

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 25, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Electric utilities,

Intergovernmental relations, Incorporation by reference, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 97

Environmental protection, Air pollution control, Electric utilities, Intergovernmental relations, Incorporation by reference, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: November 16, 2009.

J. Scott Gordon,

Acting Regional Administrator, Region 4.

■ 40 CFR parts 52 and 97 are amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

■ 2. In § 52.2220(c), Table 1 is amended under Chapter 1200–3–27, by revising the entry for “Section 1200–3–27.11” to read as follows:

§ 52.2220 Identification of plan.

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(c) * * *

TABLE 1—EPA-APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
Chapter 1200–3–27 Nitrogen Oxides				
* * *	* * *	* * *	* * *	* * *
Section 1200–3–27.11	CAIR NO _x Ozone Season Trading Program	10/4/09	11/25/09 [Insert citation of publication].	
* * *	* * *	* * *	* * *	* * *

PART 97—[AMENDED]

■ 3. The authority citation for part 97 continues to read as follows:

Authority: 42 U.S.C. 7401, 7403, 7410, 7426, 7601, and 7651, *et seq.*

■ 4. Appendix A to Subpart AAAA is amended by adding the entry “Tennessee” in alphabetical order to read as follows:

Appendix A to Subpart AAAA of Part 97—States With Approved State Implementation Plan Revisions Concerning Applicability

* * * * *

Tennessee

[FR Doc. E9–28148 Filed 11–24–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 86 and 600

[EPA–HQ–OAR–2005–0169; FRL–8982–1]

RIN 2060–A036

Fuel Economy Regulations for Automobiles: Technical Amendments and Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action amending and correcting portions of the Environmental Protection Agency’s existing fuel economy and emission regulations. This action makes some minor corrections and amendments to EPA’s December 27th 2006 final rule for fuel economy labeling requirements for cars and light trucks, including a slight revision to the minivan definition. This action also makes changes to EPA regulations to administer the Department of Transportation’s (DOT’s) 2008–2011 model year passenger automobile and

light truck corporate average fuel economy (CAFE) standards. Changes include adding reporting requirements for manufacturers to report to EPA their applicable reformed CAFE fuel economy standards (also called “required fuel economy levels”) and reporting the basis for determining such “required fuel economy levels.”

This direct final rule also adds provisions to clarify that special test procedures, calculation methods and label formats may be used for advanced technology vehicles for fuel economy labeling and CAFE purposes. Advanced technology vehicles include, but are not limited to electric vehicles, fuel cell vehicles, plug-in hybrid vehicles and vehicles equipped with hydrogen-fueled internal combustion engines. In addition, today’s action makes some minor changes to clarify the meaning of, and correct errata in EPA regulations. The above amendments and corrections will allow for the more effective administration of existing regulations.

DATES: This rule is effective on January 25, 2010 without further notice, unless EPA receives adverse comment by December 28, 2009. If EPA receives

adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of January 25, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2005-0169, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

- *Fax*: (202) 566-1741.

- *Mail*: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-OAR-2005-0169. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.”

- *Hand Delivery*: Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC., Attention Docket ID No. OAR-2005-0169. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2005-0169. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The

http://www.regulations.gov Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. For additional instructions on submitting comments, go to Section VII of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center telephone number is (202) 566-1742. The Public Reading

Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744.

FOR FURTHER INFORMATION CONTACT: Christine Mikolajczyk, Environmental Protection Agency, Office of Transportation and Air Quality, Compliance and Innovative Strategies Division, 2000 Traverwood Drive, Ann Arbor, MI 48105, telephone number: (734) 214-4403; fax number: (734) 214-4503; e-mail address: *mikolajczyk.christine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Why Is EPA Using a Direct Final Rule?

EPA is publishing this rule without a prior proposed rule because we view this as a non-controversial action and anticipate no adverse comment. However, in the “Proposed Rules” section of today’s **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend EPA’s fuel economy regulations if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment on a distinct provision of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on any other provision.

II. Does This Action Apply to Me?

This action applies to manufacturers of new passenger cars and light trucks, including medium-duty passenger vehicles.¹ Regulated categories and entities include:

Category	NAICS Codes ^a	Examples of potentially regulated entities
Industry	336111, 336112	Motor vehicle manufacturers.
Industry	811112, 811198, 541514.	Commercial Importers of Vehicles and Vehicle Components.

^aNorth American Industry Classification System (NAICS).

¹“Passenger car,” “light truck,” and “medium-duty passenger vehicle” are defined in 40 CFR 600.002-08. Generally, the term “light truck” means a pick-up truck, sport-utility vehicle, or

minivan of up to 8,500 lbs gross vehicle weight rating, and “medium-duty passenger vehicle” means a sport-utility vehicle or passenger van from 8,500 to 10,000 lbs gross vehicle weight rating.

Medium-duty passenger vehicles do not include pick-up trucks.

This list is not intended to be exhaustive, but rather provides a guide regarding entities likely to be regulated by this action. To determine whether particular activities may be regulated by this action, you should carefully examine the regulations. You may direct questions regarding the applicability of this action to the person listed in **FOR FURTHER INFORMATION CONTACT**.

III. What Amendments Are Being Made in This Action?

Today's direct final rule makes minor, non-controversial changes to EPA's fuel economy and emission regulations. Three separate actions have precipitated most of these changes. First, on December 27, 2006 (71 FR 77872), EPA finalized regulations specifying new methods to determine the fuel economy label estimates posted on the window stickers of new cars and trucks. Second, on April 6, 2006 (71 FR 17566), the Department of Transportation's National Highway Traffic Safety Administration (NHTSA), finalized new average fuel economy (CAFE) standards for 2008–2011 trucks. Third, on March 30, 2009 (74 FR 14196), NHTSA revised CAFE requirements for 2011 trucks and finalized new average fuel economy (CAFE) standards for 2011 passenger automobiles. The EPA regulations being amended for these three actions are contained in 40 CFR Parts 86 and 600.

Today's direct final rule clarifies that special test procedures, calculation methods and label formats may be used for fuel economy labels and CAFE calculations of advanced technology vehicles. Advanced technology vehicles include, but are not limited to electric vehicles, fuel cell vehicles, plug-in hybrid vehicles and vehicles equipped with hydrogen-fueled internal combustion engines. This rule also includes technical amendments to the fuel economy label regulations, including changes to the minivan definition, van definition, interior volume measurements of passenger vehicles, and special purpose class of vehicles. Today's action also corrects some typographical errors and makes other minor modifications to ensure accurate interpretation of the regulations. The changes to the EPA CAFE regulations are being made to conform to the NHTSA regulations, and include adding new reporting provisions that will enable EPA to provide NHTSA with the data it needs to determine compliance with the 2008–2011 CAFE standards for passenger automobiles and light trucks.

In addition, two changes are being made to align the EPA CAFE regulations with a 2007 Energy Independence and

Security Act (EISA) amendment extending the alternative fuel vehicle CAFE credits to 2019, and to align the EPA CAFE regulations with a previous NHTSA rulemaking which eliminated the requirement to report separate CAFE values for domestic and imported trucks.

A. Fuel Economy Labeling and CAFE Changes for Advanced Technology Vehicles

According to 49 U.S.C. 32908, fuel economy labels are required for cars, light-duty trucks and other vehicles that meet the definition of automobile. For example, the provisions of 49 U.S.C. 32908 (b) read in part:

“(b) Labeling Requirements and Contents.—(1) Under regulations of the Administrator of the Environmental Protection Agency, a manufacturer of automobiles shall attach a label to a prominent place on each automobile manufactured in a model year. The dealer shall maintain the label on the automobile. The label shall contain the following information: * * *”

On December 27, 2006, EPA finalized a new fuel economy labeling rule.² Under this rulemaking, EPA regulations state that labeling requirements under Subpart D are applicable to 2008 and later model year cars and light-duty trucks and 2011 and later model year medium duty passenger vehicles (MDPVs).³ Prior to the 2008 model year, labeling requirements in Subpart D were applicable to gasoline-fueled, diesel-fueled, alcohol-fueled, natural gas fueled, alcohol dual fuel and natural gas dual fuel light-duty vehicles.

Under the regulations in 40 CFR Part 600, advanced technology vehicles are required to meet the labeling requirements for conventional vehicles. Advanced technology vehicles include battery electric vehicles, fuel cell vehicles, plug-in hybrid electric vehicles and vehicles equipped with hydrogen internal combustion engines. While the labeling regulations as written apply the same requirements and options to advanced technology vehicles as are applied to conventional technology vehicles, this was an inadvertent error. EPA adopted the labeling regulations based on its evaluation of what would be appropriate for conventional technology vehicles, and did not evaluate what

changes might or might not be appropriate for advanced technology vehicles. EPA did not intend that these types of vehicles would be required to meet all of the requirements for conventional vehicles. For example, the specific labeling requirements of this subpart were not intended to apply to plug-in hybrids. In EPA's Response to Comments-Fuel Economy Labeling of Motor Vehicles, pages 53–54, EPA states:

“Bluewater Network commented that they believe plug-in hybrids will be commercially available in the future and EPA should consider how this emerging technology should be addressed with respect to fuel economy labeling and testing.”

EPA's response:

“Commercial hybrids available today ultimately obtain all propulsion energy from liquid fuel stored in the fuel tank, while a plug-in hybrid uses a combination of liquid fuel and supplemental energy from the electric grid stored in the battery (*i.e.*, overnight charge). Properly accounting for this supplemental electric energy is the central issue in assessing the performance of plug-in hybrids. Therefore, plug-in hybrids will require a more comprehensive assessment in order to determine the proper test procedures for fuel economy and emissions. Since plug-in hybrid technology is rapidly advancing, we will work with key stakeholders in the next few years to assess the appropriateness of the 5-cycle methodology in capturing the fuel economy impact of the plug-in technology. We agree strongly with those commenters urging against technology-specific adjustment factors. We are especially concerned that such an approach would create an uneven playing field across vehicles. We are aware that technologies are rapidly developing, and we intend to ensure, as part of our ongoing evaluation of the fuel economy test methods, that new and developing technologies are represented appropriately.” (Complete document available at <http://www.epa.gov/fueleconomy/regulations.htm>)

In this context, EPA is revising several regulatory provisions in 40 CFR Part 600 related to fuel economy testing, labeling and CAFE, to make appropriate modifications for use with advanced technology vehicles. EPA reviewed the various applicable regulations to determine where appropriate modifications were needed to address advanced technology vehicles. In large part this called for changes to regulations that address test procedures for test vehicles and calculation procedures to determine fuel economy for the test vehicle, as well as regulations that address what fuel economy value and other information the label is to include. The Agency's detailed analysis of the need for regulation changes to 40 CFR Part 600 regulations is outlined below.

² Fuel Economy Labeling of Motor Vehicles: Revisions To Improve Calculation of Fuel Economy Estimates; Final Rule; 71 FR 77872, December 27, 2006.

