and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *www.energy.gov/gc/office-general-counsel*). This interim final rule does not contain an intergovernmental mandate or a mandate that may result in the expenditure of $100 million or more in any year, so these requirements under the Unfunded Mandates Reform Act do not apply.

I. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This interim final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this interim final rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

K. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this interim final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This interim final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this interim final rule.

List of Subjects in 10 CFR Part 420

Energy conservation, Grant programs—energy, Technical assistance.

Signing Authority

This document of the Department of Energy was signed on April 22, 2024, by David Crane, Under Secretary for Infrastructure, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 23, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, the Department of Energy amends part 420 of chapter II, subchapter D of title 10 of the Code of Federal Regulations as set forth below:

PART 420—STATE ENERGY PROGRAM

■ 1. The authority citation for part 420 is revised to read as follows:

Authority: Title III, part B, as amended, of the Energy Policy and Conservation Act (42 U.S.C. 6321 *et seq.*); Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*)

■ 2. Amend § 420.15 by revising the section heading and adding a new paragraph (g) to read as follows:

§ 420.15 Annual State applications and amendments to State plans.

* * * * *

(g) The mandatory conduct of activities to support transmission and distribution planning, including—

(1) Support for local governments and Indian Tribes;

(2) Feasibility studies for transmission line routes and alternatives;

(3) Preparation of necessary project design and permits; and

(4) Outreach to affected stakeholders.

[FR Doc. 2024–08984 Filed 4–26–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 611

RIN 1901–AB60

Statutory Updates to the Advanced Technology Vehicles Manufacturing Program

AGENCY: Loan Programs Office, Department of Energy.

ACTION: Direct final rule.

SUMMARY: The Department of Energy (''DOE'') issues this direct final rule to amend the regulations implementing the direct loan provisions for the Advanced Technology Vehicles Manufacturing Incentive Program established by section 136 of the Energy Independence and Security Act of 2007, as amended (''ATVM statute''). The ATVM statute provides for grants and loans to eligible automobile manufacturers and component suppliers for projects that

reequip, expand, or establish manufacturing facilities in the United States to produce qualifying advanced technology vehicles or qualifying components. Specifically, this rule: amends the existing applicable regulations in order to implement additional categories of advanced technology vehicles added to the ATVM statute by the Infrastructure Investment and Jobs Act and funded by the Inflation Reduction Act of 2022, including certain medium-duty and heavy-duty vehicles, trains, locomotives, maritime vessels, aircraft, and hyperloop technology. This rule also amends the existing applicable regulations to reflect the ultra efficient vehicle category of advanced technology vehicles added to the ATVM statute through an earlier appropriations act. DOE is implementing these amendments through a final rule so that the implementing regulations are consistent with the statutory requirements of the ATVM statute.

DATES: This final rule is effective July 15, 2024, unless adverse comment is received by May 29, 2024. If adverse comments are received that DOE determines may provide a reasonable basis for withdrawal of the direct final rule, a timely withdrawal of this rule will be published in the **Federal Register**.

ADDRESSES: Interested persons may submit comments, identified by RIN 1901–AB60, by any of the following methods:

Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.

Electronic Mail (Email): lpofederalregistercomments@hq.doe.gov. Include the RIN 1901–AB60 in the subject line of the message.

Postal Mail: Loan Programs Office, Attn: LPO Legal Department, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0121. Please submit one signed original paper copy. Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

Hand Delivery/Courier: U.S. Department of Energy, Room 4B–122, 1000 Independence Avenue SW, Washington, DC 20585.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV of this document, *Public Participation.*

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available. The docket web page can be found at the *www.regulations.gov* web page associated with RIN 1901–AB60. The docket web page contains simple instructions on how to access all documents, including public comments, in the docket. See section IV of this document, *Public Participation,* for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Steven Westhoff, Attorney-Adviser, Loan Programs Office, email: *steven.westhoff@hq.doe.gov,* or phone: (240) 220–4994.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction and Background

