

DOE ATV Manufacturing Loan Program Public Meeting

December 1, 2008

MEMA Summary of Q&A

DOE Panel

Lachlan Seward	Director, Advanced Technology Vehicle Manufacturing Loan Program
Carol Battershell	Senior Advisor, Energy Efficiency and Renewable Energy
Matt McMillen	National Environmental Policy Act (NEPA) Compliance Officer
Dan Cohen	Assistant General Counsel for Legislation and Regulatory Law
Pat Davis	Acting Program Manager, EERE, Vehicle Technologies Program

Overview

The Department of Energy hosted the first of two public meetings on Dec. 1, 2008. There were three handouts provided to attendees: **1)** a bound copy of the *Federal Register* Interim Final Rule (Nov. 12, 2008); **2)** Notice re: “[Submitting Company Confidential, Proprietary, or Privileged Information with Loan Applications](#)”; and, **3)** Technical Support Document re: “[Substantially Similar Attributes Determination](#).”

Lachlan Seward began the meeting by introducing the panel and then gave a general overview presentation of the Interim Final Rule. He also pointed out to the audience some key noteworthy information.

- All Q&A from the Dec. 1st & Dec. 5th DOE public meetings will be posted online.
- Issuance of funds depends on when applications are submitted, the application thoroughness, and processing of required permits or approvals.
- Loans are not available on a retroactive basis; past advanced technology vehicle-related investments are not eligible.
- Multiple loan requests for multiple projects are encouraged to be in one application. However, DOE requests that you make each separate project easily identifiable.
[**MEMA Note:** *Make it as easy as possible for the DOE staff to clearly identify all the elements of your application. We recommend that all the components – such as, financial and related information, project/component information and related data, environmental information and supporting documents, labor assurances, etc. – should be visibly marked/labeled and easily found in the submitted application.*]
- Key Provisions of IFR
 - Demonstrate financial viability w/o award of this loan.
 - Present sufficient information to comply with NEPA
 - Present model or data to allow DOE to make determinations on the technical aspects of the ATV
 - Certify labor standards at prevailing wage

Next, Carol Battershell reviewed the technical support document and explained the rationale behind it. She noted that the auto manufacturers have a specific set of tests to determine eligibility (73 FR at 66723) that is different from the test for component manufacturers (73 FR at 66728).

Following her, Matt McMillen, addressed and explained the NEPA requirements of the IFR (found under §611.106). Applicants must submit the specified reports required (§611.106(d) through (f)). Reports are to be as detailed as possible to provide the DOE with information needed for them to determine the appropriate level of NEPA review required. There are three levels of review –

- Environmental Impact Statement – the most complicated; a major federal action. It details the significant environmental impact/effect of a given project.
- Environmental Assessment – moderately complicated; used when it is unclear if an EIS is necessary. It determines whether there is a significant environmental impact/effect of a given project.
- Categorical Exclusion – when there is no significant environmental impact/effect.

Lastly, Dan Cohen gave a brief legislative and regulatory history summary of the IFR. He noted that the department served up the IFR well within its statutory deadline.

Questions & Answers

The Q&A section is separated into categories of related questions. Again, please note that this represents the general gist of the questions and answers brought up at the meeting and these are merely notations of what was said and are not verbatim. Also, the Q&A below is not presented in the actual order in which they were asked. Instead, I categorized them by subject. DOE will publish the official transcript online; no timeline was given.

General Application

Q: Related to a different audience member's question, DOE raised an interesting point about the completeness of an application.

A: *If we [DOE] need additional information about elements of an application, we will contact the applicant. The IFR states that an application must be “substantially” complete; not “absolutely” complete. There is room for follow-up dialogue.*

611.2 Definitions

“Applicant” means a party that submits a **substantially complete application** pursuant to this Part [emp. added].

Q: Is there a specific Point of Contact at DOE during application process if there is need for follow-up?

A: Yes, Lachlan Seward and the other panelists are available.

Q: Will DOE permit joint applications – for example, two separate companies may want to submit a joint application for a project(s) on which they are collaborating.

A: Each manufacturer must meet the applicant eligibility requirements (§611.100) and the project, naturally, must also be eligible.

Q: Once a decision is made about which applicants will receive a loan award, what details will be publicized about the project?

A: First, we will not make public the applicants' names, unless they themselves have publicly stated they have submitted an application. Second, we have not decided internally what, if any, details would be made public once the award is determined, but we do know that we will not disclose the loan terms.

Eligible Applicants / Project Costs

Q: What about the inclusion of R&D costs – more the “D” development; to what extent can development costs be included? Any guidance?

A: Certainly, engineering integration costs are clear in the IFR as allowable, eligible costs; costs that are limited to engineering and manufacturing.

Follow-up Q: Yes, but there are upfront development costs associated with engineering integration, such as validation, testing, application costs for a product or process.

Follow-up A: If the costs are truly related to engineering integration, yes. There needs to be an association with the specific qualified component or ATV; permissible project costs.