³ See 40 CFR 600.301–08(a). Note that the term “automobile” contained in 40 CFR 600.301–08(a) is defined in 40 CFR 600.002–08 as follows: “Automobile has the meaning given by the Department of Transportation at 49 CFR 523.3.”

1. Part 600 Subpart A

Subpart A contains general applicability, definitions, abbreviations, recordkeeping requirements, data and information requirements for fuel economy vehicles, vehicle acceptability requirements, review of fuel economy data, minimum data requirements and other largely administrative requirements. EPA's review of the requirements contained in this subpart indicated that regulation changes are not needed to this Subpart for purposes of advanced technology vehicles.

2. Part 600 Subpart B

Subpart B contains general applicability, definitions, abbreviations, recordkeeping requirements, equipment requirements, fuel specifications, analytical gas requirements, EPA driving cycles, equipment calibration, test procedures, exhaust sample analysis and fuel economy calculation requirements. EPA's review of the requirements contained in this subpart indicated that regulation changes are needed to 40 CFR 600.111–08 of Subpart B regarding fuel economy test procedures used for advanced technology vehicles. EPA reviewed 40 CFR 600.111–08, which provides that manufacturers shall use the emissions test procedures from 40 CFR Part 86 for conducting FTP, HFET, the US06, SC03 and Cold temperature FTP tests for fuel economy. Part 86 allows for the use of special test procedures for emissions testing under 40 CFR 86.1840 when the Administrator determines that a vehicle in Part 86 “is not susceptible to satisfactory testing by the procedures set forth in this part.” A similar provision is not explicitly included in Subpart B for fuel economy testing, nor is 40 CFR 86.1840 referred to as an option. Therefore, under this rulemaking, EPA is modifying 40 CFR 600.111–08 to allow special test procedures for advanced technology vehicles not susceptible to satisfactory testing or testing results under the current test provisions. This can be allowed upon written application by the manufacturer and approval by the Administrator, or at the Administrator's own initiative.

For example, the test procedures used for battery electric vehicles for the FTP (city), highway, US06, SC03, and cold temperature FTP tests contain many differences from those test procedures used for conventional vehicles outlined in 40 CFR 600.111–08. To illustrate this point, consider the FTP (city) test. While electric vehicles are driven over the same preconditioning cycle and test cycle as conventional vehicles, electric vehicles are not refueled (their battery is

recharged) and electric vehicles are not required to undergo evaporative canister preconditioning prior to the test (they have no canisters). The test procedure for electric vehicles consists of operating the vehicle over many successive FTP (city) cycles until the battery becomes depleted to the point where the vehicle can no longer follow the driving cycle. The test procedure for conventional vehicles outlined in 40 CFR 600.111–08 consists of operating the vehicle over one FTP (city) cycle. While the test procedures for battery electric and conventional vehicles are similar in general (and comparable to 1975 test procedures), the detailed step-by-step test procedures have many differences due to the inherent differences in the vehicles.

Similarly for plug-in hybrid electric vehicles, EPA did not intend that plug-in hybrid electric vehicles would be required to meet all the specific fuel economy requirements contained in 40 CFR 600.111–08 for conventional vehicles. EPA is currently working on guidance for test procedures and fuel economy labeling requirements for plug-in hybrids. Plug-in hybrid vehicles typically have two operating modes: (1) Operation after the battery has been fully charged (called charge depleting mode) and (2) operation after the battery has been discharged and the vehicle is operating similar to conventional hybrid vehicles (called charge sustaining mode). The Agency anticipates that the fuel economy test procedures for plug-in hybrids will be similar to those for battery electric vehicles during the charge depleting mode and similar to conventional vehicles during the charge sustaining mode. While the test procedures for plug-in hybrid electric vehicles and conventional vehicles are expected to be similar in general (and comparable to 1975 test procedures), the detailed step-by-step test procedures for plug-in hybrid vehicles are expected to contain many differences from the step-by-step requirements described in 40 CFR 600.111–08 due to the inherent differences in the vehicles.

The data derived from Part 86 emissions tests and Part 600 fuel economy tests (using test procedures outlined in Part 600 Subpart B) are used to calculate the fuel economy values for each vehicle model. The methods to calculate the test vehicle's fuel economy for the specific test are provided in 40 CFR 600.113–08. For example, this section specifies how to calculate the fuel economy for the test vehicle for FTP, HFET, US06, SC03 and cold temperature FTP tests. These calculation procedures are specified for vehicles fueled with gasoline, diesel,

alcohol-based or natural gas fuel. There are specific calculations for automobiles fueled with natural gas, methanol-fueled automobiles and automobiles designed to operate on mixtures of gasoline and methanol.⁴ Fuel economy for vehicles operated on other fuels not listed above may use calculations with advance approval from the Administrator.⁵

Currently, tests of conventional hybrids use the calculation methodology for the gasoline, diesel, or other fuel that they use, as EPA considers that the electric energy used by the hybrid originates in the combustion of the gasoline, diesel, or other fuel. Advanced technology vehicles however may need different calculation procedures. For example, plug-in hybrids may not be treated the same as conventional hybrids, as the plug-in hybrid operates in part on fuel such as gasoline and diesel, and in part on electric power that originates from the electricity grid and not from the combustion of the gasoline or diesel fuel. In that case, EPA would use the current provision at 40 CFR 600.113–08(l) to approve appropriate calculation procedures for use with plug-in hybrids. This same provision could be used for other advanced technology vehicles as well. Electric vehicles could also be covered by this provision, at least for purposes of calculating fuel economy of the test vehicle for later use in labeling. For purposes of CAFE, fuel economy calculation procedures are provided by the Department of Energy to determine the electric vehicles urban and highway fuel economy value.⁶ Based on the discretion already provided in 40 CFR 600.113–08(l), EPA does not believe that further modification is needed to this provision for purposes of calculating fuel economy for advanced technology test vehicles.

The use of special test procedures and appropriate fuel economy calculation methods for that test procedure, when determining the fuel economy of an advanced technology test vehicle, will affect both the fuel economy labeling and CAFE programs, as the fuel economy values from the test vehicles over the relevant test procedures are then used in both programs, under other provisions in Part 600.

Once EPA or the manufacturer tests the vehicle, using appropriate test procedures, and calculates the fuel economy for the test vehicle over the tests, then 40 CFR 600.114–08 specifies how to calculate the 5-cycle city and highway fuel economy values for that

⁴ See 40 CFR 600.113–08 paragraphs (j) and (k).

⁵ See 40 CFR 600.113–08 paragraph (l).

⁶ See 10 CFR 474.3 and 49 U.S.C. 32904(a)(2).

test vehicle for purposes of labeling under Subpart D, including specific calculations for hybrid vehicles. 40 CFR 115–08 establishes criteria for determining the fuel economy label calculation method for 2011 and later model year vehicles, mpg-based or 5-cycle, for test groups. Assuming appropriate test and calculation procedures have been used under 40 CFR 600.113–08 and 600.114–08, then no changes are needed to these provisions for advanced technology vehicles.

3. Part 600 Subpart C

Subpart C contains general applicability, definitions, abbreviations, recordkeeping requirements, calculation of FTP-based and HFET-based fuel economy values, calculation of vehicle-specific 5-cycle based fuel economy values, calculation of fuel economy values for labeling requirements. EPA's review of the requirements contained in this subpart indicated that regulation changes are needed to 40 CFR 600.210–08 of Subpart C for purposes of determining the fuel economy label values for advanced technology vehicles.

Fuel economy values for vehicle configurations are calculated under the provisions of 40 CFR 600.206–08, for FTP-based and HFET-based fuel economy, and under 40 CFR 600.207–08, for vehicle-specific 5-cycle based fuel economy values for vehicle configurations. Fuel economy calculations to determine highway and city fuel economy for a model type are provided under 40 CFR 600.208–08, FTP-based and HFET-based fuel economy values for a model type, and section 40 CFR 600.209–08, vehicle-specific 5-cycle fuel economy values for a model type. These provisions apply to all 2008 and later model year light-duty automobiles.⁷ No revisions are needed to these provisions for advanced technology vehicles, as these provisions do not specify whether and how to use these values, but only how to calculate them.

Section 600.210–08, however, specifies that manufacturers are to use either the 5 cycle value determined under 40 CFR 600.209–08, or the mpg derived value determined under 40 CFR 600.210–08, for fuel economy labeling for models. EPA is revising this section for advanced technology vehicles, so that the Administrator may prescribe an alternative method for determining the city and highway fuel economy values for general and specific labels for advanced technology vehicles. As

discussed above, the 5-cycle and mpg-derived options were developed based on what was considered appropriate for conventional technology vehicles, and this will allow the Administrator to make changes, where appropriate, for use with advanced technology vehicles.

4. Part 600 Subpart D

Subpart D contains general applicability, definitions, abbreviations, recordkeeping requirements, fuel economy label format, labeling of high altitude vehicles, range of fuel economy for comparable automobiles, label reporting and recordkeeping, timetable for data submittal, updating label values, classes of comparable automobiles and multistage manufacturer requirements. EPA's review of the requirements contained in this subpart indicated that regulation changes are needed to 40 CFR 600.307–08 of Subpart D for fuel economy label format requirements for advanced technology vehicles.

Subpart D specifies the fuel economy value and other information to include on the label and the format of the label. The fuel economy values are those determined pursuant to Subpart C. As stated earlier, Subpart D includes advanced technology vehicles in its requirements. The format requirements of 40 CFR 600.307–08 may not be appropriate for some advanced technology vehicles. EPA is revising 40 CFR 600.307–08 so that alternative label formats may be approved for advanced technology vehicles.

5. Part 600 Subpart E

Subpart E contains general applicability, definitions, abbreviations, dealer requirements and requirements to display booklets (Fuel Economy Guides) by dealers. EPA's review of the requirements contained in this subpart indicated that regulation changes are not needed to this Subpart for advanced technology vehicles.

6. Part 600 Subpart F

Subpart F contains general applicability, definitions, abbreviations, recordkeeping requirements, running change data requirements, voluntary submission of additional data, calculation of average fuel economy (CAFE), determination of domestic production, model year report and gas guzzler tax requirements. EPA's review of the requirements contained in this subpart indicated that regulation changes are needed to 40 CFR 600.501–08 of this Subpart to clarify that this section is applicable to advanced technology vehicles.

Subpart F, Procedures for Determining Manufacturer's Average Fuel Economy, is currently applicable to gasoline-fueled, diesel-fueled, alcohol-fueled, natural gas-fueled, alcohol dual fuel and natural gas dual fuel automobiles. Manufacturers that produce only electric vehicles and electric vehicles produced by small volume manufacturers are exempt from the requirements of this subpart, but may optionally comply with the requirements of this Subpart. In today's action, EPA is revising 40 CFR 600.501–93 so that advanced technology vehicles are included in Subpart F.

