are used to dealing with the government with an application form. We did not do that based on getting the rule out and the early mover applications in. I'm not sure that we can define that in such a way that it will meet everybody's needs.

So I think what I would have to say is that you need to do the best you can in interpreting that and if we have problems we'll get back to you.

MR. COHEN: If I might just add to that just one. If you look in the regulation in Section 611.100(c), we do give a number of factors of things that we will look at. They are pretty standard financial factors that --

MR. BROWN: I read those to apply more to the entity, to the company, as opposed to the projects.

MR. COHEN: Yeah, right.

MR. BROWN: In the criteria you talked about having a financial business plan because you have to provide substantiation that in fact that you can cover the repayment of the loan, et cetera, and there's some wording there about net present value of calculations.

MR. COHEN: Uh-huh.



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MR. BROWN: In order to do that, obviously, you need to have certain information to be supportive of that. And I just want to make sure that what we provide to you is compliant with what you're expecting.

MR. COHEN: Well, of course, if what you give us -- if we need additional information, we will obviously come back and ask you for additional information.

MR. BROWN: Okay. So there will be an opportunity to have some iterative discussions and so forth.

MR. COHEN: Yes.

MR. BROWN: Okay.

MR. COHEN: Yes. So what we said is that we need a substantially complete application in order to proceed through the review process.

MR. BROWN: Yes.

MR. COHEN: So once the application is substantially complete, that doesn't mean we have all the information we need necessarily.

MR. BROWN: Uh-huh.

MR. COHEN: Substantially complete.

MR. BROWN: Right.

MR. COHEN: Not absolutely complete. So if we have additional information requirements --

MR. BROWN: So if we -- just to follow on here -- we provide all of the other information that you're requiring like the EBITDA, et cetera, those kinds of things, when we get down to the project basis, if there's any issues we'll have a chance to discuss that further?

MR. COHEN: Uh-huh.

MR. BROWN: Okay. Can I ask a second question?

The second question here relates to the inclusion of research and development. And I'm not talking so much about the "R" as I am about "D". I'm talking about development as to what extent can



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development costs be included? Because obviously as you think out -- look out across the entire term of a project, there's going to be a need sometimes to invest in developing certain components or certain materials, for instance, that will go into the component or subsystem. Any guidance on how to include or if those expenses are appropriately to be included in the costs?

MS. BATTERSHELL: What is clear that can be taken in the cost is the engineering associated with the manufacture or expanding or reequipping a plant. So project -- the allowable costs in here really are limited to engineering and then the manufacturing itself.

MR. BROWN: I understand that. But let's take it a step further. Let's get into the engineering integration side, okay, as opposed to the manufacturing side. When you think through engineering integration, okay, and you're taking whether it's a component or subsystem and applying it onto a vehicle, there are some upfront development costs, validation and testing associated with that, all the way through to the actual application of that component or subsystem onto a vehicle. So I'm referring to the upfront portion which is really application oriented. I'm not talking about new research programs. I'm thinking more in terms of taking and validating the component, validating the materials that will go into that. So I'm talking more about engineering integration costs, truly product or even process validation. Separate from the manufacturing facility.

MS. BATTERSHELL: So if it's truly engineering integration costs, then those are allowable. The only nuance about the engineering integration that people should be aware of is that those engineering integration costs need to be associated with a particular component or vehicle program. It's not like you're thinking about some product that you might want to integrate.

MR. BROWN: Yeah, it's not researching new horizons or something like that.

MS. BATTERSHELL: Right. Engineering integration related with a component or a vehicle project are permissible project costs.

MR. BROWN: Okay. Thank you.

MR. SEWARD: Yes. All right.



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MR. FOUNTAINE: Peter Fountaine from Cozen O'Connor. My question relates to your substantive review criteria and specifically with respect to small and emerging manufacturers. The grant program has a 10 percent set aside for small manufacturers. The loan program, however, appears not to have that same set aside. But one of your review criteria is with respect to existing manufacturers, you will look at plants that are, you know, older in terms of time. But are you going to have any kind of set aside for small and emerging manufacturers?

My second question is, with respect to priority of applications, are you going to be looking at new job creations as part of the substantive review criteria, you know, as part of the economic impact?

MR. SEWARD: With regard to the small business component, we currently don't anticipate having a separate program for that as was outlined for the grant program. With regard to the evaluation of whether it creates new jobs or not, I believe we have -- I don't know which section it is, but one of the sections in there speaks to how we would exercise those priorities in the evaluation. I'm not sure that job creation is one of them, but --

MS. BATTERSHELL: It is actually.

MR. SEWARD: It is?

MS. BATTERSHELL: So, while there isn't a set aside for small manufacturers, those are certainly, you know, interesting applications and there's a part within that evaluation criteria. So in the Federal Register 66734, in the middle column at the top it starts, "Evaluation Criteria" and (2) within there, "Technical Program Factors" which are also considered, one of those includes economic development. So that's in there.

And as far as the 20-year rule, I think probably better for Dan to answer that one.

MR. COHEN: Yeah, just on the 20-year, we've gotten a lot of questions about the 20-year priority. Excuse me. First of all that's a statutory matter. You know, that's just a matter of the law, so there's nothing -- we didn't add that.



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But to be clear that that requirement is not an overarching priority on eligibility. It's a priority in making loans to manufacturers with those plants.

MR. FOUNTAINE: Okay. Well, with respect to that, what about a new manufacturer that would like to manufacture in an old facility that they buy or lease from a manufacturer? How would that play?

MR. COHEN: That's an interesting question. It always helps to read the law in these questions. I have to take a look at it, to be perfectly honest. It says in making awards or loans for those manufacturers that have existing facilities, give priorities to those facilities that have been in existence for at least 20 years. I guess the question is whether that existence means generally or with respect to that manufacturer.

MR. FOUNTAINE: Correct.