Q: Can previously expended capital costs on a developing technology be considered as eligible costs? In other words, costs necessary to bring the technology further along, as in Generation 2, Generation 3, and so on?

A: Capital costs may be considered as part of the project's equity, but not project costs. However, anything from application date forward for Gen2, Gen 3, etc., could be.

Q: Could you clarify whether a qualified component will be considered less favorably if the component also ends up on conventional vehicle platforms?

A: In the IFR preamble, with respect to “qualifying components” they say:

*Although a component needs to be designed for an advanced technology vehicle and installed to assist meeting performance requirements of an advanced technology vehicle, **DOE does not interpret the statutory definition to mean that the use of these components in either other conventional vehicles or in aftermarket sales is precluded.** In making a determination on component eligibility, the Secretary will consider factors such as the overall impact of the component and extent to which the component contributes to the efficiency of advanced technology vehicles.*

It doesn't disqualify the component from eligibility. However, the more you can demonstrate to [DOE] that the component is directly linked to being designed and installed on ATVs, the better the applicant's case. The fact that the same qualifying component may also end up on conventional platforms and/or in the aftermarket is not a disqualifier.

Q: A qualifying component manufacturer may design a component for use on an advanced technology vehicle, but has no control over whether or not that component is actually installed – or perhaps there are plans to install that component in the future. Does a component manufacturer have to show its component is installed on a particular vehicle?

A: The more information areas you can fill in, the more that helps DOE as it reviews applications.

- Data showing how the component contributes to an ATV, (differences in mpg/improvements to emissions)
- Information showing the vehicle potential; surety of platforms; market penetration; large versus small production vehicles.
- Letters of agreement between supplier-OEM to incorporate said component on ATVs

We would add that applicants identify specific vehicles whenever possible. If a component is going to end up on conventional vehicle platforms first versus ATVs, that “wont’ help.”

Q: If engineering integration costs are done overseas, but the manufacturing is done in the U.S., can those eng. int. cost be eligible?

A: No. All engineering integration and all final manufacturing must be in U.S.

[MEMA Note: Towards the end of the session, an audience member revisited the question of U.S. versus outside U.S. There was some confusion on the panel about this and they offered to the audience that they would discuss internally because they need to clarify the point.]

Financial & Related Information

Q: With respect to financial information required for the loan applications, will DOE provide a template to highlight the key information necessary?

A: *Not sure if we can define that in a template format that would meet everyone’s needs. Besides, all of the financial factors required are listed under 611.100(c).*

Q: With respect to financial viability, does “additional federal funding” include federal money from other sources?

A: No. The IFR refers to federal funding “associated with the proposed project”; it only references the loan program funds.

Q: What level of specificity is DOE looking for with respect to a business plan?

A: We leave that to you.

Follow-up Q: Do they need to revolve around individual projects?

Follow-up A: Put forth the best effort to make the application “substantially complete”. We will need to analyze projects and the related materials individually.

Q: Regarding collateral, do you prefer that an applicant is ‘oversecure?’ Or only related to assets purchased with loan funds?

A: We haven’t defined. However, more secure would be looked at “more favorably.”

Q: Can you address/explain the \$7.5B?

A: The \$7.5B is for the risk of deferment appropriated for this year for credit subsidy costs; up to \$25B could be given out by Dec. 31, 2008 – or not. Depends on the applications and loan awards.

[MEMA Note: There was a bit of reading between the lines during the meeting, but the inference from DOE is, if you can, get your applications in during the first tranche because there could be . Applications rejected in the first tranche are not precluded from applying in subsequent tranches, provided there is funding available.]

Follow-up Q: So, each tranche does not have a designated amount of funds attached to it?

Follow-up A: No. The entire \$25B is available for first tranche; if funds are left after first tranche, then the remaining funds will be made available for the second tranche and so on. This is explained in the IFR.

NEPA

Q: Does the NEPA evaluation have to be fully executed before loan is determined?

A: Yes. A NEPA determination must be made before the loan will be approved.

Follow-up Q: What if the project is long-off in the future, say 18 months or so. Is it possible to get the award sooner than the NEPA review is finished?

Follow-up A: NEPA is predictive. Possible to do analysis even if project is a long way off; the more details provided the better and more effective the NEPA determination analysis can be. If there are too many unknowns, uncertainties, it could be difficult to make a determination under NEPA.

Follow-up Q: Okay. Then do you recommend breaking up applications for long-term, phased-in projects?

Follow-up A: Yes; projects should be broken up.

Q: What level of detail do you require for the environmental reports required in the IFR relative to NEPA? Any guidance?

A: You need to be able to show, in your response, if there is a substantial basis for an environmental effect or no environmental effect. Provide substance.

Application Evaluation

Q: Will new job creation be considered?

A: Economic development is included in IFR (§611.103(2)).

Q: What about the priority given to facilities that are 20 yr old or older?

A: That is a statutory requirement, but it is not an overarching priority.

Q: Will DOE have a scoring sheet to weigh the various application criteria?

A: We do not have an all-inclusive list.