Section 600.510–08 describes the requirements for calculating manufacturer's corporate average fuel economy (commonly called CAFE). Results of calculations from 40 CFR 600.208–08 and 40 CFR 600.206–08 are used to determine CAFE using test procedures outlined in Subpart B. Since EPA is modifying Subpart B (40 CFR 600.111–08) to allow special test procedures for advanced technology vehicles, further modifications to Subpart F for advanced technology vehicles are not necessary.

As discussed above, EPA's authority to approve special test procedures will be used, for example, to approve test procedure modifications used for testing battery electric vehicles, fuel cell vehicles, plug-in hybrid vehicles and hydrogen-fueled vehicles equipped with internal combustion engines. As in 1998 to 2003 model years, when battery electric vehicles were included in manufacturer's CAFE calculations, the Agency will take steps to assure that the test procedures for advanced technology vehicles will be comparable to 1975 test procedures. While the Agency believes additional CAFE adjustments will not be necessary, EPA will follow the procedures specified in 40 CFR 600.510–08(f) if any additional average fuel economy adjustments is appropriate for purposes of CAFE calculation based on a special test procedure change.

B. Fuel Economy Labeling

1. Minivan Definition

On December 27, 2006 (71 FR 77872) EPA finalized the following definition for “minivan”, which was previously not defined as a separate comparable class, for the purpose of labeling:

“Minivan means a light truck which is designed primarily to carry no more than eight passengers having an integral enclosure fully enclosing the driver, passenger, and load-carrying compartments, with a total interior volume at or below 180 cubic feet, and rear seats readily removed or folded to floor level to facilitate cargo carrying. A

⁷ See 40 CFR 600.201.

minivan typically includes one or more sliding doors and a rear liftgate.” [40 CFR 600.002–08.]

The interior volume specification of no more than 180 cubic feet was included as a way to distinguish minivans from full-sized vans. However, after the labeling rule was finalized, we were informed by some manufacturers that their 2008 model year minivans exceeded the 180 cubic feet interior volume limit, and thus would not be considered a minivan for purposes of showing comparison fuel economy on the label. Our intention in creating the minivan class was to provide consumers with better comparison information, based on actual classes of vehicles that they may be shopping for. It was not our intention to exclude vehicles that have for years been marketed and advertised as “minivans.” Therefore, we are making two modifications to our regulations that will allow these vehicles to be considered as “minivans” for the purpose of presenting comparable fuel economy information on the label.

First, we are eliminating the total interior volume specification from the definition of “minivan” and updating the definition slightly to help avoid confusion with EPA’s definition of full-sized vans. Absent the interior volume specification, the updated definition should be sufficient to distinguish the minivan class from full-size passenger and cargo vans, SUVs and other similar truck classes, in most cases. Second, in cases where the distinction between the different truck classes may be less clear, we are adding a provision to the truck classification regulations that parallels an existing provision for car classification which allows EPA to reclassify light trucks into a more appropriate classification, as appropriate. This added flexibility will allow EPA to better accommodate today’s rapidly changing vehicle designs, not only for minivans, but for other designs that are gaining in popularity, such as the so-called “crossover” vehicles, which share attributes of minivans, SUVs and even station wagons.

2. Van Definition

The current EPA “Van” definition has been used for fuel economy labeling purposes since before 1980, as follows:

“Van means any light truck having an integral enclosure fully enclosing the driver compartment and load-carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.” [40 CFR 600.002–08.]

This definition was appropriate for vans which were marketed in the late

1970s and 1980s. However, over the past 20 years, the body styles of full sized vans have evolved to shapes with longer nose sections, where the nose of the van extends forward more than 30 inches from the leading edge of the windshield. This direct final rule makes a minor change in the “Van” definition to make it compatible with today’s vehicles. The new definition will include vehicles that are considered to be full-sized vans, but have body sections which protrude more than 30 inches forward of the leading edge of the windshield.

3. Interior Volume Measurements

We did not propose any changes to the existing EPA regulations for determining the interior volumes of vehicles. The interior volume measurements have been used to determine the various passenger car classes since the early 1980’s. We received no comments about the interior volume measurement methods during the new fuel economy label rulemaking. However, after the rule became final, some manufacturers pointed out that the basis for the measurements, an SAE procedure J1100, dated 1975, was outdated, and that the newly revised SAE J1100 contained updated dimension codes which are referenced in our regulations. Rather than incorporating by reference the new version of the SAE procedure, we have simply updated some of the calculation procedures to be consistent with the new SAE methods, thus maintaining alignment with standard industry practices. In particular, the cargo volume index for station wagons is now calculated based on the average width of the cargo area (calculated by averaging the width at shoulder height and the width at the wheel wells), whereas it used to be based simply on the shoulder width measurement.

4. Special Purpose Vehicle Class of Comparable Vehicles

We are also revising the regulations for the “special purpose vehicle” class of comparable vehicles to clarify that EPA has the discretion to classify advanced technology vehicles in separate comparable classes. For example, the Administrator may determine that advanced technology vehicles (such as battery electric vehicles, fuel cell vehicles, plug-in hybrid electric vehicles and vehicles equipped with hydrogen internal combustion engines) or other types of vehicles are best classified as a type of “special purpose vehicle,” separate from other classes of vehicles. EPA will work with manufacturers in

determining the need for separate classes. EPA used a similar approach from the 1999 to 2007 model year to classify minivans and SUVs listed in the Fuel Economy Guide, however the label (window sticker) for these “special purpose vehicles” included both minivans and SUVs until the regulations were revised for 2008 model year vehicles. Today’s action provides EPA with the additional flexibility to determine appropriate names for such classes of vehicles, different from the name “special purpose vehicle.”

The provisions of 49 U.S.C. 32908(b) require fuel economy labels to contain “the range of fuel economy of comparable automobiles of all manufacturers.” Based on this authority, EPA regulations have traditionally required fuel economy labels to contain the highest and lowest fuel economy values for all vehicles in each comparable class. Separate city and highway ranges were required prior to model year 2008. Beginning with 2008 model year, fuel economy labels are required to contain the highest and lowest combined (city/highway) fuel economy values for all vehicles within each comparable class of vehicles. Vehicle classes currently include two seaters, minicompact cars, subcompact cars, compact cars, midsize cars, large cars, small station wagons, midsize station wagons, large station wagons, small pickup trucks, standard pickup trucks, vans, minivans, sport utility vehicles (SUVs) and a “catch-all” class of “special purpose vehicles.”

EPA is concerned that advanced technology vehicles (which are beginning to be introduced into commerce in relative small numbers)⁸ may have fuel economy values which are an order of magnitude greater than conventional vehicles. Classifying these vehicles in the same comparable class of vehicles as conventional gasoline-fueled vehicles will tend to undermine the usefulness of providing the range of the highest and lowest mpg values within each vehicle class. For example, comparing mid-sized gasoline vehicles (mid-sized 2009 vehicles ranged from 11 to 46 combined city/highway mpg) to a mid-sized electric vehicle which gets 100 miles per gallon-equivalent makes all gasoline vehicles in the class appear to have very poor fuel economy. Furthermore, since the new technology vehicles may be available in such small

⁸ Some fuel cell vehicles are being sold or leased in very small volumes, e.g. 10 vehicles or less annually. Initially, electric vehicles, hydrogen-fueled vehicles and some plug-in hybrid vehicles are also expected to be sold or leased in limited numbers, perhaps 2–10 models per year with sales of less than 500 per model.

numbers initially (and for other reasons) manufacturers have commented that the new technology vehicles should not be compared to conventional vehicles.

In summary, today's action will provide EPA with the regulatory discretion to classify these advanced technology vehicles appropriately. For

example, it may be appropriate to establish classes for electric-powered cars and electric-powered trucks. Again, we should emphasize that EPA will work with the affected manufacturers when determining the need for separate classes.

5. Other Certification and Fuel Economy Labeling Changes

Today's action also includes the following minor changes and corrections:

40 CFR Cite	Change	Reason for change
§ 86.132–00(n)	Clarify the preconditioning cycle used for EPA US06 tests.	To make EPA preconditioning consistent with Industry practice.
§ 86.135–90(c); § 86.159–08(b)(9); § 86.230–90(e)(3); § 600.111–08(a)(9)(ii).	Revise extra cooling provisions to clarify that variable speed fan(s) may be used and/or the hood closed if approved in advance by the Administrator.	To provide flexibility in extra cooling provisions. EPA experienced several test vehicle problems in 2008 due to inherent under-cooling of fixed speed fans.
§ 86.164–08 (c)(1)(i)(D)(2) and (c)(2)(i)(C)(2)	Clarify US06 “highway” portion is 0–130 seconds * * * instead of 1–130 seconds. Clarify that the sampling system should be turned off 5 seconds after the engine stops running (e.g. 602 or 603 seconds) instead of 596 seconds.	Corrects errors to ensure consistent test procedures and measurement methods.
§ 86.210–08(a)	The reference that reads “86.109–4” should read “86.109–94”.	Corrects a typographical error.
§ 600.002–08	Revised definition of “Fuel.”	Add hydrogen and LPG (propane) to the fuel definition.
§ 600.002–08	Revised definition of “Fuel Economy” for electric vehicles.	To be consistent with current EPA policy and ensure accurate interpretation of the regulations.
§ 600.008–08(b)(3)(i)	Correcting a regulatory reference. “The manufacturer may * * * accept lower * * * fuel economy results for use in Subpart C or F * * *” is changed to read: “The manufacturer may * * * accept lower * * * fuel economy results for use in Subpart D or F * * *”.	Corrects an error.
§ 600.107–08(c)	Add test fuel requirements for fuels not specifically covered in § 86.113, e.g. ethanol, hydrogen, LPG (propane).	To ensure accurate interpretation of the regulations.
§ 600.111–08 Introductory paragraph	Clarify that the applicable test procedures for fuel economy data vehicles are in accordance with Part 86 test procedures, including the provisions of 86.1840 Special Test Procedures and other Part 86 subsections.	To ensure accurate interpretation of the regulations.
§ 600.113–08(h)(1)	Correct error by removing a meaningless term, (“x C” term) from the mpg equation.	Corrects a typographical error.
§ 600.113–08(k)	In the definition for D_{NG} that follows the formula for mpg, the “3” in the term “ft ³ ” should be superscripted, i.e., “ft ³ ”.	Corrects a typographical error.
§ 600.114–08(b)(2)(ii)(A)	Revise a term in the equation for StartFC from 0.0055155 to 0.005515.	Corrects a typographical error.
§ 600.114–08(c)(1)(i)(B)	Revise a term in the equation for Running FC from Bag 3 ₂₀ 3 FE to Bag 3 ₂₀ FE.	Corrects a typographical error.
§ 600.115–08 Introductory paragraph	Add text that clarifies that alternative fuel vehicles and MDPVs may continue to base FE Label values on mpg-based derived 5-cycle calculations in 2011 and later model year.	Requirements were outlined in preamble to the Final Rule at 71 FR 77897–98 and 71 FR 77907, Dec 27, 2006, but were not clarified in regulatory text.
§ 600.115–08(a)(1)(i)	Add “(c)” so the paragraph will read “is determined according to the provisions of § 600.114–08(a) or (c) * * *” Paragraph (c) is used to calculate HEV 5-cycle FE values.	To ensure accurate interpretation of the regulations.
§ 600.115–08(a)(1)(ii)	Replace “(a)(i)” with “(a)(1)(i)” in the sentence “Using the same FTP data as used in paragraph (a)(i) * * *”.	Corrects a typographical error.
§ 600.210–08 (a)	Clarify that dedicated alternative fueled vehicles and dual fueled vehicles when operating on alternative fuel may use the derived 5-cycle method of determining FE labels. Allow alternative label methods in paragraph (e) of this section”.	To ensure accurate interpretation of the regulations.