MR. COHEN: That's not a question we've actually thought about before. So, we'll take that a comment on the rule and come up with an answer.

MS. BATTERSHELL: But I think if you're asking would that give you priority over some other new manufacturer that didn't have a 20-year facility --

MR. FOUNTAINE: Yes, that is --

MS. BATTERSHELL: -- then I think that is clear.

MR. COHEN: Yes. It doesn't.

MS. BATTERSHELL: And it doesn't.

MR. FOUNTAINE: Does not.

MR. COHEN: Right. It doesn't because it's not an overarching eligibility criterion. It's only a criterion within making -- so in other words, it doesn't say, first we make loans to the manufacturers that have facilities that are older than 20 years. The statute says, in making loans to manufacturers that have those facilities.

MR. FOUNTAINE: Okay.



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MR. COHEN: Give those facilities priority. So if you don't have those facilities, it doesn't apply to you.

MR. FOUNTAINE: Understood. One last question then I'll sit down. Do you have -- are you going to have a scoring sheet for the criteria that will have weightings for the factors that are laid out in the regulations? And if so, is there any greater weight given to any criteria?

MS. BATTERSHELL: So we've got a series of criteria and it's not an all-inclusive list and there's going to need to be some way to look at how those criteria compare with each other. But we don't at this moment have an exact scoring sheet that says what the weighting is of all of those and how they're calculated.

MR. SEWARD: Yes.

MR. McMAHON: Kevin McMahon of Nelson Mullins. A question related to Section 611.102(b) on eligible project costs on a little clarity. For significant capital that has already been spent and capitalized under GAP on a technology, will that qualify under the program? In other words, can we include this capital cost on the loan application?

MR. SEWARD: That was incurred prior to applying?

MR. McMAHON: Right.

MR. SEWARD: Well --

MR. McMAHON: Developing technology.

MR. SEWARD: -- what we've said is that that may be taken into consideration with regard to the equity portion of the project, but not with regard to the loan. The loan proceeds will only be available for cost going forward from the application date.

MR. McMAHON: But if it's advancing a -- I guess the question is, if we're advancing an existing technology, spending money on that advancement, going to a generation two or three on a particular technology that exists today, those costs are includable; correct?

MR. SEWARD: From the application date forward.



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MR. McMAHON: Right.

MR. SEWARD: Right.

MR. McMAHON: Okay.

MR. SEWARD: Yes. This gentleman in the middle.

MR. REDMOND: Scott Redmond, XP Vehicles. I've heard that NEPA is going to take six months to a year or more to process. If one was awarded this December, would they not receive the first tranche until the NEPA was fully executed? And is it a NEPA per state of activity?

MR. McMillen: The time that's going to be required for the NEPA will obviously depend on what level of NEPA review is going to be required. Environmental impact statements, yes, they do take six to 12 months, even longer, to do. Environmental assessments can be done much quicker. We're investigating, you know, whatever means that we have available to us to pursue the NEPA process on these. As far as before the loan can be approved you will have to have a NEPA determination. If it's an environmental assessment, you will have to have a finding of no significant impact. If it's an environmental impact statement, the record of decision will be the approval of the loan. So you will have to have that done before the loan is approved.

Did that answer your question, sir?

MR. REDMOND: Yes.

MR. SEWARD: Down in front here.

MR. BRAINARD: Yeah, Kurt Brainard, EcoMotors International. A question regarding the definition of a qualified component. I think the Final Rule states that it's designed for an ATV or installed to make the performance -- of an ATV. But there's also a clause in there somewhere, but I don't think it was mentioned in the presentation today about a high technology component with a target application as a conventional vehicle or an aftermarket vehicle. I just wanted to make sure that a component installed in a conventional vehicle or an aftermarket vehicle in fact qualifies?



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MS. BATTERSHELL: So what it says is that the definition of a qualifying component is that it needs to be designed for and integrated into an advanced technology vehicle.

MR. BRAINARD: Okay.

MS. BATTERSHELL: But what the preamble goes on to say is, just because that component might also find its way into conventional vehicles or aftermarket sales, doesn't disqualify it from being a component eligible for this. So it needs to have its intent to go into advanced technology vehicles. But if it's useful for other vehicles, that's okay.

MR. BRAINARD: Okay.

MS. BATTERSHELL: Does that answer your question? And, I could probably find that part for you, if you want. It's in 66728 -- page 66728, first column about half way down. Oh, that's the --

MR. BRAINARD: Okay. I see it there. Yeah.

So if the component is primarily for a conventional vehicle and improves the fuel economy in a standard vehicle, one that's out there right now, then that -- without the component also being applied to an advanced technology vehicle then it wouldn't qualify, I think that's what's in here.

MR. SEWARD: That's right.

MS. BATTERSHELL: Right. It would need to go into one of those charts before that show like what the miles per gallon for a sedan would need to be. It would need to be going into a vehicle that is making those kinds of fuel efficiency numbers.

MR. BRAINARD: All right. Good.

MS. BATTERSHELL: But it could also go into other vehicles.

MR. BRAINARD: Okay.

MR. SEWARD: The other side of the room here.

MR. SHUEY: Lyle Shuey with Bright Automotive. Following up on the NEPA discussion, some of the projects may have substantial time requirements in terms of years to complete them. If there is a situation where a manufacturing facility may not be actually selected and developed for let's say 18



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months, how would the NEPA requirement be satisfied in the case of that kind of situation? And is it possible to provide a loan award prior to that happening or do it in segments? Or would that have to be physically two different projects? Could you comment on that, Mr. McMillen?