A. ATVM Statute and Regulations

Section 136 of the Energy Independence and Security Act of 2007, as amended (42 U.S.C. 17013) (''ATVM statute'') authorizes the Secretary of Energy (''Secretary'') to issue grants and direct loans to applicants for the costs of reequipping, expanding, or establishing manufacturing facilities in the United States to produce qualified advanced technology vehicles or qualifying components. The ATVM statute also authorizes the Secretary to issue grants and direct loans for the costs of engineering integration performed in the United States of qualifying advanced technology vehicles and qualifying components. The Advanced Technology Vehicles Manufacturing Loan Program (''ATVM Program'') represents the Secretary's implementation of the direct loan authority under the ATVM statute. The ATVM Program is administered by the U.S. Department of Energy's (''DOE'') Loan Programs Office (''LPO''). The purpose of the ATVM Program is to originate, underwrite, and service loans to eligible automotive manufacturers and component manufacturers to finance the cost of: (i) reequipping, expanding, or establishing manufacturing facilities in the United States to produce Advanced Technology Vehicles (''ATVs'') and qualifying components; and (ii) engineering integration performed in the United States of ATVs and qualifying components.

Consistent with section 17013(e) of title 42 of the United States Code (''U.S.C.''), DOE promulgated regulations for the ATVM Program in 2009, which are set forth at 10 Code of Federal Regulations (''CFR'') part 611.[1] Part 611 provides eligibility criteria for automobile manufacturers, project eligibility requirements, and application requirements and general terms for the ATVM Program. Part 611 has since been amended twice to: (1) standardize the submission and handling within DOE's assistance programs, of trade secrets and commercial or financial information that is privileged or confidential [2] and (2) clarify the eligibility of critical minerals projects.[3]

B. Energy and Water Development and Related Agencies Appropriations Act of 2010

Section 312 of the Energy and Water Development and Related Agencies Appropriations Act of 2010 [4] amended the ATVM statute to include the ultra efficient vehicle category within the statutory definition of ATVs. In this final rule, DOE is adding this category of vehicles to part 611 to reflect the ATVM statute.

C. Infrastructure Investment and Jobs Act

Section 40401(b) of the Infrastructure Investment and Jobs Act (''IIJA'') [5] amended the definitions provision of the ATVM statute to add the following categories of vehicles within the statutory definition of ATVs: a medium-duty vehicle or a heavy-duty vehicle that exceeds 125 percent of the greenhouse gas emissions and fuel efficiency standards established by the final rule of the Environmental Protection Agency entitled ''Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles-Phase 2'' (81 FR 73478 (October 25, 2016)); a train or locomotive; a maritime vessel; an aircraft; and hyperloop technology.[6]

[1] 73 FR 66721 (November 12, 2008).
[2] 76 FR 26579 (May 9, 2011).
[3] 86 FR 3747 (January 15, 2021).
[4] Public Law 111–85 (2009).
[5] Public Law 117–58 (2021).
[6] Section 40401(l) of the IIJA prohibited the Secretary from using amounts appropriated prior to

Continued

In this final rule, DOE is adding these categories of vehicles to part 611 in order for them to be eligible for a direct loan under the ATVM Program.

D. Inflation Reduction Act

The Inflation Reduction Act of 2022 (''IRA'')[7] contains energy and climate provisions that appropriate $3 billion for the ATVM Program, including to support the categories of ATVs added to the program by the IIJA. However, section 50142 of the IRA, which provides the Secretary with the authority to use funds appropriated by the IRA for the costs of providing direct loans to the categories of ATVs added to the definition of ATV by the IIJA, also provides that, with respect to trains or locomotives; maritime vessels; aircraft; and hyperloop technology, such funds may be used for that purpose only if the relevant advanced technology vehicles emit, under any possible operational mode or condition, low or zero exhaust emissions of greenhouse gases. The IRA appropriations for the ATVM Program are available through September 30, 2028.

E. Intended Future Rulemaking Process

This direct final rule is focused on revising part 611 to implement additional categories of advanced technology vehicles that are already statutorily eligible. In addition to this current rulemaking, DOE expects to undertake a separate rulemaking to implement further improvements to part 611 based on experience implementing the ATVM Program and to potentially further define the requirements for nonroad advanced technology vehicle projects. In that separate rulemaking, DOE intends to issue a request for information requesting public feedback regarding ATVM Program design as related to the new categories of advanced technology vehicles and regarding potential demand for loans for manufacturing facilities for such ATVs, as well as invite additional public input regarding part 611 and the ATVM Program. Following further consideration of such issues and comments, which may include related comments received in response to this direct final rule, DOE may then issue a notice of proposed rulemaking proposing more expansive changes to part 611. In addition to the two rulemakings, DOE expects to conduct a broader set of updates to the ATVM Program guidance and application materials to reflect the changes in these rulemakings. DOE does not expect ATVM Program applicants in the new ATV categories relying on this direct final rule to be materially impacted by the future rulemaking.