40 CFR Cite	Change	Reason for change
§ 600.210–08 (a)(2)(i) and (a)(2)(ii)	Clarify rounding. Clarify that MT FTP FE and MT HFET FE should be rounded to 4 decimal places.	§ 600.210–08(a)(2)(i) and (ii) specify rounding “to the nearest tenth;” however referenced paragraph 600.208–08(b)(3) already rounds model type city & highway values to 4 decimal places. Change is needed for regulatory consistency.
§ 600.210–08 (a)(2)(i)	Insert a space in “MTFTP” to make it “MT FTP.” Correct reference from “600.208–08(a)” to “600.208–08(b)”.	Corrects typographical errors.
§ 600.210–08 (a)(3)(i)	Correct a regulatory reference. Correct reference from “paragraph (a)(1) or (b)(2)” to “paragraph (a)(1) or (a)(2)”.	Corrects a typographical error.
§ 600.315–08(b)(1)	In 600.315–08, paragraph (b)(1), delete the “A” in the word “Atwo”, to read “two seater” not “Atwo seater”.	Corrects a typographical error.

C. CAFE Amendments

1. New 2008–2011 Passenger Automobile and Truck CAFE Requirements

In April, 2006, the National Highway Traffic Safety Administration (NHTSA) promulgated final rules which established CAFE standards for 2008–2011 trucks.⁹ In these rules, NHTSA included two sets of standards, the first called “Unreformed,” applicable for 2008 through 2010 model year trucks, and the second called “Reformed,” optional for 2008 through 2010 model year and required beginning with 2011 model year trucks. Then in March 2009, NHTSA promulgated a final rule which revised the 2011 truck “reformed” CAFE requirements and established new “reformed” CAFE standards for 2011 model year passenger automobiles.¹⁰ NHTSA’s 2008–2011 CAFE requirements include two requirements which are not covered by EPA’s current regulations.

First, NHTSA is for the first time requiring trucks known as “medium duty passenger vehicles” (MDPVs) to be including in the manufacturers’ fleet CAFE. NHTSA adopted the same criteria to define MDPVs as contained in EPA’s Tier 2 emission regulations.¹¹ NHTSA regulations define MDPVs as follows:

“Medium duty passenger vehicle means a vehicle which would satisfy the criteria in Sec.523.5 (relating to light trucks) but for its gross vehicle weight rating or its curb weight, which is rated at more than 8,500 lbs GVWR or has a vehicle curb weight of more than 6,000 pounds or has a basic vehicle frontal area in excess of 45 square feet, and which is designed primarily to transport passengers, but does not include a vehicle that:

(1) Is an “incomplete truck” as defined in this subpart; or

(2) Has a seating capacity of more than 12 persons; or

(3) Is designed for more than 9 persons in seating rearward of the driver’s seat; or

(4) Is equipped with an open cargo area (for example, a pick-up truck box or bed) of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for purposes of this definition.” [49 CFR 523.2]

In EPA’s recent fuel economy labeling rule, we also adopted this same definition and added labeling requirements for new MDPVs beginning in 2011, at the same time as the new “reformed” CAFE requirements take effect. However, we made no changes to our CAFE regulations at that time, saying that we would instead do so via today’s separate regulatory action. We finalized the NHTSA definition of MDPV’s in our regulations at 40 CFR 600.002–08 in the 2006 fuel economy labeling rule.¹² NHTSA requires MDPVs to be included in CAFE starting in 2011, but in order to correctly implement NHTSA’s new requirements we must make minor revisions to EPA regulations to enable MDPVs to be included in the CAFE calculations for 2011 and later.

The second change needed to EPA CAFE regulations is to add manufacturer reporting requirements to the CAFE “model year report” submitted to EPA every year.¹³ Today’s action will require the model year report to contain the applicable CAFE fuel economy standard (also called “required fuel economy level”) and the basis for determining that required fuel economy level. According to NHTSA requirements, the “required fuel economy level” for each manufacturer is based on the “footprint” of the vehicles which are introduced into commerce by that manufacturer. Thus, today’s action

adds NHTSA’s footprint definition, and footprint reporting requirements, including the features used to determine footprint, such as wheelbase, front track width, and rear track width.

2. Technical Amendments to Conform to the Energy Independence and Security Act of 2007

The Energy Independence and Security Act of 2007 extended the provision allowing CAFE incentives for alternate fuel vehicles to 2019, codified at 42 U.S.C. 32905. In today’s direct final rule, we have amended our fuel economy regulations to be consistent with the Energy Independence and Security Act of 2007.¹⁴ The Energy Independence and Security Act of 2007 provides that the maximum increase in average fuel economy for a manufacturer attributable to dual fueled ethanol and dual-fueled natural gas vehicles is as follows:

(1) 1.2 miles a gallon for each of model years 1993 through 2014;

(2) 1.0 miles per gallon for model year 2015;

(3) 0.8 miles per gallon for model year 2016;

(4) 0.6 miles per gallon for model year 2017;

(5) 0.4 miles per gallon for model year 2018;

(6) 0.2 miles per gallon for model year 2019; and

(7) 0 miles per gallon for model years after 2019.

In addition, the Energy Independence and Security Act of 2007 modified 49 U.S.C. 32906(b), removing the “offsets” to the maximum increase in average fuel economy in the event that NHTSA were to reduce the CAFE standard for passenger automobiles below 27.5 mpg.

⁹ Ref. 71 FR 17566, April 6, 2006 and 71 FR 19449, April 14, 2006.

¹⁰ Ref. 74 FR 14196, March 30, 2009.

¹¹ See 65 FR 6698, February 10, 2000.

¹² See 71 FR 77872, December 27, 2006.

¹³ See 40 CFR 600.512–01.

¹⁴ Public Law 110–140, December 19, 2007.

3. Harmonization With NHTSA Rule Combining Domestic and Foreign Trucks Into a Single CAFE Averaging Set

On April 4, 1994, NHTSA finalized regulations combining all domestic and imported trucks into a single truck class for CAFE purposes beginning with the 1996 model year.¹⁵ Previously, NHTSA's regulations required the

calculation and reporting of separate domestic and imported truck CAFE values and EPA's CAFE regulations likewise included separate calculations. However, EPA regulations were not modified at the time that NHTSA changed its regulations.¹⁶ Thus, in today's action, we are removing the requirements for manufacturers to report separate import and domestic information and data for trucks. For

consistency, today's action references NHTSA regulations for passenger car and light truck categories (although no change was needed to the domestic and import passenger car categories at this time).

4. Other CAFE Changes

Today's action also includes the following minor changes and corrections:

40 CFR Cite	Change	Reason for change
\$ 600.002–08	Revise light truck definition	Clarify that MDPVs are included beginning in 2011.
\$ 600.010–08(d)	Revised CAFE minimum test requirements	Clarify that city & highway tests are required for 2011 and later MDPVs.
\$ 600.501–93	Revise Subpart F applicability	Consistency with DOT; clarify that MDPVs are included in 2011 and later CAFEs.
\$ 600.510–08(e)	In section 600.510–08, paragraph (e), in the expression for “IW”, an extraneous letter “x” that appears to the left of a multiplication sign should be deleted.	To ensure accurate interpretation of the regulations.
\$ 600.511–80(a)	Added “Except with advance approval of the Administrator.”.	To allow exceptions per 49 U.S.C. 32904(b)(5); and 49 CFR 526.3.
\$ 600.511–80(b)(5)	Revise reference to U.S. Code per NHTSA request	Correct errata due to a revision in U.S. Code.

D. Miscellaneous Regulatory Corrections and Changes

This Direct Final Rule includes a technical amendment to the Durability regulations applicable to Light-Duty Vehicles, Light-Duty Trucks and complete Heavy-Duty Vehicles. Specifically, the equation used to calculate the equivalency factors under the Durability Program was incorrect in the final rulemaking despite the fact that the notice of proposed rulemaking (NPRM) had the correct equation format. The equivalency factors are used to equate aging on the manufacturer's durability cycles to aging on the EPA standard cycles if a manufacturer uses their own proprietary aging cycle as allowed under the Durability regulations. Therefore, this action revises the Durability Program regulatory language using the correct equivalency factor equation format stated in the NPRM. The correction essentially involves reversing the numerator and denominator of the equivalency factor definition as stated at 40 CFR 86.1823–08(e)(1)(iii)(B)(1), such that the equivalency factor is stated correctly as follows: “The equivalency factor is the ratio described by dividing the aging time on the alternative cycle by the aging time on the SRC.”

Today's action also includes a minor revision to the preconditioning cycle used by EPA for the US06 test. Previously, the provisions of 40 CFR 86.132–00(n) require EPA to use a

UDDS preconditioning cycle if the soak period since the last exhaust test is greater than two hours. Manufacturers may use a UDDS, a 505, 866, highway, US06 or an SC03 preconditioning cycle (if the soak period since the last exhaust test is greater than two hours) and it is common industry practice to use the US06 cycle. Today's action revises the provisions of 40 CFR 86.132–00(n) so that EPA preconditioning for the US06 is consistent with manufacturers. We believe that this revision will reduce EPA burden (because a UDDS cycle takes approximately 23 minutes to run while a US06 cycle takes 10 minutes to run).

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a “significant regulatory action” because it has the potential to raise novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any substantive new information collection

burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* for the changes to the minivan definition, the requirements to include medium-duty passenger vehicles (MDPVs) in CAFE calculations, the additional CAFE footprint reporting requirements, or any other certification, fuel economy labeling and CAFE changes contained in this direct final rule. Burden is defined at 5 CFR 1320.3(b). Note that the data submittal requirements to include MDPVs in 2011 and later CAFE data and to report footprint information for reformed CAFE have already been established by NHTSA in its final rules for new passenger automobile and truck CAFE standards,¹⁷ and the accompanying NHTSA ICR (OMB 2127–00019).