MR. McMillen: Well, it's not uncommon for NEPA to apply two projects that are going to take place out into the future. So it's a predictive kind of an analysis that's done. So we take the description of the proposed action and any effluent emission streams and resource consumption rates and we base the NEPA analysis on that. There are other factors. If, for example, there's a lot of uncertainty and there's some mitigation that's required, at the Department of Energy we have to -- if we mitigate for a finding of no significant impact, for example, we have to prepare a mitigation action plan that will look at what's happening a year out. So it's possible to still do the NEPA even though the project is some time off. The real difficulty is that if you don't know where you're going to do it, if you don't have a site, if you don't have enough information to make the analysis relevant, then it's not considered to be ripe for analysis and therefore you would not be able to do NEPA and that would be a problem. So it can get very complicated if you've got phased actions.

You know, there is an approach that can be taken for a programmatic analysis where you look at the projects in phases. You know, if they are an independent utility, you do an analysis of phase one. Then you look at phase two in a separate analysis. Or you can tier off of a programmatic environmental impact statement and you tier off of a document by preparing environmental assessments for the different phases that you looked at in the programmatic environmental impact statement.

In those instances you're talking about quite a long period of time to complete a NEPA process.

MR. SHUEY: In that case then, is it possible to allocate funds on those programmatic milestones and get some level of approval for those funds and distribution of funds up front? Let's say I want to do the engineering integration work for an advanced technology vehicle over the next 12 months and funding would be valuable in the first quarter of 2009 and site selection -- the site selection process and the expenditures for that would not occur until let's say, 2010, is it possible to receive loan approval



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substantive to the achievement of basic milestones in the process, or, again, would it be broken up in sections? That was a difficult question, but I think it's one that many new vehicle manufacturers will be asking.

MR. McMillen: I think it would end up having to be broken up and you would have to do NEPA on each phase. And you would have to have a determination. You would have to have a NEPA decision document in order for that amount of disbursement, you know, for that particular project.

MR. SHUEY: Okay. It also certainly appears that there's a willingness on the part of the EPA to have a lot of dialogue with us as that process unfolds. So I guess it's incumbent upon us to put a package together that's substantive enough to initiate that dialogue. And you would coach us through that process; is that how we anticipate it working?

MR. McMillen: That's how it works, yes.

MR. SHUEY: Great.

MR. SEWARD: The gentleman in the front here.

MR. SMITH: Brandon Smith from Tenneco. First of all, thank you very much for joining us this morning and for offering this opportunity to ask questions and submit comments. The question that I have relates to following up on an earlier question about component manufacturers. And as I'm sure we're all aware, components can be designed and used for many different vehicle applications. And it may be the case that a particular technology is being invented and designed for vehicles that may not qualify as advanced technology vehicles at the outset. But that technology as it proliferates would then be able to be used and help other vehicles become advanced technology vehicles. In that context I was hopeful that we might be able to have a discussion about what you would like a manufacturer to show with respect to its components that it meets the requirements.

So, for example, the first requirement being that a particular component be designed for advanced technology vehicles, does a component manufacturer have to show that it has a vehicle in particular at



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that moment in time that its components will be placed upon and that that vehicle will be able to be an advanced technology vehicle?

MS. BATTERSHELL: So there's a number of things that we can look at as we're making determinations on whether or the components qualify. And I guess what I would say is that the more information there is to show how the component would be involved in an advanced technology vehicle, the more that helps it in the test saying that it -- sorry, I'm referring back to the rule -- consider factors such as the overall impact of the component and the extent to which the component contributes to the efficiency of advanced technology vehicles.

So to the extent that you can provide more data that shows, for example, it might look better for a component if it could go into five different vehicle platforms, that might help with the extent to which its impacting vehicle efficiency. Or there might be something -- so that one might rate better than one that only goes into one vehicle that is in small production, small production number.

Or you might be able to show things about this component helps get a one-mile per gallon difference in an average vehicle and that might rate better than a component that shows that it get half a mile per gallon better for a vehicle.

So, in large part, it's about showing how much the component contributes to fuel efficiency, what platforms it might go into and some things about surety of a platform. So it might look better if you're, again, comparing component to component. If manufacturer A had letters with auto manufacturers saying, yes, we absolutely plan to use that in these five vehicles as opposed to a component manufacturer saying, I'm just about to call a couple of auto companies to see if they might be interested in it. So, in large part, it's going to be the degree to which you can show how much it will be contributing to fuel efficiency, how sure it's likely to enter the fleet, to what extent, how many vehicles it's likely to go into, is it in large production vehicles or small production vehicles? So I can't tell you everything that goes in there, but that's kind of some of the things that would -- in comparing one to another -- show which might be better than another.



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MR. COHEN: But just to be clear, there still has to be that linkage to --

MS. BATTERSHELL: Yes, Yes.

MR. COHEN: -- an advanced technology vehicle. The statute lays that out and we're constrained by the law here. The way the component is defined, it's defined with reference to an advanced technology vehicle. So it has to be going into an advanced technology vehicle.

MR. SMITH: And that's an excellent point. And that's where I think our question relies on the chicken and the egg concept in that if the component itself is the bridge that can cause a vehicle to become an advanced technology vehicle how might a component vehicle or a component manufacturer show that its components will be in an advanced technology vehicle? Because in the end it's likely going to be up to the original equipment manufacturer as to whether the vehicle itself will ultimately qualify. And therefore we're curious as to whether the loan program will be used to facilitate a scenario where a component manufacturer can develop technology that will be able to proliferate into a number of vehicle platforms and then be employed to create many different advanced technology vehicles? Or rather if it would be, in our view, a more narrow subset where an original equipment manufacturer would say, this vehicle is being targeted to be an advanced technology vehicle and we would like to find a supplier to build a component to help us achieve that.

MR. DAVIS: A little bit. It definitely helps to be identified -- as Carol said, to identify specific vehicles that the component is going to go into. And it definitely helps or is required that at least one of those vehicles be an advanced technology vehicle. There is nothing wrong or prohibitive about that component going in many other vehicles. So if your question is, if you have a component that you think is most logically going to go into conventional vehicles first, and later proliferate into advanced technology vehicles, my understanding is that is a problem in that that would be a problem in the evaluation of such an application.