II. Discussion

This final rule allows the Secretary to implement the amendments to the ATVM statute enacted by the IIJA and funded by the IRA by codifying these requirements in the Code of Federal Regulations. Without revisions to part 611, applicants for projects that were made eligible for the ATVM Program under the IIJA and the IRA would not be eligible for direct loans under the regulations applicable to the ATVM Program. Further, the requirements applicable to the use of the funds provided for the cost of direct loans under the IRA for the applicable vehicle categories are not currently set forth in part 611.

As such, this final rule amends the definition of ''advanced technology vehicle'' under part 611 to include the categories of ATVs added by the IIJA. It also amends the provisions describing the eligibility requirements for these new categories of ATVs as provided by the IRA and distinguishes between the requirements applicable to on-road advanced technology vehicles and nonroad advanced technology vehicles. These technical and administrative changes to part 611 represent conforming changes to the text of the ATVM statute, as amended by the IIJA and the IRA requirements applicable to the use of funds appropriated by the IRA for the ATVM Program. The final rule adopts the IRA requirement that projects for nonroad ATVs support only ATVs that ''emit, under any possible operational mode or condition, low or zero exhaust emissions of greenhouse gases'' for all nonroad ATV projects in order to prescribe a single eligibility standard.[8]

For consistency and completeness, this direct final rule also makes conforming changes to reflect the earlier amendments to the ATVM statute that established the ultra efficient vehicles category of ATVs.

III. Section-by-Section Analysis

Provided below is a section-by-section analysis of the changes made by this direct final rule.

§ 611.1 Purpose

DOE is revising § 611.1 to include legal references relating to the IIJA and the IRA, as well as the Energy and Water Development and Related Agencies Appropriations Act of 2010.

§ 611.2 Definitions

DOE is revising the definition of ''advanced technology vehicle'' to include both on-road advanced technology vehicles and nonroad advanced technology vehicles; adding a definition of ''on-road advanced technology vehicle'' that includes ultra efficient vehicles, light duty vehicles, medium duty vehicles, and heavy duty vehicles, in each case as defined in the ATVM statute; adding a definition of ''nonroad advanced technology vehicle'' that includes low or zero emission trains or locomotives, maritime vessels, aircraft, and hyperloop technologies; and adding a definition of ''ultra efficient vehicle'' from the ATVM statute.

§ 611.3 On-Road Advanced Technology Vehicle

DOE is revising § 611.3 to refer to ''on-road advanced technology vehicles'' as this section describes program requirements that are specific to on-road vehicle manufacturers and not to manufacturers of nonroad advanced technology vehicles.

§ 611.4 Nonroad Advanced Technology Vehicle

DOE is adding a new § 611.4, ''Nonroad advanced technology vehicle'' to distinguish and describe the program requirements applicable to a manufacturer of a nonroad advanced technology vehicle or a manufacturer of a nonroad advanced technology vehicle qualifying component as provided by section 50142(a) of the IRA.

§ 611.100 Eligible Applicant

DOE is revising § 611.100 to distinguish between the requirements applicable to on-road advanced technology vehicle manufacturers and those applicable to nonroad advanced technology vehicle manufacturers. Due to the addition of new categories of on-road advanced technology vehicles, DOE is also clarifying, consistent with the current statute and pre-existing § 611.100, that the specified improved fuel economy requirements of paragraph (b) continue to apply only to manufacturers of light duty vehicles.

the date of the enactment of the IIJA to provide direct loans under section 136(d) for the costs of activities that were not eligible for those loans prior to that date. Public Law 117–58 (2021). However, this prohibition was later eliminated by the Consolidated Appropriations Act of 2023. Public Law 117–328 (2022).

[7] Public Law 117–169 (2022).

[8] DOE notes that certain appropriations for the ATVM Program are not subject to the IRA requirement. However, DOE believes the IRA requirement demonstrates Congressional intent regarding how the ATVM Program should consider nonroad advanced technology vehicles as ''advanced'' and therefore eligible for loans under the program.