The revision to the minivan definition in today's action has a de minimis impact; however, if anything, the revision is expected to reduce manufacturers' information collection burden. For example, manufacturers were previously required to calculate and report to EPA the total interior volume of each style of minivan and full-sized van to determine whether the van was at or below 180 cubic feet in interior volume. Today's action eliminates the 180 cubic feet interior volume specification from the minivan definition, thus slightly reducing manufacturers reporting and recordkeeping burden.

Regarding the MDPV requirements for 2011 and later CAFEs, the following

¹⁵ See 59 FR 16312, April 4, 1994.

¹⁶ Regardless of the fact that EPA regulations have not been in alignment with NHTSA's, we have been

providing NHTSA with the correct combined import/domestic truck CAFE calculations since that time.

¹⁷ See 49 CFR 537.7(c)(4), as amended by 71 FR 17678, April 6, 2006 and 74 FR 14196, March 30, 2009.

statement was made in EPA's Information Collection Request (ICR) for the 2008 Fuel Economy Labeling rule:

"Also beginning with model year 2011, medium-duty passenger vehicles (MDPVs) will be included in the labeling program. MDPVs essentially include SUVs and passenger vans that are between 8,500 and 10,000 lbs. "GVWR" (gross vehicle weight ratings). This change is congruent with the National Highway Traffic Safety Administration's (NHTSA's) expansion of the Corporate Average Fuel Economy (CAFE) program to include MDPVs beginning the same model year (71 FR 17565; April 6, 2006). Because more vehicle testing is required under CAFE than under labeling, the impacts of increased testing for MDPVs will be in the ICR for the rule to implement EPA's role in the CAFE program, which will be finalized in a separate action, in time for model year 2011, *or in the appropriate fuel economy program information collection renewal.*"¹⁸ (Emphasis added.)

Thus, in the 2008 FE Label rulemaking EPA indicated we would either include the MDPV information collection requirements in an ICR for today's rulemaking or include it in the EPA's emission and fuel economy ICR renewal request to OMB (which occurs every three years). EPA elected the latter approach, and has included the additional MDPV testing, reporting and recordkeeping burden for fuel economy labeling and CAFE purposes in ICR 0783.54 (OMB 2060-0320), the renewal of the Motor Vehicle Emissions and Fuel Economy Compliance ICR which was submitted to OMB for review on October 23, 2008. Since EPA MDPV ICR requirements have been previously submitted to OMB and because they were also included in NHTSA's ICR (OMB 2127-00019), they are not included in today's action.

Regarding footprint information, the reporting requirements for footprint information and related data were not specifically addressed in the ICR for EPA's Fuel Economy Labeling Rule (ICR 0783.51, OMB 2060-0104) because any change in burden was considered to be negligible and within the margin of error for the information technology estimate in that ICR; and because the information collection burden was partially included in the NHTSA ICR (OMB 2127-00019). The information collection burden for footprint information is currently included in EPA's ICR 0783.54 (OMB 2060-0320), the renewal of the Motor Vehicle Emissions and Fuel Economy Compliance ICR, which was submitted to OMB for review on October 23, 2008.

Additionally, the footprint information reported to EPA for final

CAFE reports (wheelbase, track width and sales information) is essentially the same information which will have been previously reported to NHTSA when manufacturers submitted their preliminary CAFE (PCAFE) and mid-model year CAFE reports to NHTSA. Reporting footprint information to EPA with final sales data is expected to be a minimal burden because manufacturers will have already established company business practices to track footprint and sales information for NHTSA and because manufacturers have been reporting CAFE final sales information to EPA since 1978.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this direct final rule on small entities, a small entity is defined as: (1) A small business as defined by the Small Business Administration (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Based on Small Business Administration size standards, small businesses in the automobile manufacturing industry are defined as those having less than 1000 employees per firm. Additionally, they are identified using the North America Industrial Classification System (NAICS) by NAICS code 336111. Out of a total of approximately 80 automotive manufacturers subject to this direct final rule, EPA estimates that approximately 10 of these could be classified as small entities based on SBA size standards. No new burden for fuel economy labeling is being imposed by this direct final rule. The new reporting requirement for the reform CAFE footprint data has already been

established by NHTSA in its final rule for new truck CAFE standards,¹⁹ and thus this direct final rule imposes no additional burden.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. This action simply makes minor amendments, clarifications, and corrections that will allow for the more effective administration of existing regulations. Thus, this rule is not subject to the requirements of sections 202 or 205 of the Unfunded Mandates Reform Act. This rule is also not subject to the requirements of section 203 of the Unfunded Mandates Reform Act because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action imposes no enforceable duty on any State, local or Tribal governments.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects 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."

This direct final rule does not have federalism implications. It will not have substantial direct effects 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, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The impacts of this direct final rule are limited to the regulated entities: the automotive manufacturing industry. Thus, Executive Order 13175 does not apply to this action.

¹⁸ See 71 FR 77872, December 27, 2006.

¹⁹ See 49 CFR 537.7(c)(4), as amended by 71 FR 17678, Apr. 6, 2006.

G. Executive Order 13045 "Protection of Children From Environmental Health Risks and Safety Risks"

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211 (Energy Effects)

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did

not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action simply makes minor amendments, clarifications, and corrections that will allow for the more effective administration of existing regulations without impacting the current fuel economy and emission control measures.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective January 25, 2010.

L. Statutory Provisions and Legal Authority

Statutory authority for the fuel economy labeling program and for corporate average fuel economy can be found at 42 U.S.C. 7401-7671q, 49 U.S.C. 32901-32919, and Public Law 109-58. Statutory authority for vehicle emission control program is found in

the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, in particular sections 202 and 206 of the Act, 42 U.S.C. 7521 and 7525.

List of Subjects

40 CFR Part 86

Administrative practice and procedure, Confidential business information, Incorporation by reference, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

40 CFR Part 600

Administrative practice and procedure, Electric power, Fuel economy, Incorporation by reference, Labeling, Reporting and recordkeeping requirements.

Dated: November 9, 2009.

Lisa P. Jackson,
Administrator.

■ For the reasons set forth in the preamble, parts 86 and 600 of title 40, chapter I of the Code of Federal Regulations, are amended as follows:

PART 86—CONTROL OF EMISSIONS FROM NEW AND IN-USE HIGHWAY VEHICLES AND ENGINES

■ 1. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart B—[Amended]

■ 2. Amend § 86.132-00 by revising paragraph (n)(1)(i) and removing and reserving paragraph (n)(1)(ii) to read as follows:

§ 86.132-00 Vehicle preconditioning.

* * * * *

(n) * * *

(1) * * *

(i) Preconditioning may consist of a 505, 866, highway, US06 or SC03 test cycles.

(ii) [Reserved]

* * * * *

■ 3. Amend § 86.135-90 by revising paragraph (b) to read as follows:

§ 86.135-90 Dynamometer procedure.

* * * * *

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. In the case of vehicles with front engine compartments, the fan shall be squarely positioned within 12 inches (30.5 centimeters) of the vehicle. In the case of vehicles with rear engine compartments (or if special designs

make the above impractical), the cooling fan shall be placed in a position to provide sufficient air to maintain vehicle cooling. The fan capacity shall normally not exceed 5300 cfm (2.50 m³/sec). If however, the manufacturer can show that during field operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a representative test, the fan capacity may be increased, additional fans used, variable speed fan(s) may be used, and/or the engine compartment cover may be closed if approved in advance by the Administrator. For example, the hood may be closed to provide adequate air flow to an intercooler through a factory installed hood scoop. Additionally, the Administrator may conduct certification, fuel economy and in-use testing using the additional cooling set-up approved for a specific vehicle.

* * * * *

■ 4. Amend § 86.159–08 by revising paragraph (b)(9) to read as follows:

§ 86.159–08 Exhaust emission test procedures for US06 emissions.

* * * * *

(b) * * *

(9) During dynamometer operation, a fixed speed cooling fan with a maximum discharge velocity of 15,000 cfm will be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. In the case of vehicles with front engine compartments, the fan shall be positioned within 24 inches (61 centimeters) of the vehicle. In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain vehicle cooling. The Administrator may approve modified cooling configurations, additional cooling, variable speed fan(s), and/or a closed engine compartment cover if necessary to satisfactorily perform the test. In approving requests for additional or modified cooling, the Administrator will consider such items as actual road cooling data and whether such additional cooling is needed to provide a representative test. For example, the hood may be closed to provide adequate air flow to an intercooler through a factory installed hood scoop. Additionally, the Administrator may conduct certification, fuel economy and in-use testing using the additional cooling set-up approved for a specific vehicle.

* * * * *

■ 5. Amend § 86.164–08 by revising paragraphs (c)(1)(i)(D)(2) and (c)(2)(i)(C)(2) to read as follows:

§ 86.164–08 Supplemental Federal Test Procedure calculations.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(D) * * *

(2) In the case of a 2-phase US06 test run according to the provisions of § 86.159–08(f)(2) and part 600 of this chapter:

YUS06 = Calculated mass emissions per mile, using the summed mass emissions of the “US06 City” phase and the “US06 Highway” phase, based on the measured driving distance of the US06 test schedule. The “US06 City” phase shall be sampled during seconds 0–130 and from 495 seconds until five seconds after the engine stops running (e.g. 602 or 603 seconds) of the US06 driving schedule. The “US06 Highway” phase shall be sampled during seconds 130–495 of the US06 driving schedule),

* * * * *

(2) * * *

(i) * * *

(C) * * *

(2) In the case of a 2-phase US06 test run according to the provisions of § 86.159–08(f)(2) and part 600 of this chapter:

YUS06 = Calculated mass emissions per mile, using the summed mass emissions of the “US06 City” phase and the “US06 Highway” phase, based on the measured driving distance of the US06 test schedule. The “US06 City” phase shall be sampled during seconds 0–130 and from 495 seconds until five seconds after the engine stops running (e.g. 602 or 603 seconds) of the US06 driving schedule. The “US06 Highway” phase shall be sampled during seconds 130–495 of the US06 driving schedule),

* * * * *

■ 6. Section 86.210–08 is amended by revising paragraph (a) introductory text to read as follows:

§ 86.210–08 Exhaust gas sampling system; Diesel-cycle vehicles not requiring particulate emissions measurements.

(a) *General applicability.* The exhaust gas sampling system requirements of § 86.109–94 (which apply to Otto-cycle vehicles), also apply to diesel vehicles that are not required to undergo particulate measurement as allowed under § 600.111–08(e) of this chapter, except that heated flame ionization detector (HFID), probe, sample lines and filters are required as described as follows:

* * * * *

■ 7. Section 86.230–11 is amended by revising paragraph (e)(3) to read as follows:

§ 86.230–11 Test sequence: general requirements.