MR. COHEN: It would be an eligibility problem. I mean, I guess to the extent that if the vehicle is the chicken, you need the vehicle first.



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MR. SMITH: Understood.

MR. COHEN: You need a chicken before you can get an egg, I guess. Or whichever one you want to see a first.

MR. DAVIS: We solved the evolution question.

[Laughter.]

MR. SMITH: And the follow-up question to that is, in the second part of the statute that indicates whether a component will be qualified or not, and that relates to whether it's employed to be able to meet that performance requirements of an advanced technology vehicle. I note that that is in the plural sense. And the question I have is, given that there are three different requirements of an advanced technology vehicle, would it be the case that a qualifying component or a component itself would be able to qualify if its primarily intended to meet one of those particular criteria?

So, for example, I understand that we're speaking at the Department of Energy and we're talking a lot about fuel efficiency, but in that same vein, there's a particular requirement in the statute that says that the vehicle must also meet Bin 5 Tier 2. Given that, if a component is primarily designed to meet that but also has some fuel efficiency attributes to it, would that component qualify?

MR. COHEN: I don't see why not.

MR. DAVIS: Yes, especially if -- for instance, specifically with an emissions mitigation technology, if that enables the vehicle -- the advanced technology vehicle to meet the emissions which it would have to do, so, yes.

MR. SMITH: Okay. Great. Thank you very much.

MS. BATTERSHELL: I just think you should note that that means it could qualify. Qualify and selection are different things.

MR. SMITH: Absolutely.

MS. BATTERSHELL: But the idea is to show the degree to which it contributes.

MR. SMITH: Absolutely. Thank you very much.



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MR. SEWARD: The gentleman back here.

MR. RILEY: Thank you. I'm Brian Riley with Goodyear. I just wanted to follow-up the discussion that came up earlier, the gentleman from Delphi about the process after an application is submitted. Obviously you have various teams looking at different components of an application both financial, the project itself, the financial viability. I guess looking ahead just in terms of the process itself, is there one point of contact at DOE that would handle the questions back to a company? Would it be various components or people we'd hear from? I just kind of want to get a feel of how the process would work once you guys dig into an application and begin work on that and the give and take and the information sharing between DOE and companies.

MR. SEWARD: Well, you know, the question should be directed and the give and take will be with our office. We have an office that is set up to handle all the applications and the negotiations. However, my good friends on the panel will be actively involved in any discussions that we have regarding any of their particular issues. But you should direct the comments to the ATVM office.

MR. SEWARD: Dr. Brown.

MR. BROWN: Andy Brown at Delphi again. Obviously there are two key metrics. There are a lot of them, but I think there are two key one. One of them has to do with the 80 percent coverage from the -- that is spelled out in the law and then the --

MR. SEWARD: The 80 percent is based on OMB requirements. It's not really spelled out in the law. I just wanted to make that clear.

MR. BROWN: Okay. Thank you for the clarification. And the other one has to do with the term of the loan. In the Interim Final Rule it says, "Potentially 20 to 25 years". Now, obviously you don't want all of our applications skewed towards 80 percent and 20 to 25 years. Do you have any guidance on what would be the most appropriate around those two metrics for a loan application?

MR. SEWARD: In terms of what exactly?



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MR. BROWN: In terms of coverage, in terms of the term. I mean, obviously in your considerations you must have thought about what would be an appropriate set or range of consideration?

MR. SEWARD: Well, I think --

MR. BROWN: Can you give any guidance?

MR. SEWARD: -- it up to the applicant to figure out what works best in their business plan. And the changes in those parameters will, of course, affect the risk in the project. So, you know, we'll evaluate based on what you desire and what fits your business needs. We're not making any, you know, prejudgment as to how that should be done.

MR. BROWN: Will there be any opportunity for negotiation around those metrics --

MR. SEWARD: Oh, certainly.

MR. BROWN: -- or the discussion?

All right. Thank you.

MR. SEWARD: In the back here. Somebody all the way in the back hasn't had a chance to ask a question.

MS. BEAUMONT: Hi, my name is Amanda Beaumont. I was -- I had a question on the --

MR. SEWARD: Excuse me, where are you from?

MS. BEAUMONT: The Senate. The definition of financially viable in 611.100. Do you -- where it says, "must be financially viable without receipt of additional federal funding associated with the proposed eligible project" are you just talking about the federal funding -- any federal funding or just the retooling money? If that makes sense.

MR. SEWARD: That statement refers to the loan that we're talking about here.

MS. BEAUMONT: Okay. So if there was other federal funding out there the applicant could receive that and still be eligible for the Section 136 loan?

MR. SEWARD: Yes.

MS. BEAUMONT: Okay. Thank you.



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MR. COHEN: Yeah, you want to look at 100(d) which lists out the other forms of federal funding. Or at least includes all of it.

MR. SEWARD: This fellow about three rows down.

MR. ROTHSCHILD: Lowell Rothschild, Venable LLP. Following up on the NEPA side, given the length of time that it can take to prepare an environmental assessment, has the Department given any consideration as to what it will view as a substantially complete application in terms of the NEPA aspect of it? In other words, will there be an opportunity to provide supplemental information? Particularly we're talking about essentially six weeks to put together an EA with two holidays in there.

MR. McMillen: Yes, absolutely. We'll look at it and substantially complete would be to address the factors that are identified in the application. As Dan pointed out, you know, substantially complete does not mean absolutely complete. It will need to be absolutely complete to do the environmental review that's required, but we will go back and forth with the applicants after we have a substantially complete application.

MR. SEWARD: Down in front here.