IV. Public Participation

DOE will accept comments, data, and information regarding this final rule on or before the date provided in the **DATES** section at the beginning of this final rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information the disclosure of which is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption. If possible, documents should carry the electronic signature of the author.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that they believe to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' that deletes the information believed to be confidential. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and will treat it according to its determination. It is DOE's policy that all comments, including any personal information provided in the comments, may be included in the public docket, without change and as received, except for information deemed to be exempt from public disclosure.

V. Regulatory and Notices Analysis

A. Executive Orders 12866, 13563, and 14094

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993), as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), and amended by E.O. 14094, ''Modernizing Regulatory Review,'' 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 requires agencies to submit ''significant regulatory actions'' to OIRA for review. This final rule has been determined to be a ''significant regulatory action'' under E.O. 12866. Accordingly, this action was subject to review by OIRA.

Section 6(a) of E.O. 12866 requires an agency issuing a ''significant regulatory action'' to provide an assessment of the potential costs and benefits of the regulatory action. To that end, DOE has further assessed the qualitative and quantitative costs and benefits of this direct final rule.

As discussed in previous sections of this direct final rule, DOE is aligning its regulations with the statutory

requirements for the voluntary federal loan program provided in the ATVM statute. However, DOE has considered the costs and benefits in this analysis for transparency. DOE does not expect the costs and benefits associated with applying to the ATVM Program in connection with the new categories of ATVs to deviate materially from the costs associated with the current categories of ATVs. The estimated costs of completing an application for a newly eligible project under the direct final rule are detailed in the current Paperwork Reduction Act burden analysis: $27,075 per applicant. While the range of advanced ATVs and qualifying components projects may broaden under the amendments under this direct final rule, DOE anticipates receiving the previously estimated 40 annual applications to the ATVM Program across all vehicle categories, resulting in the same estimated $1,083,000 combined annual cost to applicants as articulated in DOE's current burden analysis. As DOE has previously noted, much of the financial and technical information and other activities required as part of an ATVM Program loan application is required of an applicant that is raising equity, seeking a loan in the private sector, or exploring other financing sources for a project of similar complexity, size, and risk.

DOE estimated its annual costs in administering the ATVM Program for fiscal year 2024 to be $25,000,000.[9] DOE anticipates that the new ATV classes will produce 2–4 more loan applications per year in the 12 months following the effectiveness of this direct final rule. Given the above-mentioned cost estimates of $27,075 per applicant, that would amount to between $54,150 and $108,300 per year in costs borne by industry for these ATV applications. At the same time, DOE expects a natural decrease in the number of applications from the prior ATV categories, as parties planning projects under those categories have already applied to the ATVM Program, leaving the overall volume of ATVM Program applications steady over the next few years. Given the number of loan applications generated by nonroad vehicle technologies, DOE does not anticipate requiring additional resources, personnel, or staff time compared to its baseline to process applications in new ATV categories. DOE has issued eight loans for a total of more than $10 billion obligated to borrowers, with a further conditional commitment of eight more loans and $16 billion more dollars. In total, this would suggest on average a loan amount of roughly $1.73 billion per loan, although many loans are expected to be less than $1 billion. To the extent any of the loan applications for nonroad technology classes introduced by this rulemaking are successful, without additional information on the size of the loan requests at this stage DOE would anticipate a similar level of transfer. DOE does not anticipate any greater administrative costs to the Federal Government resulting from this direct final rule.

While the ATVM Program has no application fee, each applicant would incur the following costs: costs by DOE's independent advisors in connection with the applicant's project; and a fee at the time of closing of a loan, equal to 10 basis points (0.1%) of the principal amount of the loan. The interest rate associated with an ATVM Program loan is equal to the U.S. Treasury-equivalent yield curve with zero credit spread.

Like other federal credit programs, the ATVM Program accounts for the cost of each individual loan in accordance with the Federal Credit Reform Act of 1990, as amended (2 U.S.C. 661 *et seq.*) (''FCRA''), which requires agencies to estimate the cost to the government of extending or guaranteeing credit. This cost, referred to as credit subsidy cost, equals the net present value of estimated cash flows from the government minus estimated cash flows to the government over the life of the loan and excluding administrative costs. In accordance with FCRA, the non-administrative cost to the Federal Government of issuing each individual loan under the ATVM Program must be estimated, using a model provided by the Office of Management and Budget (''OMB'').