* * * * *

(e) * * *

(3) The manufacturer may use, for certification and fuel economy testing, alternative engine compartment cooling fans or systems, including those which provide a variable air flow, if the manufacturer has determined that comparable results are obtained. Manufacturers may perform the test with the engine compartment closed, e.g. to provide adequate air flow to air flow to an intercooler through a factory installed hood scoop, if needed to provide a representative test. Additionally, the Administrator may conduct certification, fuel economy and in-use testing using the additional cooling set-up approved for a specific vehicle.

* * * * *

■ 8. Section 86.230–94 is amended by revising paragraph (e)(3) to read as follows:

§ 86.230–94 Test sequence: general requirements.

* * * * *

(e) * * *

(3) The manufacturer may use, for certification and fuel economy testing, alternative engine compartment cooling fans or systems, including those which provide a variable air flow, if the manufacturer has determined that comparable results are obtained. For 2009 and later model year vehicles, manufacturers may perform the test with the engine compartment closed, e.g. to provide adequate air flow to air flow to an intercooler through a factory installed hood scoop, if needed to provide a representative test. For 2009 and later model year vehicles, the Administrator may conduct certification, fuel economy and in-use testing using the additional cooling set-up approved for a specific vehicle.

* * * * *

■ 9. Section 86.1823–08 is amended by revising paragraph (e)(1)(iii)(B)(1) to read as follows:

§ 86.1823–08 Durability demonstration procedures for exhaust emissions.

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(B) * * *

(1) The equivalency factor may be determined by an evaluation of the SRC and the customized/alternative cycle

using catalyst time-at-temperature data from both cycles with the BAT equation to calculate the required bench aging time of each cycle. Once the bench aging time is calculated for each cycle, the equivalency factor is the ratio described by dividing the bench aging time on the customized/alternative cycle by the bench aging time on the SRC.

* * * * *

PART 600—FUEL ECONOMY OF VEHICLES

■ 10. The authority citation for part 600 continues to read as follows:

Authority: 49 U.S.C. 32901–23919q, Public Law 109–58.

Subpart A—[Amended]

■ 11. Section 600.002–08 is amended as follows:

■ a. In the definition of “Fuel,” paragraph (4) is amended by removing the period and adding in its place “; or”.

■ b. By adding paragraphs (5) and (6) to the definition of “Fuel.”

■ c. By revising paragraph (2) of the definition of “Fuel economy.”

■ d. By revising the definition of “Light truck.”

■ e. By revising the definition of “Minivan.”

■ f. By revising the definition of “Van.”

§ 600.002–08 Definitions.

* * * * *

Fuel means:

* * * * *

(5) Liquid Petroleum Gas (LPG), commonly referred to as “propane,” for LPG-powered automobiles; or

(6) Hydrogen for hydrogen fuel cell automobiles and for automobiles equipped with hydrogen internal combustion engines.

Fuel economy means:

* * * * *

(2) For the purpose of calculating average fuel economy pursuant to the provisions of Part 600, Subpart F, fuel

economy for electrically powered automobiles means the equivalent petroleum-based fuel economy as determined by the Secretary of Energy in accordance with the provisions of 10 CFR 474.

* * * * *

Light truck means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 49 CFR 523.5. This term is interchangeable with “non-passenger automobile.” The term the “light truck” includes medium-duty passenger vehicles which are manufactured during 2011 and later model years.

* * * * *

Minivan means a light truck which is designed primarily to carry no more than eight passengers, having an integral enclosure fully enclosing the driver, passenger, and load-carrying compartments, and rear seats readily removed, folded, stowed, or pivoted to facilitate cargo carrying. A minivan typically includes one or more sliding doors and a rear liftgate. Minivans typically have less total interior volume or overall height than full sized vans and are commonly advertised and marketed as “minivans.”

* * * * *

Van means any light truck having an integral enclosure fully enclosing the driver compartment and load carrying compartment. The distance from the leading edge of the windshield to the foremost body section of vans is typically shorter than that of pickup trucks and SUVs.

* * * * *

■ 12. Section 600.010–08 is amended by revising paragraph (d) to read as follows:

§ 600.010–08 Vehicle test requirements and minimum data requirements.

* * * * *

(d) Minimum data requirements for the manufacturer’s average fuel economy. For the purpose of calculating

the manufacturer’s average fuel economy under § 600.510, the manufacturer shall submit FTP (city) and HFET (highway) test data representing at least 90 percent of the manufacturer’s actual model year production, by configuration, for each category identified for calculation under § 600.510–08(a).

■ 13. Section 600.011–93 is amended by revising paragraph (a) and by adding paragraph (b)(3) to read as follows:

§ 600.011–93 Reference materials.

(a) *Incorporation by reference.* The documents in paragraph (b) of this section have been incorporated by reference. The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected at the U.S. Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Ave., NW., Washington, DC 20460, phone (202) 272–0167, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) * * *

(3) *SAE Material.* The following table sets forth material from the Society of Automotive Engineers that has been incorporated by reference. The first column lists the number and name of the material. The second column lists the section(s) of this part, other than § 600.011–93, in which the matter is referenced. The second column is presented for information only and may not be all inclusive. Copies of these materials may be obtained from Society of Automotive Engineers World Headquarters, 400 Commonwealth Dr., Warrendale, PA 15096–0001, phone (877) 606–7323 (U.S. and Canada) or (724) 776–4970 (outside the U.S. and Canada), or at <http://www.sae.org>.

Document No. and name	40 CFR part 600 reference
Motor Vehicle Dimensions—Recommended Practice SAE 1100a (Report of Human Factors Engineering Committee, Society of Automotive Engineers, approved September 1973 as revised September 1975).	600.315–08; 600.315–82.

Subpart B—[Amended]

■ 14. Section 600.107–08 is amended by adding paragraph (c) to read as follows:

§ 600.107–08 Fuel Specifications.

* * * * *

(c) Test fuels which do not have fuel specifications provided in the

provisions of § 86.113 of this chapter may be used if approved in advance by the Administrator.

■ 15. Section 600.111–08 is amended as follows:

■ a. By adding introductory text to this § 600.111–08.

■ b. By revising paragraph (b)(9)(ii).

■ c. By adding paragraph (f).

§ 600.111–08 Test Procedures.

This section provides test procedures for the FTP, highway, US06, SC03, and the cold temperature FTP tests. Testing shall be performed according to test procedures and other requirements contained in Part 86 and Part 600 of this

chapter, including the provisions of Part 86, Subparts B, C, and S.

* * * * *

(b) * * *

(9) * * *

(ii) Open the vehicle engine compartment cover and position the cooling fan(s) required. Manufacturers may request the use of additional cooling fans or variable speed fan(s) for additional engine compartment or under-vehicle cooling and for controlling high tire or brake temperatures during dynamometer operation. With prior EPA approval, manufacturers may perform the test with the engine compartment closed, e.g. to provide adequate air flow to an intercooler (through a factory installed hood scoop). Additionally, the Administrator may conduct fuel economy testing using the additional cooling set-up approved for a specific vehicle.

* * * * *

(f) *Special Test Procedures.* The Administrator may prescribe test

procedures, other than those set forth in this Subpart B, for any vehicle which is not susceptible to satisfactory testing and/or testing results by the procedures set forth in this part. For example, special test procedures may be used for advanced technology vehicles, including, but not limited to battery electric vehicles, fuel cell vehicles, plug-in hybrid electric vehicles and vehicles equipped with hydrogen internal combustion engines. Additionally, the Administrator may conduct fuel economy testing using the special test procedures approved for a specific vehicle.

■ 16. Section 600.113–08 is amended by revising paragraphs (h)(1) and (k) to read as follows:

§ 600.113–08 Fuel Economy Calculations for FTP, HFET, US06, and cold temperature FTP tests.

* * * * *

(h)(1) For gasoline-fueled automobiles tested on test fuel specified in § 86.113–04(a), the fuel economy in miles per

gallon is to be calculated using the following equation:

$$\text{mpg} = (5174 \times 10^4 \times \text{CWF} \times \text{SG}) / [((\text{CWF} \times \text{HC}) + (0.429 \times \text{CO}) + (0.273 \times \text{CO}_2)) \times ((0.6 \times \text{SG} \times \text{NHV}) + 5471)]$$

Where:

HC = Grams/mile HC as obtained in paragraph (g) of this section.

CO = Grams/mile CO as obtained in paragraph (g) of this section.

CO₂ = Grams/mile CO₂ as obtained in paragraph (g) of this section.

CWF = Carbon weight fraction of test fuel as obtained in paragraph (g) of this section.

NHV = Net heating value by mass of test fuel as obtained in paragraph (g) of this section.

SG = Specific gravity of test fuel as obtained in paragraph (g) of this section.

* * * * *

(k) For automobiles fueled with natural gas, the fuel economy in miles per gallon of natural gas is to be calculated using the following equation:

$$\text{mpg}_e = \frac{\text{CWF}_{\text{HC/NG}} \times D_{\text{NG}} \times 121.5}{(0.749 \times \text{CH}_4) + \text{CWF}_{\text{NMHC}} + (0.429 \times \text{CO}) + (0.273 \times (\text{CO}_2 - \text{CO}_{2\text{NG}}))}$$

Where:

mpg_e = miles per equivalent gallon of natural gas.

CWF_{HC/NG} = carbon weight fraction based on the hydrocarbon constituents in the natural gas fuel as obtained in paragraph (g) of this section.

D_{NG} = density of the natural gas fuel [grams/ft³ at 68 °F (20 °C) and 760 mm Hg (101.3

kPa)] pressure as obtained in paragraph (g) of this section.

CH₄, NMHC, CO, and CO₂ = weighted mass exhaust emissions [grams/mile] for methane, non-methane HC, carbon monoxide, and carbon dioxide as calculated in § 600.113.

CWF_{NMHC} = carbon weight fraction of the non-methane HC constituents in the fuel as determined from the speciated fuel

composition per paragraph (f)(3) of this section.

CO_{2NG} = grams of carbon dioxide in the natural gas fuel consumed per mile of travel.

$$\text{CO}_{2\text{NG}} = \text{FC}_{\text{NG}} \times D_{\text{NG}} \times \text{WF}_{\text{CO}_2}$$

Where:

$$\text{FC}_{\text{NG}} = \frac{(0.749 \times \text{CH}_4) + (\text{CWF}_{\text{NMHC}} \times \text{NMHC}) + (0.429 \times \text{CO}) + (0.273 \times \text{CO}_2)}{\text{CWF}_{\text{NG}} \times D_{\text{NG}}}$$

= cubic feet of natural gas fuel consumed per mile.

CWF_{NG} = the carbon weight fraction of the natural gas fuel as calculated in paragraph (f) of this section.

WF_{CO₂} = weight fraction carbon dioxide of the natural gas fuel calculated using the mole fractions and molecular weights of the natural gas fuel constituents per

ASTM D 1945–91 “Standard Test Method for Analysis of Natural Gas by Gas Chromatography” (incorporated by reference at § 600.011–93).

