

## Essential Requirements—Interim Final Rule for Section 136 Implementation

The following summarizes key requirements for the IFR necessary to facilitate low-cost financing for manufacturers in a timely manner.

1. The IFR needs to be specifically structured in ways that will allow DOE to make loans in a timely manner, consistent with assuring that taxpayer interests are taken into account.
2. The IFR should take effect and be published at the same time as the Solicitation Announcement, for efficiency and to expedite the process. The IFR and Solicitation should be published in the Federal Register no later than December 1, 2008 (as required by statute).
3. The DOE loan application, review, and approval process must be streamlined to accelerate the loan approval, drawdown process and drawdown date.
4. Section 136 includes statutory criteria that are to be followed by DOE in reviewing and approving the loan applications. DOE's review should be structured to evaluate only two basic factors – whether the application product meets the section 136 criteria, and whether there is a reasonable prospect for full repayment of the loan on time. DOE should not put itself into the position of picking and choosing individual technologies or vehicles.
5. Automakers are built around a corporate-finance structure – not a project-finance structure. A project-finance approach, as was developed for the Title XVII regulation and lending program, will not be workable for section 136 loans. The IFR and Solicitation Announcement should be structured around loans to support the financing of manufacturers' "products" -- not projects. "Products" could include a new fuel efficient vehicle, a new fuel efficient drive train, or even major components of a vehicle or drive train, including the engineering integration and facility costs associated with developing and producing these "products." Auto manufacturer activities are highly integrated and cross-functional within the company, and the "product" level approach is consistent with the way these companies manage their businesses.
6. To establish vehicle eligibility, DOE needs to address the method of calculating the combined fuel economy improvements. This process requires DOE to compare the combined city/highway fuel economy values for individual models with the industry average combined fuel economy for the "base year" (2005 is used elsewhere in the statute) for the appropriate vehicle fleet (i.e., separated by passenger car or light truck) as segmented by "substantially similar attributes" (inertia weight class correlates most closely to fuel economy and was used to establish the advanced technology vehicle consumer tax credits in the 2005 energy bill). In addition, manufacturers should be able to aggregate fuel economy contributions to meet the 25% improvement target.
7. DOE must protect company confidential and proprietary information.

8. DOE and other executive branch agencies should work together to ensure that any procedural hurdles that might tend to delay the Section 136 program, such as any applicable requirements imposed by NEPA, are minimized and/or expedited to the maximum extent.
9. The IFR should be structured to allow each auto manufacturer to make a single consolidated loan application covering multiple products for all the loan funds that they will seek. This would allow DOE to initiate only one Solicitation Announcement for all of the \$25 billion in guaranteed loan authority that is available.
10. The section 136 loans should be for no less than 80% of eligible product costs and be 100% guaranteed by DOE for principal and interest. The loans will be made by the Federal Financing Bank (FFB).
11. Newly purchased assets associated with the products subject to these loans would be available for use as collateral. For example, new “product” machine tools and dies are going to be a significant use of loan funds and automakers would be able to pledge these as collateral.
12. As provided in the 2009 Appropriations CR, funds for DOE were already appropriated for administrative fees. As a result, there should be no DOE administrative fees imposed on applicants or recipients.

To summarize, for an application from a major manufacturer, DOE’s review would first check to see that each “product” in the application and the loan amount requested for that product meet the criteria in section 136. The DOE should second determine if there is a reasonable prospect for loan repayment in full and on time. If both criteria are met, then DOE should approve the application for up to the amount of loan authority available for that manufacturer. Paperwork and red tape need to be held to a minimum to facilitate speedy implementation of the program and processing of loan applications.