The benefits of this direct final rule derive from facilitating the applications for statutorily eligible projects under the ATVM Program. Under the existing part 611 and over the course of the ATVM Program, DOE has financed facilities for the manufacturing of advanced automobiles, as well as more recently for the manufacturing of electric vehicle batteries and battery-grade critical minerals. Throughout its history, the ATVM Program has issued eight total loans, and more than $10 billion has been obligated to borrowers. Since the passage of the IIJA, the ATVM Program has added two loans to its portfolio: Ultium Cells and Syrah Technologies.

Loans for relatively newer low or zero emissions vehicle technologies might differ from loans for the existing vehicle definitions. At present, DOE does not have an estimate on the average size of a loan for the additional categories of nonroad vehicles added to the ATVM Program by this rule, nor does DOE have an estimate for the failure rate of loans for nonroad technologies. These are important considerations when projecting the impact the nonroad vehicle classes will have on available ATVM Program funds. For example, if project failure rates are relatively higher for the nonroad vehicle classes, then DOE might make different decisions on the size of disbursed funds based on the likelihood of retrieving loaned amounts. Similarly, if loans tend to be relatively larger in this space, then the pool of funding might be exhausted faster as loan applications are approved than in DOE's previous experience. As DOE develops more experience with loan applications for nonroad technologies, DOE will consider providing additional guidance or rulemaking.

To date, projects that have been financed in part by ATVM Program loans have produced vehicles that are estimated to have saved over 19 billion gallons of gasoline, equivalent to a cumulative 26 million metric tons of carbon dioxide emissions, and created more than 43,000 direct jobs across eight states. DOE has issued conditional commitments for eight additional projects, potentially totaling over $16 billion in ATVM Program loans, that would further contribute to the reduction of vehicle emissions and to the creation of new domestic manufacturing opportunities. Through the ATVM Program, domestic and foreign automakers and manufacturers have deployed advanced technologies, saved or created thousands of jobs, reduced costs for consumers through increased fuel efficiency, and enhanced U.S. energy independence and security. DOE anticipates that this direct final rule will, consistent with current law, potentially advance the same types of benefits seen in existing and pending ATVM Program loans across a broader range of advanced technology vehicles and qualifying components.

A final consideration for the addition of new vehicle classes is the spillover impacts the new vehicle classes might have on existing classes. The IRA provided $3 billion in additional funding for the ATVM Program, including for the purpose of nonroad vehicle technologies. This funding is also available for technologies currently eligible for ATVM Program loans. To the extent that loan demand increases for existing technologies, it is possible that funding might become limited for

[9] See DOE's Fiscal Year 2024 Budget Justification, Loan Programs Office Summary, available at *https://www.energy.gov/sites/default/files/2023-03/doe-fy-2024-budget-vol-3-lpo-v2.pdf*.

nonroad vehicles. In the reverse case, where nonroad loan demand is especially high, the loan amounts for currently eligible technologies might decrease. DOE does not believe that demand for loans will exceed the point such that either of the above are practical concerns, but does note that in the event of this possibility, further communication might be necessary.

B. Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 551 *et seq.*) (''APA'') exempts from the APA's notice and comment procedures under 5 U.S.C. 553(b) and (c) rulemakings that involve matters relating to public property, loans, grants, benefits, or contracts. (5 U.S.C. 553(a)(2)). As this rule relates to the issuance of loans, DOE has determined that notice of proposed rulemaking (and comment thereon) is not required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that an agency prepare an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990).

This final rule updates part 611. DOE is not obligated to prepare a regulatory flexibility analysis for this rulemaking because there is not a requirement to publish a general notice of proposed rulemaking for rules related to loans under the APA. (See 5 U.S.C. 553(a)(2)). Furthermore, this direct final rule implements, without substantive change, amendments to the ATVM statute and applicable provisions from the IRA.