MR. FOUNTAINE: There was talk and discussions about the engineering integration process, U.S. facilities, obviously, all those types of things focused in the United States. Materially there are many automotive tier one or tier two suppliers that have operations outside of the U.S. For a major vehicle program, is it appropriate to include some funding for engineering development work through subsuppliers that are outside of the U.S.; is it appropriate to include in the application or not?

MR. COHEN: The statute says that work has to be performed in the United States.

MR. FOUNTAINE: So all work of the OEM as well as subsuppliers, et cetera.

MR. COHEN: The approved project needs to be.

MR. FOUNTAINE: Right.

MR. COHEN: So it's got the engineering integration performed in the United States, qualifying component produced in the United States and manufactured in the United States.



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MR. FOUNTAINE: Okay.

MR. COHEN: And that's just what the law says.

MR. FOUNTAINE: Uh-huh.

MR. SEWARD: Question in the back here.

MR. FRULLA: Thanks, David Frulla from Kelley Drye and Warren, Washington, D.C. I had a couple of questions about the mechanics of the NEPA process. The first is the proposed action in question will be an individual loan made under the program; right?

MR. McMillen: Correct.

MR. FRULLA: And when a NEPA analysis is submitted, I take it that the applicant is provide the information needed and perhaps suggest whether it should -- whether there should be a finding found or not -- I mean, that's ultimately your call. How does that -- how do you want that set up? Do you see what I'm saying?

MR. McMillen: The determination for a finding if you're talking in terms of the process for an environmental assessment, the finding will be a Department of Energy finding. The information that we'll require the applicant to provide is substantial enough so that we can make that finding.

MR. FRULLA: Okay.

MR. McMillen: So the analysis, you know, the documentation and the analysis will be the responsibility of the applicant, but the Department will make the finding.

MR. SEWARD: Question way in the back.

MR. COOK: Steve Cook with BNA. With regard to the financial viability provisions, if a company is talking about running out of money in the next few months without substantial federal intervention, does that mean that they don't qualify as financially viable for these loans?

MR. SEWARD: Well, as we've told everyone, we will look at each application on a case-by-case basis. There are various ways to mitigate that issue and rather than make a sweeping statement that,



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yes, they are or no they're not, we would prefer to look at the specifics of each case. So you'll have to draw your own conclusion, but we'll draw ours when we look at the applications.

Yes.

MR. MUNGER: Rubin Munger with Bright Automotive. Also on the financial viability question, it's clear how you want us to respond to viability of the program and the project, assuming the loan is granted. In terms of the viability of the company for a new vehicle manufacturer, do you actually want an answer to the company's viability absent a loan? That was unclear.

MR. SEWARD: Absent a loan.

MR. MUNGER: Right. So to the business model might be somewhat different.

MR. SEWARD: You mean absent this loan?

MR. MUNGER: Correct.

MR. SEWARD: Oh, yes, I think that's what we asked for.

I thought you meant absent another loan. Okay.

MS. PERMAN: Esther Perman, Fabioni and Company. I have a question similar to the one about new manufacturers. For different phases, if we are applying for engineering integration first and then facility location and development later on, would those be separate applications?

MS. BATTERSHELL: The engineering integration costs are available for a project for components or vehicles. But applying just for engineering costs on their own is not a valid application.

MS. PERMAN: For engineering integration, that part of it, which we do think we meet, and then a later phase would also be a facility for manufacturing, so those would be two different things. But do we do separate applications?

MS. BATTERSHELL: That should be one application.

MS. PERMAN: Okay.

MS. BATTERSHELL: Because the engineering costs are only allowable costs if they're with a project for either components or vehicles.



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MS. PERMAN: Right. Okay.

MR. SEWARD: In the back there.

MS. MERINO: Good morning. Leigh Merino with Motor and Equipment Manufacturers Association. Some of our members are qualifying component manufacturers, but they may be smaller and may want to submit joint applications. Would they be eligible or are there any restrictions on joint applications?

MR. SEWARD: I'm sorry, could you repeat that?

MS. MERINO: Are there any restrictions on joint applications for qualifying component manufacturers who may want to join in and do one application for a project?

MR. SEWARD: Are there any restrictions on component makers for --

MS. MERINO: For a joint application?

MR. SEWARD: -- for a joint application? No, I don't believe so. But we have to be able to look at, you know, all the components of that particular project. I'm not component makers, but, you know, the elements of that project.

MR. COHEN: Just one other thing. If they're automobile manufacturers submitting a joint proposal, each one would individually have to meet the eligibility requirements. I mean, each manufacturer has to meet whatever their eligibility requirement would be.

MR. SEWARD: Yes.

MR. FRULLA: David Frulla again. I'm a little confused now with this financial viability standard. In the Interim Final Rule it talks about the Secretary finding the loan recipient if financially viable without additional federal funding associated with the proposed project. And then it goes on to say, "interprets additional federal funding to mean any other loan or support"; so what that I thought meant was that you could obtain some of your viability from this program but not need to go to some other program down the road to be viable as well. And maybe I misheard or this isn't clear. Could you clarify that, please?



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MR. SEWARD: Dan. Well, I think it's intended to cover the viability before the application of this particular loan, but not other federal loans or federal assistance programs. Do you agree, Dan?

MR. COHEN: Uh-huh.

MR. SEWARD: I don't know, it may be confusing to you, but that's what our interpretation is.

This gentleman about halfway down.

MR. BERTSCH: Bob Bertsch, Saturn Electronics. You issued some new guidelines for the submitting company confidential priority and privileged information. Are we still supposed to submit two copies of the application with the proprietary information removed as defined?

MR. COHEN: Yes. This is meant to be a clarification. The regulation as stated says submit two copies and the additional marking information was just meant to clarify what those two copies should look like, how they should be marked.

What we don't want to have happen is that we -- you know, we have an application where you have some proprietary information in it that's not appropriately marked and someone files a FOIA request, let's say, and we would provide your proprietary information.

MR. SEWARD: Question down here.

MR. SMITH: Brandon Smith from Tenneco. If we could just talk a little bit about the business plan and financial statements pro forma that would be required in connection with an application. The first question I have is, what level of specificity or detail are you looking for with respect to business plan?

MR. SEWARD: We're leaving it pretty much up to you to figure out how to -- what to submit. I mean, we're not going to dictate the specifics of that. And as we said earlier, if upon submission of whatever you turn into us we have issues, we'll get back to you. I mean, it's a give and take process.

MR. SMITH: Thanks. That's very helpful.

MR. SEWARD: Well, it's probably not helpful, but I think --



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MR. SMITH: Well, it is. And I am sensing a general trend that this is going to be an open forum for us to make a best effort, a good showing of application.

MR. SEWARD: Yes.

MR. SMITH: So that part is very helpful.

MR. SEWARD: Yes.

MR. SMITH: The next question I had then also relates to the financial statements in this context of, do the pro formas and the business plan and the model, do they all need to be revolving around individual projects? And the reason why I'm asking this question is, I expect with many of the applications that will be coming in, some of them will be coming from large manufacturers that have large businesses, large business models, and breaking this down by individual platforms might be somewhat difficult for them to comply with. And the question being, is it acceptable to provide the financial statements based upon data, would it be that the projects were actually included, and if they went forward, but no necessarily focused solely on those particular projects?

MR. SEWARD: Well, of course, we'll want the overall financial data from the company, but we also have said in here that we need to analyze each project on a severable basis. In other words, you can submit for several different projects as an OEM, however, we need to be able to break it down individually and look at the pro formas on each one of those to see if they stand alone.

MR. SMITH: Okay. The next question I had then, this is with respect to the duration that the financial statements need to be provided for, the pro formas and I understand from the regs or the regulations -- I'm sorry, the Interim Final Rule, that it was expected they would be provided throughout the duration of the loan.

MR. SEWARD: Right.

MR. SMITH: And some of these projects may extend out five to ten years. Is the expectation that the data would all be provided up to the full ten to 15 years or --

MR. SEWARD: The projections anyway, yes.



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MR. SMITH: And the last question I have relates to collateral. And that's, does the Department of Energy expect to be over-secured or is the collateral only going to be related to assets that are purchased with loan funds? So in other words, would a company that receives a loan, would they have to put up additional of their own collateral even if it wasn't purchased with loan funds in order to provide the government with additional security?

MR. SEWARD: We haven't defined exactly what we're going to ask for in the way of collateral. However, to the extent that we're better secured, that means that we will be, you know, looking at that project more favorably. But we haven't set any hard and fast rules as far as how much is enough.

MR. SMITH: Thank you very much.

MR. SEWARD: Question over here.

MS. BALLACHANDRA: Hi, Anita Ballachandra with EcoMotors, International. If we could clarify -- go back to the NEPA compliance issue. I'm a little confused. In response to an earlier question I thought I understood you to be saying that the NEPA compliance process must be completed prior to loan approval as opposed to prior to submitting the application. But as I'm understanding Section 611.106 in the specific report, those are very definitely part of the application, are they not? And those need to be complete in order for the application to be complete and be considered; is that correct?

MR. McMillen: Yes. Those reports that are in Section 106 are just reports that are required for application purposes. The information from those reports will be the substantial basis for determination of whether or not -- what level of NEPA review will be required.

MS. BALLACHANDRA: Can you provide a little more detail, a little more guidance on the level of detail you're expecting in those reports? Because those could easily be several month projects in and of themselves, I mean, depending on how you interpret the instructions here.

MR. McMillen: Well, what we need to be able to show is that in responding to the different requests for information in there that there is substantial bases for the conclusions that you come to about whether or not there's an effect or not. A simple yes/no answer is generally not the best answer. If you



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consider what the resource consumption rates are and the effluent emission streams to demonstrate that your yes/no answer has some substance to it, that's what we would like to see.

MS. BALLACHANDRA: Okay. Thank you.

MR. SEWARD: Over here.

MR. FOUNTAINE: My question relates to the funding that's available now and how much is going to be committed. My understanding is there's 7.5 billion that's been appropriated for this fiscal year, that there are five applications pending right now, that the first tranche of applications are due by the end of this year and then you will review additional tranches quarterly thereafter --

MR. SEWARD: That's correct.

MR. FOUNTAINE: -- is that correct?

MR. SEWARD: That's correct.

MR. FOUNTAINE: You're shaking your head.

MS. BATTERSHELL: If you -- the amount appropriated, the 7.5 is not 7.5 billion in loans, it's 7.5 billion of a credit subsidy cost. So it's not like this first round coming in by December 31st gets the 7.5. If that's what you're thinking --

MR. FOUNTAINE: No.

MR. SEWARD: The 7.5 supports the 25 billion in loans.

MS. BATTERSHELL: So up to 25 billion could be given by December 31st or not. It really depends on what the applications are.

MR. COHEN: This is very confusing. We tried to explain this in the regulation. If you look on page 66729 in the left-hand column, paragraph F. This gets into the minutia, something called the "Federal Credit Reform Act." And it talks about how government appropriations work. And at the bottom we were trying to explain here and it's complicated and most people who even work in appropriations I think don't kind of get all the nuances. I certainly don't.



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MR. SEWARD: The 7.5 is essentially for the risk of default which is required under the Federal Credit Reform Act. So on each specific project we have to make that finding as to how much of that needs to be set aside as an amount for risk of default. So it could be more than -- it could be more than the 30 percent which is what 7.5 works out to against 25 billion. In which case we wouldn't be able to lend up to the full 25 billion. If, say, if we found that all the projects had 100 percent risk of default, we would only have \$7.5 billion worth of loan money, if that's what it came to. If you understand that. So that's --

MS. BATTERSHELL: So the loans can be somewhere between 7.5 billion capped at 25, if the risk of default is roughly 30 percent, that's how you work out to 25 billion. But it's actually done on a loan-by-loan basis so it might not get all the way up to 25 billion if the credit subsidy is more than that. But the tranches -- so let's stick to explaining the credit subsidy and then come back to the tranches of loans. Because I think it's better to try and understand those in two bits and they aren't really related.

MR. FOUNTAINE: Okay. What I'm trying to get at is, how do we know how long it's going to take to spend this money? And is there going to be sufficient reserve in '09 for new applicants to come in and apply?

MR. SEWARD: We have to see what we get in the way of application volume. I mean, we can't tell you right now. I mean, even if someone applies for X amount, that doesn't mean that all of those projects will qualify. So --

MR. FOUNTAINE: I mean, it's conceivable you could have 25 billion in loans right now on the table.

MS. BATTERSHELL: Yes, it is.

MR. FOUNTAINE: And --

MS. BATTERSHELL: And that might lead one to believe that applying earlier is better than applying later.

MS. BATTERSHELL: It might lead one to that.



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MR. FOUNTAINE: All right. And then just one thing on NEPA. So to understand this correctly, essentially the applicant will do those three reports as part of their environmental report. And to the extent possible, one should try to follow the environmental assessment requirements in the regs so that we basically do your job for you in terms of being able to make a decision as to whether there's a significant impact; is that what I should interpret this to be?

MR. McMillen: Yeah. Initially what you need to do is you need to address the elements that are required in the Interim Final Rule.

MR. FOUNTAINE: Right.

MR. McMillen: Those need to go into your application.

MR. FOUNTAINE: Correct.

MR. McMillen: How that gets turned into an environmental assessment or environmental impact statement or whatever it happens to be will depend on the complexity of the project and the potential for the significance of effects.

So initially you'll want to address those -- the elements that are called for in the application with sufficient detail that they could then be used to support the finding of whether or not there are or are not significant effects associated with the proposal action -- your project.

MR. FOUNTAINE: Right. So to the extent there are criteria in your NEPA regs that are not specifically culled out in this Interim Final Rule, one should try to address those criteria in the report that you put together.

MR. McMillen: To the extent that you can within the next 30 days.

MR. FOUNTAINE: Right.

MR. McMillen: It might be a little difficult to do that. I would concern myself with what's in the rule first.

MR. FOUNTAINE: Yes.



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MR. McMillen: But if you could do it in the format and in the form of an environmental assessment or whatever needs to be. I mean, the level of detail is going to be commensurate with the complexity of the project and the potential for significance of the effects and you've got a short period of time to put that together.

MR. FOUNTAINE: Okay. Thank you.

MR. SEWARD: Question back here.

PARTICIPANT: Just a finals rule comment in the way of an idea. A number of companies here, I think, are operating on critical time frames relative to competitive market issues and such. Would it be possible for the committee to issue a contingent loan approval letter, for example, relative to NEPA where if you didn't get your NEPA complete, you would still have a letter you could take to your bank and your financing partners to get that part of your activity underway and then complete fully a final NEPA disclosure?

MR. McMillen: The conditions precedent in -- I mean --

MR. SEWARD: The final NEPA decision needs to be made prior to any funding being made. As far as the commitment goes, what have we done with Title 17? Is there a condition precedent for that?

MR. COHEN: It can be a condition precedent, but the condition has to be met before the loan is approved.

MR. SEWARD: Yes, sir.

MR. BEATY: John Beaty with Venable. I have two questions. First, do you intend to issue a Final Rule before you approve any loan applications?

MR. COHEN: Not necessarily. The Interim Final Rule is effective right now. So there are regulations in place.

MR. BEATY: You've said also that you can make application for multiple projects in one application; does that mean that you can obtain one loan covering multiple projects? So the loan fee would only be on that one loan?



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MR. COHEN: Would it matter since it would add up anyway.

MR. BEATY: Well, there's a cap on the loan administrative --

[Simultaneous conversation.]

MR. COHEN: Well, we've said that actually the amount would be 10 basis points.

MR. BEATY: To a cap of 100,000.

MR. COHEN: No, it doesn't read that way. It's one or the other.

MR. BEATY: Okay.

MR. COHEN: And we did 10 basis points.

PARTICIPANT: Regardless.

MR. COHEN: Yes.

MR. BEATY: Okay.

MR. SEWARD: Over here.

MR. RILEY: I'm Brian Riley with Goodyear. I just have a quick follow-up question. You said earlier there were five applications you've already received. And you can, of course, approve applications at any time throughout the process as DOE allows. What public information will come out if an application is approved? In other words, would the company be named? Would the project be public? Would the loan terms be public on a rolling basis then as you make decisions?

MR. COHEN: I'm not sure what information we would put out. The problem is that if we put out approvals without making public who's applied -- I guess I'm not -- if we put approvals and denials, that could have financial implications for some companies.

MR. RILEY: I'm only talking about approvals.

MR. COHEN: I'm not sure what we would put out. We certainly are not going to put out the terms.

MR. RILEY: Okay.

MR. COHEN: That would be proprietary.



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MR. RILEY: Okay. But you would put out information if someone was approved?

MR. COHEN: We might do that. Yeah.

MR. RILEY: Okay.

MR. COHEN: Yeah.

MR. SEWARD: Over here.

MS. BALLACHANDRA: Sir, just to clarify the last point you made about subsequent tranches and the benefits or the merits of applying sooner rather than later. If you have more qualifying projects, qualifying applications than you can fund in this first tranche, would the remainder of those applications be held for a subsequent tranche, or would companies be required to refile? So in other words, do you get in line by meeting this first tranche deadline even if you are oversubscribed?

MS. BATTERSHELL: Yeah, I think that's important to understand is, there isn't a certain amount of funding per tranche. That's what I was trying to explain. I'm not the one to explain the credit subsidy costs, but I can tell you that the 7.5 billion is not associated with the first tranche. That's not an amount of loans in the first tranche.

MR. SEWARD: Right.

MS. BALLACHANDRA: That's what I understand.

MS. BATTERSHELL: The 7.5 is something completely different.

MS. BALLACHANDRA: Right.

MS. BATTERSHELL: And there isn't a set aside of loans for particular tranches.

MR. COHEN: So if an application is substantially complete prior to December 31, which is the end of the first tranche and we started the evaluation process, we're not going to stop on December 31st evaluating that application if we haven't completed our evaluation.

MS. BATTERSHELL: The point I was trying to make is it's possible -- now I'm using extreme examples -- but it's possible that 50 billion might be applied for in the first tranche.

MS. BALLACHANDRA: Right.



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MS. BATTERSHELL: And then there's probably not going to be a lot left in a second tranche.

MR. COHEN: Or there might be.

MS. BATTERSHELL: Or there might be. Or there might be 5 billion applied for and, you know, someone wasn't financially viable.

MR. COHEN: Right. Right.

MS. BATTERSHELL: All I was trying to say is, you know more about what's available in the first tranche than you know what's available in the second tranche.

MR. COHEN: Right. And as a process matter, what the regulation says is that in the first tranche through December 31st, we will review and potentially make decisions on applications as received.

MS. BALLACHANDRA: Right.

MR. COHEN: In subsequent tranches they will run by calendar quarter. And we will receive applications, we won't review and evaluate applications in those subsequent tranches until the end of the quarter -- until the quarter closes.

MS. BALLACHANDRA: Right. Okay. Thank you.

MR. SEWARD: Anyone else? Have you had enough of ATVM? Somebody all the way in the back.

PARTICIPANT: Some people are -- or many people are talking about using this loan program as sort of a first down payment on a general bail out of the industry and is that possible under these regulations or would it require a change in law to do that or possibly some sort of direction from the White House?

MR. SEWARD: Well, I'm not going to get into the policy issues, as I said in my opening statement. However, this program is strictly an incentive program to build advanced technology vehicles, so any other purpose would require a change in at least the regulations if not the law. So I don't see any way, given the way the program is set up today that that could be done.

Question on this side.



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MS. BRENNAN: Hi, Lydia Brennan, Visteon Corporation. I just want a clarification on a question that was asked earlier about engineering integration. If the engineer integration is performed in the U.S., but the vehicle is for manufacturing outside of the U.S., would that count, or would that be considered?

MS. BATTERSHELL: No. The vehicle manufacturer and the engineering need to be done in the U.S.

MS. BRENNAN: Where is that referenced in the statute?

MR. COHEN: Yeah, this has actually come up in a comment that someone had made on the rule previously I'd seen. The component manufacturing needs to be in the United States. It needs to go into an advanced technology vehicle. It doesn't actually say in the statute or the regs that the vehicle needs to be produced in the United States, but it needs to be sold here in order to qualify. So I'm not sure if it's going to really matter in the end, because to meet the CAFE requirements and the EPA requirements that are applicable, it's going to be here anyway.

MR. SEWARD: Down in front here.

MR. BOSKOVITCH: Paul Boskovitch with Fisker Automotive. Yeah, that was a good question. In fact it was one of my questions and I really need a point of clarification there. Because we are, I mean, you know, in terms of number one engineering integration, is that at related to all parts of the engineering within the vehicle itself? And then number two, if not, is that only related to items that are associated with plants and equipment? I think you've answered that second one in saying manufactured -- if I heard that correctly, assembly of the vehicle does not necessarily have to be done in the U.S., but the engineering. So we can apply for this in two different areas, you know, 66729 and I'm looking at Section B. I don't see A and B as being an "and" condition, I see it being an "or" condition.

MS. BATTERSHELL: Bear with us just a second because we were disagreeing with each other.

MS. BATTERSHELL: "Eligible project" means reequipping, expanding, or establishing a manufacturing facility in the United States.



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MR. BOSKOVITCH: That's A.

MR. COHEN: Yeah, that's A. Then it's "or" -- "or engineering integration" --

MR. BOSKOVITCH: Correct.

MR. COHEN: -- performed in the United States for a qualifying vehicle. So the vehicle -- the vehicle definition isn't tied to --

MR. BOSKOVITCH: Yeah, this -- and then just another point of clarification on engineering integration, there's quite a bit of engineering integration that goes into the design of the vehicle. So it's beyond just plant and equipment, if you will. And from Fisker Automotive, we are doing quite a bit of engineering here in the U.S., specifically in the state of Michigan.

MR. COHEN: Right.

MR. BOSKOVITCH: So, you know, I think if that is the case, then there's an opportunity to qualify.

MR. COHEN: So, as I said, this came up in a comment that I had seen on the rule previously and we need to clarify this.

MS. BATTERSHELL: Clarify it and write it into the electronic docket.

MR. COHEN: Yeah.

MS. BATTERSHELL: Okay.

MR. COHEN: We'll add something after we figure out what the answer is.

MR. SEWARD: Okay. Thank you.

Anyone else?

(No response.)

MR. SEWARD: Well, if there are no further questions, we thank you for coming out and sharing with us your ideas and hopefully you'll all go away from this better informed and ready to put your application together. Thank you.

(Whereupon, at 11:44 a.m., the meeting was adjourned.)



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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before:

UNITED STATES DEPARTMENT OF ENERGY
In the Matter of:

**ADVANCED TECHNOLOGY VEHICLES
MANUFACTURING LOAN PROGRAM**

Were held as herein appears and that this is the original transcript thereof for the file of the Department, Commission, Board, Administrative Law Judge or the Agency.

Further, I am neither counsel for or related to any party to the above proceedings.

Wendy Greene, Official Reporter
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Dated: December 8, 2008