* * * * *

■ 17. Section 600.114–08 is amended by revising paragraphs (b)(2)(ii)(A) and (c)(1)(i)(B) to read as follows:

§ 600.114–08 Vehicle-specific 5-cycle fuel economy calculations.

(b) * * *

(2) * * *

(ii) * * *

$$(A) \text{ StartFC} = 0.33 \times \frac{(0.005515 + 1.13637 \times \text{StartFuel}_{75})}{60.0}$$

Where:

$$StartFuel_{75} = 3.6 \times \left(\frac{1}{Bag\ 1\ FE_{75}} - \frac{1}{Bag\ 3\ FE_{75}} \right)$$

Where:

Bag y FE₇₅ = the fuel economy in miles per gallon of fuel during the specified bag of

the FTP test conducted at an ambient temperature of 75 °F.

* * * * *

(c) * * *

(1) * * *

(i) * * *

$$\begin{aligned} \text{(B) Running FC (gallons per mile)} &= 0.82 \times \left[\frac{0.48}{Bag\ 4_{75}\ FE} + \frac{0.41}{Bag\ 3_{75}\ FE} + \frac{0.11}{US06\ City\ FE} \right] \\ &+ 0.18 \times \left[\frac{0.5}{Bag\ 2_{20}\ FE} + \frac{0.5}{Bag\ 3_{20}\ FE} \right] + 0.133 \times 1.083 \times \left[\frac{1}{SC03\ FE} - \left(\frac{0.61}{Bag\ 3_{75}\ FE} + \frac{0.39}{Bag\ 4_{75}\ FE} \right) \right] \end{aligned}$$

Where:

BagY_X FE = the fuel economy in miles per gallon of fuel during the specified bag Y of the FTP test conducted at an ambient temperature X of 75 °F or 20 °F.

US06 City FE = fuel economy in miles per gallon over the city portion of the US06 test.

SC03 FE = fuel economy in miles per gallon over the SC03 test.

* * * * *

■ 18. Section 600.115–08 is amended as follows:

- a. By revising the introductory text.
- b. By revising paragraph (a)(1)(i).
- c. By revising paragraph (a)(1)(ii).

§ 600.115–08 Criteria for determining the fuel economy label calculation method for 2011 and later model year vehicles.

This section provides the criteria to determine if the derived 5-cycle method

for determining fuel economy label values, as specified in § 600.210–08 (a)(2) or (b)(2), as applicable, may be used to determine label values for 2011 and later model year vehicles. Separate criteria apply to city and highway fuel economy for each test group. The provisions of this section are optional. If this option is not chosen, or if the criteria provided in this section are not met, fuel economy label values for 2011 and later model year vehicles must be determined according to the vehicle-specific 5-cycle method specified in § 600.210–08(a)(1) or (b)(1), as applicable. However, dedicated alternative-fuel vehicles, dual fuel vehicles when operating on alternative fuel, and MDPVs may use the derived 5-cycle method for determining fuel

economy labels for 2011 and later model years whether or not the criteria provided in this section are met.

(a) * * *

(1) * * *

(i) The vehicle-specific 5-cycle city fuel economy from the official FTP, HFET, US06, SC03 and Cold FTP tests for the test group is determined according to the provisions of § 600.114–08(a) or (c) and rounded to the nearest one tenth of a mile per gallon.

(ii) Using the same FTP data as used in paragraph (a)(1)(i) of this section, the corresponding derived 5-cycle city fuel economy is calculated according to the following equation:

$$\text{Derived 5-cycle city fuel economy} = \frac{1}{\left(\{City\ Intercept\} + \frac{\{City\ Slope\}}{FTP\ FE} \right)}$$

Where:

City Intercept = Intercept determined by the Administrator. See § 600.210–08(a)(2)(iii).

City Slope = Slope determined by the Administrator. See § 600.210–08(a)(2)(iii).

FTP FE = the FTP-based city fuel economy from the official test used for certification compliance, determined under § 600.113–08(a), rounded to the nearest tenth.

* * * * *

■ 19. Section 600.210–08 is amended as follows:

- a. By revising paragraph (a) introductory text.
- b. By revising paragraphs (a)(2)(i) and (a)(2)(ii).
- c. By revising paragraph (a)(3)(i).

■ d. By adding paragraph (e).

§ 600.210–08 Calculation of fuel economy values for labeling.

(a) *General Labels.* Except as permitted in paragraph (e) of this section, fuel economy for general labels can be determined by two methods. The first is based on vehicle-specific model-type 5-cycle data as determined in § 600.209–08(b). This method is optional beginning in the 2008 model year for all vehicles, including medium-duty passenger vehicles, and required beginning in the 2011 model year (except for dedicated alternative-fuel vehicles, dual fuel vehicles when operating on alternative fuel, and medium duty passenger vehicles) unless

otherwise indicated according to the provisions in § 600.115–08. The second method is the derived 5-cycle method, and is based on fuel economy that is derived from vehicle-specific 5-cycle model type data as determined in paragraph (a)(2) of this section. This method is required for 2008 through 2010 model years (except for medium-duty passenger vehicles, in which case it is optional), and is permitted beginning in 2011 model year under the provisions of § 600.115–08. If the manufacturer determines that the resulting label values from either of these methods are not representative of the fuel economy for that model type, they may voluntarily lower these values. All 2011 and later model year medium-

duty passenger vehicles, dedicated alternative-fueled vehicles, and dual fuel vehicles when operating on alternative fuel must be labeled for fuel economy, using the derived 5-cycle method or, at the manufacturer's option,

the vehicle-specific 5-cycle method. Fuel economy label values for dual fuel vehicles operating on alcohol-based or natural gas fuel are calculated separately.

* * * * *

(2) * * *

(i) For each model type, determine the derived five-cycle city fuel economy using the following equation and coefficients determined by the Administrator:

$$\text{Derived 5-cycle City Fuel Economy} = \frac{1}{\left(\{\text{City Intercept}\} + \frac{\{\text{City Slope}\}}{\text{MT FTP FE}} \right)}$$

Where:

City Intercept = Intercept determined by the Administrator based on historic vehicle-specific 5-cycle city fuel economy data.

City Slope = Slope determined by the Administrator based on historic vehicle-specific 5-cycle city fuel economy data.
MT FTP FE = the model type FTP-based city fuel economy determined under § 600.208–08(b), rounded to the nearest 0.0001 mpg.

(ii) For each model type, determine the derived five-cycle highway fuel economy using the equation below and coefficients determined by the Administrator:

$$\text{Derived 5-cycle Highway Fuel Economy} = \frac{1}{\left(\{\text{Highway Intercept}\} + \frac{\{\text{Highway Slope}\}}{\text{MT HFET FE}} \right)}$$

Where:

Highway Intercept = Intercept determined by the Administrator based on historic vehicle-specific 5-cycle highway fuel economy data.

Highway Slope = Slope determined by the Administrator based on historic vehicle-specific 5-cycle highway fuel economy data.

MT HFET FE = the model type highway fuel economy determined under § 600.208–08(b), rounded to the nearest 0.0001 mpg.

* * * * *

(3) * * *

(i) City and Highway label values for dual fuel alcohol-based and natural gas vehicles when using the alternate fuel are separately determined by the following calculation:

$$\text{Derived } FE_{alt} = FE_{alt} \times \frac{5cycle_{gas}}{FE_{gas}}$$

Where:

FE_{alt} = The unrounded FTP-based model-type city or HFET-based model-type highway fuel economy from the alternate fuel, as determined in § 600.208(b)(5)(ii).

5-cycle FE_{gas} = The unrounded vehicle-specific or derived 5-cycle model-type city or highway fuel economy, as determined in paragraph (a)(1) or (a)(2) of this section.

FE_{gas} = The unrounded FTP-based city or HFET-based model type highway fuel economy from gasoline (or diesel), as determined in § 600.208(b)(5)(i).

The result, rounded to the nearest whole number, is the alternate fuel label value for dual fuel vehicles.

* * * * *

(e) *Fuel economy values and other information for advanced technology vehicles.* (1) The Administrator may prescribe an alternative method of determining the city and highway model type fuel economy values for general, unique or specific fuel economy labels other than those set forth in this Subpart C for advanced technology vehicles including, but not limited to battery electric vehicles, fuel cell vehicles, plug-in hybrid electric vehicles and vehicles equipped with hydrogen internal combustion engines.

(2) For advanced technology vehicles, the Administrator may prescribe special methods for calculating and/or determining information other than fuel economy that is required to be displayed on fuel economy labels as specified in section 600.307–08(k) of this part. For example, the Administrator may prescribe methods to determine the city and highway electrical energy consumption values and the all electric driving range for battery electric vehicles and plug-in hybrid electric vehicles.

Subpart D—[Amended]

■ 20. Section 600.307–08 is amended by adding new paragraph (k) to read as follows:

§ 600.307–08 Fuel economy label format requirements.

* * * * *

(k) *Special label format requirements.* The Administrator may prescribe special label format and information requirements for vehicles which are not specifically described in this section and for which sample labels are not provided in Appendix IV of this Part 600. These types of vehicles may include, but are not limited to battery electric vehicles, fuel cell vehicles, plug-in hybrid electric vehicles and vehicles equipped with hydrogen internal combustion engines. The format and information requirements for the labels of such vehicles will be designed to provide simple, easy to understand, fuel economy values in accordance with the way the fuel is expected to be dispensed, sold or marketed in the field to the ultimate consumer. The Administrator may prescribe special label format and information requirements for other information required to be displayed on fuel economy labels pursuant to 49 U.S.C. 32908(b)(1)(F). For example, the Administrator may prescribe special label format and information requirements to display the city and highway electrical energy consumption values and the all electric driving range for battery electric vehicles and plug-in hybrid electric vehicles.

■ 21. Section 600.315–08 is amended as follows:

- a. By revising paragraph (a)(2) introductory text.
- b. By revising paragraph (a)(3)(i).
- c. By revising paragraphs (b)(1), (b)(2), (b)(3).
- d. By revising paragraph (c) introductory text and paragraph (c)(1).
- e. By revising paragraph (e) introductory text.
- f. By revising paragraph (e)(2)(ii).
- g. By revising paragraph (g)(1) introductory text and paragraph (g)(1)(i).
- h. By revising paragraph (g)(2) introductory text and paragraph (g)(2)(iii).
- i. By revising paragraph (h)(2) introductory text, (h)(3), and (h)(4)(ii).

§ 600.315–08 Classes of comparable automobiles.

(a) * * *

(2) The Administrator will classify light trucks (nonpassenger automobiles) into the following classes: Small pickup trucks, standard pickup trucks, vans, minivans, and SUVs. Pickup trucks will be separated by car line on the basis of gross vehicle weight rating (GVWR). For pickup truck car lines with more than one GVWR, the GVWR of the pickup truck car line is the arithmetic average of all distinct GVWRs less than or equal to 8,500 pounds available for that car line. The Administrator may determine that specific light trucks should be most appropriately placed in a different class or in the special purpose vehicle class as provided in paragraph (a)(3)(i) and (a)(3)(ii) of this section, based on the features and characteristics of the specific vehicle, consumer information provided by the manufacturer, and other information available to consumers.