D. Paperwork Reduction Act of 1995

The final rule would impose no new information or record keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (See 42 U.S.C. 3501 *et seq.*). The information collection necessary to administer DOE loans under the ATVM Program under 10 CFR part 611 is subject to approval under the Paperwork Reduction Act. The information collection provisions of this part were previously approved by the OMB under OMB Control Number 1910–5137.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

E. National Environmental Policy Act of 1969

In this rule, DOE amends part 611 to add additional categories of advanced technology vehicles authorized to be considered eligible for loans under the ATVM Program. DOE has determined that this final rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D Appendix A5 as a rulemaking that amends an existing rule or regulation (*i.e.,* part 611) without changing the environmental effect of that rule. Therefore, DOE has determined that this final rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and does not require an environmental assessment or an environmental impact statement. Through the issuance of this rule, DOE is making no decision relative to the approval of a loan for a particular project. DOE would prepare appropriate NEPA review for any proposed project.

F. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction.

With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires, in pertinent part, that executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them.

DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

G. Executive Order 13132

Executive Order 13132, ''Federalism,'' [10] imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations.[11]

DOE has examined this final rule and has determined that it will not preempt State law and will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, no further action is required by Executive Order 13132.

H. Executive Order 13175

Under Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' [12] DOE may not issue a discretionary rule that has ''Tribal'' implications and imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that this final rule will not have such effects and has concluded that Executive Order 13175 does not apply to this final rule.

[10] 64 FR 43255 (August 4, 1999).

[11] 65 FR 13735 (March 14, 2000).

[12] 65 FR 67249 (November 9, 2000).

I. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') [13] requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a) and (b)). UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA.[14] DOE examined this final rule according to UMRA and its statement of policy and has determined that the final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year by State, local, and tribal governments, in the aggregate, or by the private sector. The final rule establishes only requirements that are a condition of Federal assistance or a duty arising from participation in a voluntary program. Accordingly, no further assessment or analysis is required under UMRA.

J. Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 [15] requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

K. Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 [16] provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). Pursuant to OMB Memorandum M–19–15, ''Improving Implementation of the Information Quality Act'' (April 24, 2019), DOE published updated guidelines which are available at: *https://www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.*

DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' [17] requires Federal agencies to prepare and submit to the OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action will not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

M. Congressional Review Act

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule. The report will state that OIRA has determined that the rule meets the criteria set forth in 5 U.S.C. 804(2).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this direct final rule.

List of Subjects in 10 CFR Part 611

Administrative practice and procedure, Energy, Loan programs, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on April 23, 2024, by Jigar Shah, Executive Director, Loan Programs Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 24, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE amends part 611 of chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 611—ADVANCED TECHNOLOGY VEHICLES MANUFACTURER ASSISTANCE PROGRAM

■ 1. The authority citation for part 611 is revised to read as follows:

Authority: Pub. L. 110–140 (42 U.S.C. 17013), Pub. L. 110–329, Pub. L. 111–85, Pub. L. 117–58.

■ 2. Revise § 611.1 to read as follows:

§ 611.1 Purpose.

This part is issued by the Department of Energy (DOE) pursuant to section 136 of the Energy Independence and Security Act of 2007, Public Law 110–140, as amended by section 129 of Consolidated Security, Disaster Assistance, and Continuing

[13] Public Law 104–4 (1995).

[14] 62 FR 12820 (March 18, 1997); also available at *www.energy.gov/gc/office-general-counsel.*

[15] Public Law 105–277 (1998); 5 U.S.C. 601 note.

[16] Public Law 106–554 (2000); 44 U.S.C. 3516 note.

[17] 66 FR 28355 (May 22, 2001).

Appropriations Act of 2009, Public Law 110–329, section 312 of Energy and Water Development and Related Agencies Appropriations Act of 2010, Public Law 111–85, section 40401(b) of the Infrastructure Investment and Jobs Act, Public Law 117–58, and section 50142 of the Inflation Reduction Act of 2022, Public Law 117–169. Specifically, section 136(e) directs DOE to promulgate an interim final rule establishing regulations that specify eligibility criteria and that contain other provisions that the Secretary deems necessary to administer this section and any loans made by the Secretary pursuant to this section.

■ 3. Amend § 611.2 by:
■ a. Revising the definitions for ''Advanced technology vehicle'' and;
■ b. Adding, in alphabetical order, definitions for ''Nonroad advanced technology vehicle'', ''On-road advanced technology vehicle'', and ''Ultra efficient vehicle''.

The additions and revision read as follows:

§ 611.2 Definitions.

* * * * *

Advanced technology vehicle means an on-road advanced technology vehicle or a nonroad advanced technology vehicle.

* * * * *

Nonroad advanced technology vehicle means:

(1) A train or locomotive;

(2) A maritime vessel;

(3) An aircraft; and

(4) Hyperloop technology

That, in each case, emit, under any possible operational mode or condition, low or zero exhaust emissions of greenhouse gases.

On-road advanced technology vehicle means

(1) An ultra efficient vehicle or a light duty vehicle that meets—

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

(ii) Any new emission standard in effect for fine particulate matter prescribed by the Administrator under the Act (42 U.S.C. 7401 *et seq.*), as of the date of application; and

(iii) At least 125 percent of the harmonic production weighted average combined fuel economy, for vehicles with substantially similar attributes in model year 2005.

(2) A medium duty vehicle or heavy duty vehicle that exceeds 125 percent of the greenhouse gas emissions and fuel efficiency standards established by the final rule of the Environmental Protection Agency entitled ''Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2'' (81 FR 73478 (October 25, 2016)).

* * * * *

Ultra efficient vehicle means a fully closed compartment vehicle designed to carry at least 2 adult passengers that achieves—

(1) At least 75 miles per gallon while operating on gasoline or diesel fuel;

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

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

■ 4. Amend § 611.3 by revising the section heading, the introductory text, and paragraph (a) to read as follows:

§ 611.3 On-road advanced technology vehicle.

In order to demonstrate that a light duty vehicle is an ''on-road advanced technology vehicle'', an automobile manufacturer must provide the following:

(a) Emissions certification. An automobile manufacturer must certify in writing that the vehicle meets, or will meet, the emissions requirements specified in the definition of ''on-road advanced technology vehicle''; and

* * * * *

■ 5. Add § 611.4 to subpart A to read as follows:

§ 611.4 Nonroad advanced technology vehicle.

A manufacturer of a nonroad advanced technology vehicle or a manufacturer of a nonroad advanced technology vehicle qualifying component must provide DOE with such information to demonstrate to the satisfaction of DOE that the applicable nonroad advanced technology vehicle emits, under any possible operational mode or condition, low or zero exhaust emissions of greenhouse gases.

■ 6. Amend § 611.100 by revising paragraph (a)(1) to read as follows.

§ 611.100 Eligible applicant.

(a) * * *

(1) Must be—

(i) An on-road advanced technology vehicle manufacturer that, if it is a light duty vehicle manufacturer, can demonstrate an improved fuel economy as specified in paragraph (b) of this section, or otherwise satisfies the applicable standards set forth in the definition of on-road advanced technology vehicle,

(ii) A manufacturer of a qualifying component, or

(iii) A nonroad advanced technology vehicle manufacturer; and

* * * * *

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DEPARTMENT OF ENERGY

10 CFR Part 955

RIN 1903–AA12

Elemental Mercury Management and Storage Fees

AGENCY: Office of Environmental Management, U.S. Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is removing the regulatory provisions established by the final rule Elemental Mercury Management and Storage Fees that was published in the **Federal Register** on December 23, 2019. On September 5, 2020, the U.S. District Court for the District of Columbia issued an order that vacated and remanded the rule to DOE for reconsideration. This action amends the Code of Federal Regulations to reflect the Court's order.

DATES: This rule is effective on April 29, 2024. However, the Court's order had legal effect immediately upon its issuance on September 5, 2020.

FOR FURTHER INFORMATION CONTACT: Timothy Herald, U.S. Department of Energy, Office of Environmental Management, Room B126, 19901 Germantown Road, Germantown, MD 20874; (240) 243–8753 or *timothy.herald@em.doe.gov.*

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of the Mercury Export Ban Act (MEBA), as amended, 42 U.S.C. 6939f(a)(1), provides that the Secretary of Energy shall designate a facility or facilities of DOE for the purpose of long-term management and storage of elemental mercury generated within the United States. MEBA section 5(b)(1), 42 U.S.C. 6939f(b)(1), further provides that DOE shall assess and collect a fee at the time of delivery for providing such management and storage, based on the pro rata cost of long-term management and storage of elemental mercury delivered to the facility.

On December 6, 2019, DOE published its Record of Decision (ROD) identifying a portion of two buildings at a Texas facility leased by DOE and owned by