(3)(i) *Special purpose vehicles.* All automobiles with GVWR less than or equal to 8,500 pounds and all medium-duty passenger vehicles which possess special features and which the Administrator determines are more appropriately classified separately from typical automobiles or which do not meet the requirements of paragraphs (a)(1) and (2) of this section will be classified as special purpose vehicles. For example, the Administrator may determine that advanced technology vehicles (such as battery electric vehicles, fuel cell vehicles, plug-in hybrid electric vehicles and vehicles equipped with hydrogen internal combustion engines) should be appropriately classified as a type of “special purpose vehicle.” The Administrator may determine appropriate names for such types of special purpose vehicles, different from the name “special purpose vehicle.”

* * * * *

(b) *Interior volume index—passenger automobiles.* (1) The interior volume index shall be calculated for each car line which is not a “two seater” car line, in cubic feet rounded to the nearest 0.1 cubic foot. For car lines with more than one body style, the interior volume index for the car line is the arithmetic average of the interior volume indexes of each body style in the car line.

(2) For all body styles except station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seatbelts as required by DOT safety regulations, interior volume index is the sum, rounded to the nearest 0.1 cubic feet, of the front seat volume, the rear seat volume(s), if applicable, and the luggage capacity.

(3) For all station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seatbelts as required by DOT safety regulations, interior volume index is the sum, rounded to the nearest 0.1 cubic feet, of the front seat volume, the rear seat volume, and the cargo volume index.

(c) All interior and cargo dimensions are measured in inches to the nearest 0.1 inch. All dimensions and volumes shall be determined from the base vehicles of each body style in each car line, and do not include optional equipment. The dimensions H61, W3, W5, L34, H63, W4, W6, L51, H201, L205, L210, L211, H198, W201, and volume V1 are to be determined in accordance with the procedures outlined in Motor Vehicle Dimensions SAE J1100a (Report of Human Factors Engineering Committee, Society of Automotive Engineers, approved September 1973 and last revised September 1975), as incorporated by reference as specified in § 600.011–93, except as noted herein:

(1) *SAE J1100a(2.3)*—Cargo dimensions. All dimensions are measured with the front seat positioned the same as for the interior dimensions and the second seat, for the station wagons and hatchbacks, in the upright position. All head restraints shall be in the stowed position and considered part of the seat.

* * * * *

(e) The rear seat volume is calculated in cubic feet, for vehicles with a rear seat equipped with rear seat belts (as required by DOT), by dividing 1,728 into the product of three terms listed below and rounding the quotient to the nearest 0.001 cubic feet:

* * * * *

(2) * * *

(ii) W4—Shoulder room—second, if hip room is not more than 5 inches less than shoulder room. (In inches, W4 is obtained according to paragraph (c) of this section), and

* * * * *

(g) * * *

(1) For station wagons the cargo volume index V10 is calculated, in cubic feet, by dividing 1,728 into the product of three terms and rounding the quotient to the nearest 0.001 cubic feet:

(i) Average cargo width, which is the arithmetic average of:

(A) W4—Shoulder room—second (in inches obtained according to paragraph (c) of this section); and

(B) W201—Cargo width—wheelhouse (in inches obtained according to paragraph (c) of this section).

* * * * *

(2) For hatchbacks, the cargo volume index V11 is calculated, in cubic feet, by dividing 1,728 into the product of three terms and rounding the quotient to the nearest 0.001 cubic foot:

* * * * *

(iii) H198—Second seatback to load floor height. (In inches obtained according to paragraph (c) of this section.)

(h) * * *

(2) For all passenger automobiles except station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

* * * * *

(3) For station wagons with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The dimensions H201, L205, and W201 determined in accordance with paragraph (c) of this section, and

(ii) The cargo volume index V10 determined in accordance with paragraph (g)(1) of this section.

(4) * * *

(ii) The cargo volume index V11 determined in accordance with paragraph (g)(2) of this section.

* * * * *

Subpart E—[Amended]

■ 22. Section 600.501–93 is amended by revising paragraph (a) to read as follows:

§ 600.501–93 General applicability.

(a) The provisions of this subpart are applicable to 1993 and later model year passenger automobiles and light trucks, and to the manufacturers of passenger automobiles and light trucks as determined by the Secretary of Transportation in 49 CFR 531.3 and 49

CFR 533.3. The provisions of this subpart are applicable to medium-duty passenger vehicles manufactured in 2011 model year and later model years and to the manufacturers of such vehicles.

* * * * *

■ 23. Section 600.502–81 is amended by adding a new paragraph (a)(4) to read as follows:

§ 600.502–81 Definitions.

(a) * * *

(4) *Footprint* means the area between the wheels of an automobile as defined by the Secretary of Transportation at 49 CFR 523.2.

* * * * *

■ 24. Section 600.510–08 is amended as follows:

- a. By revising paragraph (a)(1).
- b. By removing and reserving paragraph (a)(2).
- c. By revising paragraph (a)(3).
- d. By removing and reserving paragraph (a)(4).
- e. By revising paragraph (b)(2)(i) introductory text.
- f. By removing and reserving paragraphs (b)(2)(i)(A) and (b)(2)(i)(B).
- g. By revising paragraph (b)(3)(i) introductory text.
- h. By removing and reserving paragraphs (b)(3)(i)(A) and (b)(3)(i)(B).
- i. By revising paragraph (c)(2)(v) introductory text.
- j. By revising paragraph (c)(2)(vi) introductory text.
- k. By revising the equation for IW in paragraph (e).
- l. By revising paragraph (g)(3).
- m. By revising paragraph (h) introductory text.
- n. By removing and reserving paragraph (i).

§ 600.510–08 Calculation of average fuel economy.

(a) * * *

(1) An average fuel economy calculation will be made for the category of passenger automobiles as determined by the Secretary of Transportation. For example, categories may include, but are not limited to domestically manufactured and/or non-domestically manufactured passenger automobiles as determined by the Secretary of Transportation.

(2) [Reserved]

(3) An average fuel economy calculation will be made for the category of trucks as determined by the Secretary of Transportation. For example, categories may include, but are not limited to domestically manufactured trucks, non-domestically manufactured trucks, light-duty trucks,

medium-duty passenger vehicles, and/or heavy-duty trucks as determined by the Secretary of Transportation.

(4) [Reserved]

(b) * * *

(2) * * *

(i) Separate fuel economy values will be calculated for model types and base levels associated with car lines for each category of passenger automobiles and trucks as determined by the Secretary of Transportation pursuant to paragraphs (a)(1) and (a)(3) of this section.

(A) [Reserved]

(B) [Reserved]

* * * * *

(3) * * *

(i) Separate fuel economy values will be calculated for vehicle configurations associated with car lines for each category of passenger automobiles and trucks as determined by the Secretary of Transportation pursuant to paragraphs (a)(1) and (a)(3) of this section.

(A) [Reserved]

(B) [Reserved]

* * * * *

(c) * * *

(2) * * *

(v) For alcohol dual fuel model types, for model years 1993 through 2019, the harmonic average of the following two terms; the result rounded to the nearest 0.1 mpg:

* * * * *

(vi) For natural gas dual fuel model types, for model years 1993 through 2019, the harmonic average of the following two terms; the result rounded to the nearest 0.1 mpg:

* * * * *

(e) * * *

* * * * *

$$IW = (9.2917 \times 10^{-3} \times SF_{3IWC} \times FE_{3IWC}) - (3.5123 \times 10^{-3} \times SF_{4ETW} \times FE_{4IWC}).$$

* * * * *

(g) * * *

(3) Alcohol dual fuel passenger automobiles and natural gas dual fuel passenger automobiles manufactured during model years 1993 through 2019 must meet the minimum driving range requirements established by the Secretary of Transportation (49 CFR part 538) to obtain the CAFE credit determined in paragraphs (c)(2)(v) and (vi) of this section.

(h) For model years 1993 and later, and for each category of automobile identified in paragraph (a) of this section, the maximum increase in average fuel economy determined in paragraph (c) of this section attributable to alcohol dual fuel automobiles and natural gas dual fuel automobiles shall be as follows:

Model year	Maximum Increase (mpg)
1993–2014	1.2
2015	1.0
2016	0.8
2017	0.6
2018	0.4
2019	0.2
2020 and later	0

* * * * *

(i) [Reserved]

■ 25. Section 600.511–80 is amended as follows:

- a. By revising paragraph (a) introductory text.
- b. By revising paragraph (b)(5).
- c. By removing and reserving paragraphs (d) and (e).

§ 600.511–80 Determination of domestic production.

(a) Except with advance approval of the Administrator, an automobile shall be considered domestically produced in any model year if it is included within a domestically produced car line (car line includes station wagons for purposes of this paragraph), unless the assembly of such automobile is completed in Canada or Mexico and such automobile is not imported into the United States prior to the expiration of 30 days following the end of the model year. For purposes of this paragraph a car line will be considered domestically produced if the following ratio is less than 0.25:

* * * * *

(b) * * *

(5) All elections under paragraph (b)(4) of this section shall be made in accordance with the procedures established by the Secretary of Transportation pursuant to 49 U.S.C. 32904(b)(3)(C).

* * * * *

■ 26. Section 600.512–08 is amended by adding new paragraphs (c)(8) and (c)(9) to read as follows:

§ 600.512–08 Model Year Report.

* * * * *

(c) * * *

(8) For 2008–2010 light truck model year reports, the average fuel economy standard or the “required fuel economy level” pursuant to 49 CFR Part 533, as applicable. Model year reports for light trucks meeting required fuel economy levels pursuant to 49 CFR 533.5(g) and (h) shall include information in sufficient detail to verify the accuracy of the calculated required fuel economy level. Such information is expected to include but is not limited to, production information for each unique footprint

within each model type contained in the model year report and the formula used to calculate the required fuel economy level. Model year reports for required fuel economy levels shall include a statement that the method of measuring vehicle track width, measuring vehicle wheelbase and calculating vehicle footprint is accurate and complies with applicable Department of Transportation requirements.

(9) For 2011 and later model year reports, the "required fuel economy level" pursuant to 49 CFR Parts 531 or 533, as applicable. Model year reports shall include information in sufficient detail to verify the accuracy of the calculated required fuel economy level, including but is not limited to, production information for each unique footprint within each model type contained in the model year report and the formula used to calculate the required fuel economy level. Model year reports shall include a statement that the method of measuring vehicle track width, measuring vehicle wheelbase and calculating vehicle footprint is accurate and complies with applicable Department of Transportation requirements.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-8103]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by

publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on

FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows: