provide information as required under the CPSA is a prohibited act within the meaning of section 19(a)(3) of the CPSA (15 U.S.C. 2068(a)(3)).

(d) *Noncomplying products.* The manufacture for sale, offering for sale, distribution in commerce, and/or importation into the United States of a consumer product which is not in conformity with an applicable consumer product safety rule under CPSA is a prohibited act within the meaning of sections 19 (a)(1) and (a)(2) of the CPSA (15 U.S.C. 2068 (a)(1) and (a)(2)).

(e) *Orders issued under section 15 (c) and/or (d).* The failure to comply with an order issued under section 15 (c) and/or (d) of the CPSA is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)).

(f) *Consequences of engaging in prohibited acts.* A knowing violation of section 19(a) of the CPSA subjects the violator to a civil penalty in accordance with section 20 of the CPSA (15 U.S.C. 2069). "Knowing," as defined in section 20(c) of the CPSA (15 U.S.C. 2069(c)), means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations. A knowing and willful violation of section 19(a), after the violator has received notice of noncompliance, subjects the violator to criminal penalties in accordance with section 21 of the CPSA (15 U.S.C. 2070).

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Part IV

Environmental Protection Agency

40 CFR Part 600

Fuel Economy of Motor Vehicles; Revisions To Improve Fuel Economy Labeling and the Fuel Economy Data Base; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 600

[AMS-FRL 2503-3, Docket No. A-80-32]

Fuel Economy of Motor Vehicles; Revisions To Improve Fuel Economy Labeling and the Fuel Economy Data Base

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule will amend the motor vehicle fuel economy regulations for fuel economy labeling beginning with the 1985 model year. The amendments will require the adjustment of fuel economy label estimates downward to more reasonably predict average in-use experience and the listing of both a city and highway mileage estimate on the label. A number of more minor changes to improve the accuracy of fuel economy labels and to reduce reporting requirements are also incorporated. However, most of these are not effective until the 1986 model year.

DATE: This final rule is effective May 7, 1984.

ADDRESS: Copies of material relevant to this rulemaking are contained in Public Docket No. A-80-32 at the U.S. Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Clifford D. Tyree, Certification Division, Office of Mobile Sources, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4310.

SUPPLEMENTARY INFORMATION: OMB Control No. 2000-0390.

I. Background

In recent years, EPA, other government agencies, the Congress, and consumers have been concerned about apparent differences between the EPA fuel economy estimates and the actual fuel economy performance of vehicles in use. In general, these discrepancies arise from differences in travel environment, owner travel and driving habits, and vehicle maintenance. These discrepancies in fuel economy performance have caused considerable consumer dissatisfaction and lack of confidence in EPA's fuel economy estimates. The intent of this action is to increase the credibility and usefulness of EPA's fuel economy information to prospective new-car buyers by narrowing the difference between fuel economy label values and actual performance and by improving the accuracy and reliability of the EPA fuel economy estimates.

For a comprehensive description of the background relating to this rulemaking please refer to the preamble of the Notice of Proposed Rulemaking (NPRM) published on June 9, 1983 (48 FR 26698). EPA has also published a report entitled: "History and Description of the EPA Motor Vehicle Fuel Economy Program." This report is available in the docket to this rulemaking, Docket No. A-80-32. In addition, a comprehensive discussion of issues pertaining to the thirteen proposed amendments is contained in the Summary and Analysis of Comments. This document can also be obtained from the docket.

II. General Description of the Final Rule

This final rule will amend the motor vehicle fuel economy regulations for fuel economy labeling beginning with the 1985 model year. The NPRM proposed thirteen amendments, all to be effective beginning in the 1985 model year. Today, EPA is adopting eleven of these proposals (with minor revisions). One proposed amendment, interior volume measurement revisions, will not be adopted. Final action on the thirteenth, a proposal to update label calculations at midyear, is being indefinitely postponed for further study.

Two of the amendments adopted today will have the most significant effect on accomplishing the primary purpose of the rulemaking. These two amendments will require manufacturers to: (1) Adjust fuel economy label estimates downward to more reasonably predict average in-use experience; and (2) list both city and highway fuel economy estimates on the labels to reflect consumer preference and manufacturers' advertising practices. These amendments are being adopted effective with the 1985 model year. EPA has concluded that these provisions can be implemented beginning in the 1985 model year and that they are of such importance to improving consumer information that they should be implemented as soon as possible. EPA is also implementing three additional amendments (a reduction in reporting requirements, a requirement for separate labels for front- and rear-wheel drive vehicles, and allowance of unique labels) beginning in the 1985 model year because there is sufficient leadtime to implement them and because they were generally supported by public comments.

EPA is adopting six additional amendments. However, because of practical leadtime considerations (discussed in more detail in Section III.A of this preamble), these six amendments will not be effective until the 1986 model year. These six amendments are: (1) New minimum data requirements for labels; (2) requirements for relabeling due to design changes; (3) the elimination of prior EPA approval of label values; (4) establishment of a standard label format; (5) the elimination of the preliminary Corporate Average Fuel Economy (CAFE) calculation; and (6) a requirement for high odometer test vehicle data adjustment.

III. Discussion of Comments and Resolution of Issues

The following is an abbreviated discussion of the issues raised for each of the proposed amendments:

A. Practical and Legal Leadtime Concerns

In the NPRM and during the public hearing, EPA asked manufacturers to address the potential leadtime problems of implementing the proposed changes beginning in the 1985 model year. EPA also asked how much leadtime would be necessary to implement each of the changes.

In general, most comments addressing the practical leadtime aspects were not very specific. Most commenters simply stated that the proposed changes were too substantive to be implemented beginning in the 1985 model year. GM stated that it would need at least 12 months leadtime, American Motors stated it would need 18 months, and Chrysler said a final rule must be issued by January 1984 in order to implement the changes for 1985. Most of the estimates were not substantiated by any detailed factual information.

Moreover, no manufacturer suggested that adoption of in-use adjustments and inclusion of both city and highway values on the label would be unreasonably costly given sufficient leadtime to allow a smooth transition. Ford was the only company which identified an additional cost associated with implementation of these changes in the 1985 model year instead of waiting until 1986. This anticipated cost was associated with the need to make inconvenient adjustments to an already existing internal plan to revise Ford's computer system so as to coordinate the two changes simultaneously. Aside from Ford's claimed costs, overall industry costs for implementing these changes for 1985 do not appear to be any different

than they would be for implementation in the 1986 model year.

EPA believes that implementation of the in-use adjustment provision in 1985 will not cause any significant leadtime problem. That provision, as discussed below, merely requires a simple mathematical adjustment of fuel economy estimates to more accurately reflect actual fuel economy benefits.

Similarly, no significant leadtime difficulties or costs are expected due to incorporating a highway fuel economy estimate on the label. Manufacturers' concerns about leadtime needed to implement this provision should be minimized by EPA's decision, discussed below, not to require use of new standard label format until the 1986 model year. In order to minimize leadtime problems involved in changing labels to a city/highway format from the current one-number label for the 1985 model year, EPA will allow manufacturers to incorporate the city and highway values using alternative formats of the manufacturer's design subject to EPA advance approval (as is currently done). Alternatively, manufacturers will be allowed to use the final 1986 model year format during the 1985 model year without prior EPA approval. Moreover, this flexibility for the 1985 model year should alleviate some for Ford's coordination concerns (discussed above) and, hence, should minimize its anticipated cost of implementing the requirements for adjusted city and highway values in 1985.

As indicated above, some manufacturers indicated that the standardization of the label format would require a certain amount of advance notice in order to finalize print orders and incorporate a completely new label format into their systems. (Volkswagen of America stated that it would need at least six months leadtime to implement a new required label format.) Others indicated that changes in the minimum data requirements for label calculation could cause some leadtime burden since manufacturers might have to change plans as to which test vehicles to build. Similarly, some manufacturers were unsure of the leadtime required to put in place the proposal for midyear calculation of label values and updating of labels as necessary to account for major design changes. Ford suggested that eliminating the preliminary CAFE calculation provision of the current regulations could affect its CAFE test requirements, especially for trucks, a burden which could be reduced with added leadtime.

Collectively, the administrative burden of assimilating these changes in time for the 1985 model year program could prove unnecessarily difficult or costly for some manufacturers. Accordingly, the requirements for in-use adjustments and for city/highway label values will be effective in 1985, but other changes, which might require additional leadtime, will not become mandatory until 1986.

In view of the above leadtime issues, EPA is splitting this rulemaking action into two parts: the two major and three minor amendments, as described above, effective for the 1985 model year; and the six additional amendments effective for the 1986 model year. Since some manufacturers may prefer to implement some of the 1986 model year changes in the 1985 model year, EPA will allow voluntary implementation of a number of these changes for the 1985 model year. (Certain restrictions apply to the optional implementation of some of these changes, as discussed below.)

The following is a list of each of the proposals with the model year applicability as required in this final rule.

Proposal	Applicability
1. In-use adjustments for labels.	Require beginning in 1985 MY.
2. City/highway label values	Require beginning in 1985 MY.
3. Minimum data requirements for labeling.	Optional for 1985 MY. Require beginning in 1986 MY.
4. Label updating due to design changes.	Optional for 1985 MY. Require beginning in 1986 MY.
5. Midyear label updating	Final action postponed.
6. Elimination of prior EPA approval of label values.	Optional for 1985 MY. Require beginning in 1986 MY.
7. Unique labels	Optional (as proposed). Beginning in 1985 MY.
8. Standard format	Optional for 1985 MY. Require beginning in 1986 MY.
9. Elimination of preliminary CAFE; revised CAFE data requirements.	Optional for 1985 MY. Require beginning in 1986 MY.
10. Test value adjustments for high odometer vehicles.	Require beginning in 1986 MY. Not optional for 1985 MY.
11. Drivetrain separation	Require beginning in 1985 MY.
12. Interior volume measure revisions.	Not being adopted.
13. Reduced reporting requirements.	Implement beginning in 1985 MY.

In addition to practical leadtime issues, manufacturers raised three legal issues related to leadtime: the constraints of the Energy Policy and Conservation Act (EPCA), the requirements of the Energy Tax Act, and the constraints of the Administrative Procedure Act.

In the preamble to the NPRM, EPA stated that the proposed labeling program changes are not affected by the EPCA leadtime requirements, which pertain only to CAFE testing and calculation procedures. EPA further explained that the proposed amendments involving the CAFE data base would not come under the EPCA leadtime requirement. Manufacturers commented that the 12-month leadtime requirement was applicable to the proposed changes to existing CAFE data base requirements. However, since the amendments affecting the CAFE data base are not being implemented until the 1986 model year, the possible EPCA leadtime constraints are no longer an issue.

Manufacturers also commented that the similar 12-month leadtime requirement under the Energy Tax Act is applicable to the proposals for relabeling and new minimum data requirements for labels because these could affect Gas Guzzler Tax determinations under that act. As with the EPCA issue, the Energy Tax Act leadtime requirements are no longer an issue since these amendments will not be implemented until the 1986 model year.

Some manufacturers claimed, without any additional details, that EPA had not adhered to the Administrative Procedure Act. EPA has, in fact, followed the applicable provisions of the Administrative Procedure Act in this rulemaking. EPA finds no basis for comments asserting that implementation of any of the proposed changes for the 1985 model year is in violation of the Administrative Procedure Act.

B. In-Use Adjustments for Label Values

In order to account for differences between EPA laboratory results and actual in-use experience, EPA proposed to calculate fuel economy values according to current procedures and then discount the label values by specified adjustment factors. Specifically, EPA proposed that the adjustments be made by multiplying the city model-type fuel economy value by 0.90 and the highway model-type fuel economy by 0.78.

Commenters addressed two basic areas of concern about this proposal. These areas of concern are the need for adjustments and the data base/data analysis issues.

1. *Comments Addressing the Need for Adjustment Factors.* Most commenters acknowledged the existence of a fuel economy "shortfall." (Shortfall is the term for the discrepancy resulting when EPA estimates exceed average in-use experience.) Several commenters, most clearly Ford and Chrysler, supported the adjustment of label values. However, there was not universal agreement as to the source of the shortfall, and some commenters questioned whether simple adjustments would significantly improve

the situation. For example, GM contended that the adjustments are not needed, stating that its data shows consumers attaining the current EPA estimates on average.

GM's contention that consumers, on average, achieve the current EPA estimate is approximately correct at the current time. However, GM is comparing overall in-use driving (city and highway) with an EPA estimate based only on the city cycle. EPA believes that most consumers view the current EPA estimate as a city estimate, rather than an overall estimate, especially since it is typically combined with a highway estimate in manufacturer advertising. Despite its contention that the current EPA estimate is sufficient to represent overall driving, GM continues to advertise a separate highway estimate, and has stated that it would continue to do so even recognizing that there is a significant shortfall for the highway estimate. Since manufacturers are required to include EPA estimates in any of their fuel economy advertising, EPA's label proposal to include adjusted highway values on labels would substantially correct this problem in advertised highway fuel economy estimates.

Volkswagen of America (VWoA) contended that adjustments to fuel economy results for its vehicles would be unfair because its vehicles incorporate the types of technologies that minimize the shortfall effect. EPA acknowledges that it is possible that any one manufacturer could have a different shortfall than the average of all the others, due to differences in the mix of technology used or to differences in company policies in exploiting some of the flexibilities that exist within the data acquisition and label calculation system. However, EPA rejects the idea of specific manufacturer correction factors because it would be nearly impossible to acquire and maintain the necessary data base to sort out such factors. Also, there could be no means to assure a given company would continue with a consistent internal policy and not change in the future to take advantage of a favorable historical shortfall record.

EPA also acknowledged in the preamble to the NPRM that technology-specific adjustment factors could, at least in theory, be technically more correct than uniform adjustment factors. However, there is insufficient data to derive technology-specific factors with sufficient confidence. Further, given the difficulty, cost, and leadtime required to develop and implement technology-specific adjustment factors it is possible that such factors could become outdated so fast as to provide no better (and in some cases, worse) estimates of expected in-use fuel economy. In the NPRM, EPA specifically requested comments on its technology-specific analysis and on how EPA should pursue the development of technology-specific factors in the future. No commenters questioned EPA's existing analysis or supplied any additional data or analyses supporting technology-specific factors. Nor did any commenters provide suggestions or additional information which could improve EPA's ability to pursue technology-specific factors in the future. Most manufacturers supported EPA's position that uniform shortfall adjustment factors are most appropriate at this time.

Some commenters questioned the need for shortfall adjustments, citing a Government Accounting Office report[1] that said complaints of shortfall have been significantly reduced since EPA went to the one-number label. However, with fuel prices stabilized and with consumers "growing accustomed to" the lack of representativeness in the EPA numbers that has existed for so many years, one would expect complaints to decrease. As referenced in the NPRM, other evidence continues to support the need for shortfall adjustment.

2. *Comments Addressing the Fuel Economy Data Base and Analysis Techniques Used in Developing Adjustment Factors.* Some commenters criticized the data base used in developing the adjustment factors, suggesting that it was too heavily weighted by old technology, did not include some technologies (particularly the new designs which might particularly affect the factors) and under-represented true fuel economy performance. Consequently, they contended the adjustment factors calculated from this data base were unrepresentative, especially for the fleet mix of future model years. These criticisms reflect data base shortcomings that result from practical tradeoffs between the time and cost required for data collection and the need for additional data. EPA does not contend that the data base is perfect for every conceivable analytical use, such as determining separate shortfall adjustment factors for every technology. However, it is adequate to quantify overall average shortfall.

Concerning the specific issue of future model year fleet mix, EPA weighted the data to reflect sales projections of the various technologies expected to be available. No manufacturer suggested that this technique or the specific sales projections used were inappropriate. EPA continues to independently collect data and encourages the continued help of the manufacturers and others in expanding this data base and our knowledge of in-use shortfall.

DOE and GM had the strongest criticisms of the analysis used to arrive at the proposed in-use adjustment factors. DOE had two main concerns with EPA's analysis. First, EPA assumed no improvement in mileage per gallon ("mpg") within a given technology class between 1981 and 1985. Secondly, EPA used a 1985 fleet mix, while DOE perferred a 1987 fleet mix. DOE maintained that in addition to projecting the changing sales mixes of different technology vehicles, EPA should have also projected mpg changes within each technology group. EPA did not do that because projecting the future mpg of different types of vehicles is very speculative, and the additional uncertainty introduced by such mpg projections was judged unacceptable. Similarly projecting 1987 sales (fleet mix) is subject to the same uncertainties, could lead to inappropriate adjustment factors and is unwarranted for this rulemaking.

Regarding the adjustment factors themselves, Chrysler and Ford supported the numbers by indicating they were reasonable. DOE suggested that EPA use a city factor of 0.87 and a highway factor of 0.76. DOE's factors differ from EPA's due to its use of a projected 1987 fleet mix. While EPA does not subscribe to the technique of forecasting the 1987 fleet mix, it is important to note that DOE's independent analysis resulted in factors within 3 percent of EPA's proposed factors. In addition, Renault cited data derived from an AMOCO survey of 34 1982 model year vehicles (as compared to EPA's over 40,000 data points). This limited survey agreed with EPA's suggested adjustment factors in magnitude and direction.

In summary, all data supplied indicate that there is general agreement in the technical community on the direction and magnitude of the shortfall for recent model year vehicles. Moreover, the data and comments received indicate that the proposed factors of 0.9 for city and 0.78 for highway are reasonable.

As a result of the above considerations, EPA has chosen to adopt single city and highway adjustment factors that will apply uniformly to all technologies and all manufacturers.

[1] "Consumers Need More Reliable Automobile Fuel Economy Data," GAO Report CED-81-133, July 28, 1981.

C. Inclusion of City and Highway Information

EPA proposed, in conjunction with the in-use shortfall adjustments, to require the display of both city and highway fuel economy estimates on each fuel economy label. The fuel economy label currently contains a single fuel economy value referred to as the EPA estimated fuel economy. The EPA estimated fuel economy is based on a test procedure which simulates the relatively low speed stop-and-go driving typical in a city or urban environment. Since the current label fuel economy value is based on a city-type test, it does not reflect highway fuel economy performance. This lack of label information about highway fuel economy is significant due to the many improved designs available today (such as overdrive transmission gearing) that mainly affect highway fuel economy, not city fuel economy. In addition, highway estimates are used and emphasized by manufacturers in their advertising even though they do not appear on the label.

EPA had previously included highway fuel economy estimates on labels during the 1975 through 1978 model years. The highway estimate was subsequently dropped from the labels and the former "city" estimate simply retermed as the "EPA estimate." This was done as an interim measure until a solution to the in-use fuel economy shortfall problem could be implemented. With the previously described shortfall adjustments to label values, the separate city and highway estimates will become more valid and useful.

Several commenters favored the retention of a one-number system based on the city cycle test results. The major reason presented for this position was that the current EPA estimate appears to be a good predictor of average overall in-use fuel economy performance. EPA analysis of previous model year data indicates that average in-use fuel economy under combined city and highway driving has coincidentally agreed fairly closely with the industry average EPA city driving estimate. However, changes in typical driving patterns or changes in vehicle design which, for example, disproportionately affect highway fuel economy, as in the case of overdrive transmissions, should make the EPA city estimate less comparable to average in-use fuel economy. Further, manufacturers continue to advertise the highway cycle estimates in conjunction with the EPA estimate. The fact that highway fuel economy performance is a major feature of manufacturer advertising suggests that manfacturers share EPA's belief that consumers are specifically interested in highway fuel economy performance. However, the current highway values used by manufacturers in advertising generally overstate actual non-urban fuel economy by an average of over 20 percent. If the current EPA estimate is additionally interpreted as a city estimate (as EPA believes it is, given current advertising practices and EPA's prior use of city and highway label values), it too will have a shortfall since consumers no longer use this single EPA estimate as an overall (both city and highway driving) estimate of expected fuel economy.

Therefore, since a dual (city/highway) estimate system essentially exists in manufacturer advertising and since consumers have likely become oriented to city/highway estimates by this advertising, EPA concludes that both city and highway estimates should be included on a label and in the *Gas Mileage Guide* for consistency. Furthermore, since a shortfall has been substantiated for each of these modes, adjustment factors must be applied to eliminate the shortfall. This final rule requires manufacturers to use adjusted city and highway estimates on labels beginning in the 1985 model year. EPA is working with FTC on reviewing advertising guidelines to make sure they are consistent with the new label values.

As part of their review of this rulemaking document, the Office of Management and Budget (OMB) expressed a concern that the single city and highway estimates do not inform the consumer of the likely in-use variability about these estimates. OMB recommended that EPA require a statement on the label that would provide an estimate of the typical range of fuel economy performance that is expected for the vehicle due to variations in driving conditions, driving habits, etc. OMB requested that EPA determine a fuel economy range for each label value (city and highway) which would encompass the fuel economy experience of approximately 75 percent of the drivers.

As a result of OMB's concerns, EPA has modified the final rule to require the following statement on each label: "Actual mileage will vary with options, driving conditions, driving habits and vehicle's condition. Results reported to EPA indicate that the majority of vehicles with these estimates will achieve between —— and —— mpg in the city, and between —— and —— mpg on the highway."

The values to be inserted in the above statement will be estimates, determined by EPA, of the ranges of city and highway performance that include approximately 75 percent of drivers' experience. To establish these ranges, EPA has analyzed the in-use variability of model-type data contained in the same data base that was used to establish the in-use adjustment factors. The results of this analysis are contained in a memorandum to the public docket, entitled, "Additional Analyses in Support of the Fuel Economy Rulemaking." EPA determined from the analysis that a 75 percent inclusion range is approximately within 15 percent of a given fuel economy estimate. Therefore, the range values to be inserted into the label statement will be values approximately 15 percent below and above the applicable estimate on the label. (The lower range numbers will be rounded to the next lower integer value, and the upper range numbers will be rounded to the next higher integer value.)

D. Minimum Data Requirements for Labeling

The fuel economy value that appears on the label reflects a sales-weighted average of the many vehicle configurations that can exist within a model type. In order to establish a label value, the current (1984 and earlier model years) minimum data requirement is one test per base level. The current minimum data requirement could be satisfied if the manufacturer tested only an exhaust emission-data vehicle within that base level. Because of the criteria for selection of an exhaust emission-data vehicle, the vehicle selected could be a vehicle configuration with very low sales and with fuel economy unrepresentative of other designs within the base level. Thus, in the current program a vehicle configuration with low sales could have a disproportionate influence on the label value. The new minimum data requirement requires data from the highest selling subconfiguration within the highest selling configuration for each base level. Including data on the high sales designs will improve the representativeness of the label values.

The majority of those commenting on the proposed amendment agreed that the data requirements were reasonable. Toyota stated that this amendment could cause an increase in the number of test vehicles that would have to be processed by both EPA and the manufacturers. However, in Toyota's case, EPA's analysis indicates this amendment would have only required one additional test vehicle for its entire 1983 model year fuel economy program. (This is in line with the projected impact

of this amendment as discussed in the NPRM.) Considering the potential improvement in accuracy for some labels and the general support of this proposal by other manufacturers, EPA finds that such a small potential testing increase is reasonable. As a result, EPA is finalizing the proposed amendment without modification for the 1986 model year and encourages manufacturers to adopt these data requirements voluntarily for the 1985 model year.

E. Label Updating

Currently, label values are not changed after the initial model type label is issued, even though design changes and sales shifts occur during the model year which may make the label value different than the expected fuel economy of the then-current production. EPA proposed two separate label updating mechanisms in the NPRM. A continuous updating mechanism was proposed to reflect certain, very significant design changes made after initial labels have been issued. A midyear update was proposed to account for the fuel economy impact of other design changes and sales shifts which might occur during the first several months of production. In either case, a new label value would have to be determined, but relabeling would only be required if either the city or highway label value decreased by 1.0 mpg or more. Additionally, a manufacturer could relabel optionally if the recalculated label value showed an increase of 1.0 mpg or more.

As proposed, the midyear relabeling mechanism would require a manufacturer to update the sales projections as of December 31, recalculate all label values, and relabel those that decreased by 1.0 mpg or more starting with vehicles produced on or after the following February 1.

In addition, EPA proposed a continuous design change relabeling mechanism that would require a manufacturer to recalculate the affected labels any time one or more of three specific design changes were made to a vehicle within the model type. The design changes (known as running changes) would occur during the production year and after the original model type fuel economy value had been calculated. The three specific design changes were: (1) An axle ratio is added which is numerically 10 percent larger than the largest axle ratio tested, (2) a higher equivalent test weight is added, and (3) the road-load horsepower is increased by 10 percent or more (either cumulative or a single change). If the resultant recalculated city or highway label value decreased by 1.0 mpg or more, a manufacturer would have to relabel the affected model types. These updated labels would have to be installed on the affected model types at the time the running change was implemented.

Many manufacturers generally objected to any form of label updating, and all manufacturers objected to the specific midyear label update. However, some manufacturers supported the continuous design change updating and the Department of Energy and consumer advocates supported both of the proposals. Stated objections to label updating suggested potential consumer confusion due to label changes, lack of need to update label values, and cost increases due to additional testing, administrative processing and advertising changes.

Potential consumer confusion does not seem significant or a major drawback to the proposals. Some consumers might question why a particular model decreased in fuel economy during the year but awareness of such decreases in fuel economy is the primary goal of the label updating proposals. Furthermore, EPA (as stated in the NPRM) does not expect a significant number of labels to change, based upon analyses of previous model years. Supporting this contention, both GM and Ford stated that only about five percent of their labels would likely be affected.

Concerning the need to update labels, Chrysler commented that a 1.0 mpg change in a label value would not influence consumer purchases. GM seemed to support Chrysler's position as it questioned the necessity of decreasing a label value by as little as 1.0 mpg. Neither manufacturer provided any information suggesting that potential buyers are insensitive to such decreases in expected fuel economy performance. EPA continues to view fuel economy decreases of 1.0 mpg or greater as significant and warranting updated label information.

The objections citing additional testing costs were targeted primarily at the midyear label update proposal. Most commenters agreed with EPA's projection that few additional tests would be required to implement the design change label updating proposal. However, many manufacturers indicated that the midyear update would require much additional testing at significant cost. Apparently this extra testing would result from the need to include data on the highest sales configuration within a model type when the label value is recalcualted. Additional testing would be required if the highest selling configuration changed after the initial model type calculation due either to sales shifts or running changes which added a new high sales configuration. As suggested in the NPRM, EPA believes that most of the data required for midyear label value recalculations would be supplied by the manufacturer anyway for its CAFE calculation. Manufacturers did not supply information to substantiate that this would not be the case. Some manufacturers also seemed to suggest that label updating would trigger additional testing to supply voluntary data. EPA does not agree that such additional voluntary tests are necessary results of label updating. In general, comments lacked sufficient information and detail to adequately support the contention by manufacturers that midyear label updating would result in significant additional test burden.

Also concerning the midyear label updating proposal, some manufacturers stated that insufficient time was allowed for updating sales projections, building and testing new vehicles, calculating new label values, getting updated labels into the production stream, and revising advertisements and sales literature to reflect the updated label values. Apparently, these manufacturers believed that this work would be substantial and that all of it would have to be completed between approximately December 31 (the date at which sales projections are to be up-to-date) and the following February 1 (the date revised labels are to be in use). On the contrary, EPA anticipated that much of the work could be accomplished ahead of time, for example, through anticipating the need for additional data and performing the tests prior to December 31. EPA viewed the time between December 31 and February 1 as time allotted for recalculating labels (an insignificant time cost due to the use of computers) and getting updated labels in place for the relatively few cases where the label value decreased by 1.0 mpg or more.

Manufacturers also suggested that the cost of updating advertising and sales literature to reflect revised label values could be high. In preparing the label updating proposals, EPA did not predict the cost of revised advertising or sales literature. EPA did not expect that many labels would have to be updated as a result of either the design change or midyear recalculations. Also, EPA believed that the vast majority of such label updates would be under the control of the manufacturers. To the extent that the cost of updating advertising and sales literature would be a major factor, manufacturers could choose not to implement design changes

which decrease fuel economy or could be less optimistic in their sales projections for the initial label calculation. In the NPRM, EPA specifically requested additional information on the cost of updating advertising and sales literature. However, the only information supplied were examples of costs if major changes were necessary. In some cases, these were apparently worst-case examples of potential costs and actual necessary costs could be much lower. No estimates of expected actual costs were received. Consequently, EPA is still unable to quantify the cost impact of revising advertising and sales literature due to updated label values.

Some manufacturers suggested that the need for the midyear label updating provision was greatly diminished due to the other proposals to improve the continued accuracy of the label values. First, the other label updating proposal would correct for major design changes which occurred throughout the year. Second, the proposal to require, in each label calculation, data on the vehicle configuration with largest projected sales would improve the sales representativeness of labels. This should lessen the chance that sales shifts occurring by midyear would significantly affect the label value calculations. EPA concurs with these observations but, like the manufacturers, is unable to quantify their impact on the need to update labels at midyear.

EPA is not convinced by the manufacturers' arguments that midyear label updating is necessarily a high cost program. However, we are also uncertain of the unique benefits of the midyear label updating given the other improvements to the label program. The benefits are minimized to the extent that manufacturers used improved sales projections when calculating the initial label values and use restraint in implementing design changes (other than those considered in the design change label updating provision) which decrease fuel ecomony. Further, EPA recognizes that some administrative costs to manufacturers in implementing the midyear label updating are fixed regardless of the benefits of that program. Consequently, EPA is choosing not to take final action on the midyear label updating proposal at this time. Rather, EPA will continue to study the impact of the proposal in an attempt to better quantify the total implementation cost and its unique benefits. EPA may choose to finalize the midyear label updating proposal at a later date.

Most of the potential problems associated with the midyear label updating proposal do not apply to the specific design change updating amendment. Changes in axle ratio, road-load horsepower, and test weight are very predictable by the manufacturer. These items are typically within the manufacturer's control and are usually included as part of its longer term product plans. Consequently, the manufacturer can fully consider the testing and advertising burdens prior to implementing these specific design changes. Some manufacturers also supported this design change updating proposal as reasonable and appropriate. Under this provision, manufacturers may also relabel vehicles due to fuel economy *increases*. EPA received no objections to this part of the proposal.

In summary, EPA sees a continued benefit to updating labels to account for significant changes in expected fuel economy. Specifically, the design change updating provision is an effective, low cost mechanism supported by at least some manufacturers. Since these changes typically decrease fuel economy performance significantly, it is most important that consumers be informed of these design changes via updated labels. EPA finds that the design change label updating mechanism proposed in the NPRM will provide more accurate consumer information with a minimum of confusion and cost. Therefore, EPA is finalizing this proposal for implementation beginning in the 1986 model year. A manufacturer may voluntarily implement design updating during the 1985 model year, but must agree to relabel for decreases in fuel economy performance if it is choosing to relabel for improvements in fuel economy performance.

F. Elimination of Prior Approvals for Label Values

EPA proposed to eliminate the current requirement that EPA approve each label value before the manufacturer is allowed to use it. Manufacturers would be responsible for calculating label values and could apply them at their discretion provided they had submitted the label values and supporting calculations to EPA. EPA would retain the function of auditing label calculations at its discretion. EPA believes that in giving manufacturers full responsibility to calculate labels correctly, manufacturers must also be responsible for correcting miscalculated labels.

Those manufacturers commenting on this issue supported the proposed amendment. One non-manufacturer, the Environmental Policy Institute, opposed the amendment on the ground that it would not include "sufficient" penalty for incorrectly labeled vehicles to prevent manufacturers from routinely calculating label values which are incorrectly high. EPA believes that sufficient penalty exists in that EPA will closely review a manufacturer's label calculations and require the manufacturer to relabel all vehicles if the label values had not initially been correctly calculated. This includes correcting the labels on vehicles not delivered to the ultimate purchaser. The total cost of correcting existing labels is an appropriate incentive for manufacturers to provide adequate quality control in their calculations. Further, the label test requirements and calculation procedures are documented and fully understood by the manufacturers. Therefore, manufacturers should have no difficulty in routinely calculating correct label values. As a result, EPA is finalizing the proposed amendment for the 1986 and later model years. Manufacturers may voluntarily use this flexibility in the 1985 model year if they comply with the prerequisites for exercising this responsibility and obtain EPA's concurrence that they may do so.

G. Unique Labels for Fuel Efficient Vehicles

The label value represents a sales-weighted fuel economy value for a model type. Within a model type, a manufacturer may produce a vehicle that is significantly more or less fuel efficient than others in the model type. However, there has been no straightforward mechanism by which a manufacturer can highlight the fuel efficiency of a particular vehicle design within a model type classification. EPA proposed to allow a manufacturer to separate a specific vehicle subconfiguration (or subconfigurations) from a model type classification for the purpose of obtaining a separate label value. These separate subconfigurations must be designated by a car line name that is unique from the model type name, and this name must appear on the label and on each vehicle bearing the label. Further, each subconfiguration within the new classification must be represented by test data and no subconfiguration may be represented in more than one basic engine classification. The resultant separate label values would be individually subject to the Gas Guzzler Tax liability as separate model types currently are.

All commenters supported the intent of this proposal, but one objected to the

requirement to provide fuel economy data representing each included subconfiguration to obtain a unique label. Another manufacturer objected to the requirement for a unique nameplate. EPA finds that the test requirements as proposed are necessary to support the added flexibility of unique, "high visibility," label values. Further, a unique nameplate is necessary for consumer identification of the specific vehicle. Since use of this option is voluntary on the part of the manufacturer, there is no need to delay its implementation due to leadtime considerations. Therefore, EPA is finalizing the amendment as proposed for implementation beginning in the 1985 model year.

H. California and 49-State Labels

Under the current regulations, EPA has the option to require separate label calculations for vehicles sold in the State of California and vehicles sold elsewhere if EPA expects their fuel economies to be significantly different. EPA currently exercises this option. However, EPA has considered whether this practice should continue since recent years' fuel economies for light-duty vehicles and light trucks were not very different between California designs and designs sold in the other states. This specific issue was not a part of the June 9, 1983, NPRM since no change in the regulation is required. However, EPA requested at the July 26, 1983 hearings that manufacturers submit written comments regarding whether or not separate California labels should be retained.

Commenters supported the elimination of separate California labels for automobiles since there is no significant difference in expected fuel economy and since elimination would reduce testing and administrative costs. However, some manufacturers indicated that since the future emission standards for California trucks are expected to be much more stringent than for other trucks, significant fuel economy differences might arise. EPA agrees in principle with these assessments. Therefore, beginning with the 1986 model year, EPA will exercise its discretion not to calculate separate label values for light-duty vehicles designed for use in California. However, EPA will further consider whether to continue requiring separate label values for light trucks designed for use in California. EPA will retain authority under the rules to calculate separate values for California vehicles in the future if significant differences do arise.

I. Clarification and Standardization of the Label Format

EPA proposed to standardize the label format to provide consumers with more readable and eyecatching labels and to eliminate the current need for EPA's review and approval for each manufacturer's label format. EPA offered two possible label formats. One proposed label format would have required exact language and the physical size could be varied only by proportional enlargement or reduction. The other proposed label format emphasized flexibility for both the language contained on the label and the physical size of the label. EPA indicated in the NPRM preamble that the format adopted would be based on the comments received to the NPRM.

Comments indicated that the flexible label format was preferred by most manufacturers because of its practical value as they adjust it to meet their individual specific needs. However, in terms of clarity and visual appeal, the label proposed as a more fixed format was clearly favored. Some manufacturers also offered suggestions as to the sizing requirements to make either proposal more compatible with existing printing equipment.

As a result of the comments, EPA is finalizing a label format that incorporates the qualities of both proposed formats. Much of the presentation quality of the fixed format proposal is being retained but additional flexibility is being allowed the manufacturer to add information relating to the vehicle and its expected fuel economy performance. A sample is depicted in Appendix VIII of the regulations that follow. This new standard format will not be required until the 1986 model year in response to those manufacturers whose comments indicated possible leadtime problems with 1985 model year implementation. However, since city and highway label values will be required (along with associated statements described in Section III C. and O of this preamble) beginning in the 1985 model year, manufacturers will have to amend their current label formats. The specific formats that manufacturers develop under the 1985 model year rules would continue to require prior EPA approval. Alternatively, manufacturers may use the 1986 model year format during the 1985 model year without prior EPA approval.

To ease implementation, EPA will provide "camera ready" copies of acceptable 1986 label formats. These will be available from the Certification Division at EPA's Ann Arbor, Michigan Facility.

J. Elimination of the Preliminary CAFE Calculation Procedure; Revision of CAFE Data Coverage Requirements

EPA proposed to eliminate the preliminary CAFE calculation requirement. In its place, the regulation would require the final CAFE to be calculated using data representing at least 90 percent of sales. (This calculation is used to determine compliance with CAFE standards under EPCA and is not affected by the specific labeling changes discussed above.)

EPA's primary intent in proposing to eliminate the preliminary CAFE was to reduce the administrative burden on both EPA and manufacturers. EPA originally incorporated the preliminary CAFE at the request of manufacturers so that they could have a better idea of how their final CAFE data base might look. Since that time, manufacturers have become familar with the CAFE program and the procedures EPA follows in establishing the CAFE data base. Manufacturers now can (and routinely do) calculate their own preliminary CAFE's for internal planning purposes. In recent years, many manufacturers have agreed that the EPA-required preliminary CAFE calculation is not necessary. In fact, EPA has routinely granted manufacturer requests to delay the required preliminary CAFE submission until final CAFE time as a cost savings measure for the manufacturer. Of course, this delay eliminates the sole intended value of the preliminary CAFE—the early assessment of expected final CAFE.

Most commenter support elimination of the preliminary CAFE and adoption of a 90 percent CAFE coverage as less costly and administratively more flexible. However, Ford indicated in its comments that elimination of the preliminary CAFE would increase its test burden in the light-duty truck category. Because of a large number of truck configurations with relatively small sales volumes, Ford concluded that sales shifts occurring late in the model year could require significant additional testing to reach the 90 percent sales coverage proposed for the final CAFE. EPA anticipated that this final CAFE proposal would, in fact, reduce the costs to the manufacturers since the manufacturer would have much more flexibility in choosing which designs to test.

As supported by our analysis of other manufacturers that are marketing diverse and complete truck product lines similar to Ford's, the total number of

CAFE tests should not change dramatically. Ford may experience some testing increase because in recent years its light-duty truck final CAFE sales coverages have been less than 90 percent. Adoption of the proposal would bring Ford's CAFE sales coverage in line with other manufacturers.

EPA considered retaining the preliminary CAFE provision for optional use by the manufacturers. However, we have concluded that the greater simplicity of the regulations and the cost savings to EPA of eliminating the preliminary CAFE calculation and approval provisions and having only one simple system in place outweigh the potential benefits to one manufacturer of retaining the preliminary CAFE mechanism.

One of the features of the preliminary CAFE calculation procedure was the provision to permit the exemption from supplying supplemental fuel economy data for running changes submitted after the preliminary CAFE was calculated. GM was concerned that the loss of running change exemption [2] benefits would also increase the administrative burden. In fact, a running change exemption is not necessary under the proposed alternative since all manufacturers have similar flexibility to choose which designs should be tested and included in the CAFE data base to meet the 90 percent sales coverage criterion. Thus, a separate running change exemption provision is redundant and unnecessary.

Based upon the potential resource savings for both EPA and manufacturers, and based upon the general support of NPRM commenters, EPA is eliminating the preliminary CAFE beginning with the 1986 model year. Manufacturers may, however, optionally eliminate the preliminary CAFE beginning with the 1985 MY along with complying with the 1986 MY CAFE data requirements.

K. Fuel Economy Adjustments for Test Vehicles With High-Mileage Accumulation

EPA proposed to apply an adjustment factor to test data (for labeling purposes only) from vehicles which exceed 6,200 miles at the test point. For any tests conducted on vehicles at more than 6,200 miles, the fuel economy test results would be adjusted downward to simulate a 4,000-mile test. This change was proposed to eliminate the higher fuel economy bias caused by testing vehicles at mileages significantly higher than the 4,000-mile baseline. This bias is caused by extra vehicle "break-in" at higher mileage accumulations.

None of the commenters specifically addressed the appropriateness of adjusting fuel economy data for this purpose, but some objected to the adjustment equation itself. The Motor Vehicles Manufacturers Association contended that EPA selected the worst case of the three equations under consideration. However, as stated in the support report,[3] EPA selected the simplest representation of the data since none of the representations appeared as the "best fit." This selected linear relationship is in fact the least severe (least change in fuel economy) of the three at 6,200 miles; it is the most severe only at much higher mileages.

Some manufacturers indicated that they would elect to build new test vehicles and incur a resulting substantial cost rather than use the mileage adjustment equation because it was too severe. However, these same manufacturers stated that few vehicles are tested at over 6,200 miles. The EPA data base shows that for the 1982 model year, 14 percent of all vehicles were tested at over 6,200 miles. This seems to indicate that there has not been a general need or desire to exceed a 6,200-mile limit. Therefore, those manufacturers who elect to build new test vehicles rather than exceed 6,200 miles should not incur significantly increased vehicle build costs.

Some manufacturers commented that the adjustment runs counter to the certifications streamlining changes made in 1981 and 1982. EPA finds no basis for these statements. Those rules liberalized the emission-data vehicle mileage accumulation requirements and allowed more vehicle reconfiguration for certification. However, the mileage accumulation liberalizations were adopted primarily to allow manufacturers to test *earlier* than 4,000 miles, thereby saving money in service accumulation. The change allows service accumulation greater than 4,000 miles to accommodate reconfiguration, but EPA adopted the same adjustment equation at that time for emission-data vehicles tested at greater than 6,200 miles as was proposed here for other vehicles used to calculate fuel economy labels. This proposal makes treatment of other fuel economy test results consistent with the rules already adopted for emission-data vehicles.

General Motors suggested that EPA allow the upper mileage accumulation limit to go from 10,000 miles to 15,000 miles, with a suitable adjustment factor. However, such a change was not considered in the NPRM and is beyond the scope of this final rulemaking. EPA would consider a future regulation change to extend the upper mileage limit if manufacturers show specific benefits would be derived. EPA does not see such a general need at this time based upon EPA's analysis of the comments for this proposal.

EPA published a Notice of Proposed Rulemaking on December 21, 1983 (48 FR 56526) which also contains a similar mileage adjustment equation. In that notice, EPA is proposing not only that data used for labeling be adjusted but also that the data for CAFE purposes be adjusted. The amendment being adopted today is appropriate for the fuel economy label program alone. However, in finalizing the December 21, 1983 NPRM, EPA will consider if further changes are warranted to the labeling program mileage adjustment provision.

For the reasons cited above, EPA is adopting the mileage adjustment provisions as proposed beginning in the 1986 model year.

L. Drivetrain Separation

The current definition of "transmission class" does not expicitly distinguish between front- and rear-wheel drive vehicles, automatic transmissions with and without "lockup" torque converters, or transmissions with "overdirve" gear ratios. Each of these features can affect the fuel efficiency of a vehicle. By adding these features to the definition of transmission class, as proposed, separate label value would be determined for those vehicles with similar fuel economy characteristics. This would allow the consumers to consider the fuel economy impact of these design differences.

Although the current definition of "transmission class" does not explicitly separate front- and rear-wheel drive vehicles, EPA has separated these beginning with the 1981 model year, under the provisions of 40 CFR § 600.002–79(a)(22) which provide such discretion. This final rule change makes this policy explicit in the regulations.

Ford included in its comments a suggested change in the language of the definition to provide EPA additional flexibility. The suggested language would allow any of the features in the definition to be judged, by the Administrator, equivalent for fuel economy testing and labeling purposes.

[2] If a manufacturer's preliminary CAFE exceeds the CAFE standard for that model year by 1.0 mpg, the manufacturer is excused from submitting supplementary fuel economy data for running changes. The elimination of the preliminary CAFE also eliminates this exemption.

[3] EPA Report No. EPA/AA/CPSB/81-03, "Effect of Vehicle Mileage on Tested Fuel Economy," February 1981.

The current regulations already allow administrative flexibility to determine distinct designs as equivalent for the purpose of fuel economy testing and labeling. This flexibiltiy and EPA implementation policy are further described in OMS Advisory Circular No. 83, paragraph X. There is no need to broaden the degree of flexibility already provided in the regulations, as now revised.

General Motors expressed a concern that EPA would include locking speeds within the definition of "transmission class." EPA does not plan to incorporate locking speeds within the definition of transmission class at this time. However, if the locking speeds do become sufficiently broad so as to cause a significant difference in fuel economy characteristics, the revised definition would allow EPA to separate vehicles on the basis of locking speeds. This flexibility is both technically and administratively appropriate.

EPA is finalizing this amendment for the 1985 model year as proposed because it will not affect the administrative burden and, for the most part, is already being adhered to in the current program.

M. Interior Volume Changes

EPA proposed three changes to the current method for measuring vehicles to account for (1) the cargo volume of hatchbacks and station wagons, (2) the total front seat leg room, and (3) adding interior volume measurements to the two-seater vehicle classification. These changes would result in new interior volumes for all vehicles and in some cases the vehicles would be in new interior volume classifications.

Only DOE supported the proposed amendments while the six manufacturers who commented on this proposal opposed it. In general, the manufacturers stated that the benefits derived do not justify the effort involved in making the changes. EPA agrees with comments that the internal volume measurement is best used as a comparative tool when considering similar cars; in that regard, interior volume measurement is a competitive issue. Clearly, if a manufacutrer was significantly disadvantaged due to the methodology used in determining interior volume, it would be in that manufacturer's interest to improve the methodology. The comments suggest that, in general, the industry is comfortable with how vehicles' interior volumes are compared. EPA cannot support the proposed changes independent of the manufacturers' views. Therefore, this amendment is not adopted in this rulemaking.

N. Reduced Reporting Requirements

EPA proposed to reduce the manufacturers' requirements for reporting certain information to EPA and to require instead that such information be retained by the manufacturer. This information concerns test vehicle calibrations and maintenance records, and also includes certain interior volume calculation information. Since EPA does not routinely use this information, it no longer needs to be submitted. However, the manufacturer must make these records available to EPA upon request.

Because of the unanimous support for this proposal and because the adoption of this amendment will relieve the manufacturers of some of their existing administrative burden, EPA finalizes this amendment for the 1985 and later model years.

O. Implementation Transition

EPA requested in the NPRM information on how best to introduce adjusted city and highway fuel economy estimates to consumers during the transitional first model year. Manufacturers expressed concern about the possible incorrect impression that actual in-use fuel economy performance has decreased for the same model between the 1984 and 1985 model years.

EPA considered how best to inform the public of the relative differences in fuel economy ratings for the same models during the first year of shortfall adjustments. EPA concluded that one effective method would be to allow the individual manufacturer the option of including an additional explanation on the label, including a comparison to the single fuel economy estimated determined according to the 1984 model year procedures. In their review of this rulemaking, OMB recommended making the inclusion of a specific explanation mandatory and to have this explanation appear for two model years. As a result, the 1985 and 1986 model year labels will be required to contain the following statement: "Under EPA's previous fuel economy rating method which was used prior to the 1985 model year this vehicle would have received a single estimate of —— mpg." The fuel economy value that will appear in the blank will be the unadjusted city value.

To further facilitate explanation of the changes of the system to the public, EPA and DOE are considering including further clarifying information in the *Gas Mileage Guide*. Finally, this issue has been coordinated with the Federal Trade Commission to be assured that if it issues new advertising guidelines for fuel economy information, such guidelines will not preclude reasonable and accurate information to permit relative comparison with previous model year fuel economy values or to explain the changes that have been made to the labeling system. However, EPA considers it to be misleading information to use unadjusted city or highway numbers in advertising in any way which implies such numbers are official government or official EPA fuel economy estimates or which implies such numbers represent expected in-use fuel economy estimates.

Another transition issue involves the early introduction of 1985 model year vehicles before the traditional model year introduction time and before these regulations become effective. Several 1985 model year vehicles have been certified already. In some instances, label values for the affected model types were also calculated using previously applicable rules followed for the 1984 model year (i.e., single number unadjusted label values). EPA's position on this issue is that, in such situations, manufacturers must comply with the rules in this notice for all vehicles produced subsequent to the effective date of these regulations. Delay of the entire regulation for another full model year because of a few early introductions is not warranted.

In order to minimize the administrative burden of the transition to the new labels, however, vehicles already produced prior to the effective date of these rules, even if not sold, will not be required to be relabeled. Further, EPA will allow manufacturers to begin to comply optionally with the new rules during the 30-day period after these rules are published but before they are required to be followed. The mechanisms provided to explain the differences from the 1984 to the 1985 model year labeling systems are also adequate to minimize the confusion associated with the few early 1985 models that are subject to changed labels. The changes, while needing some explanation, will not be inconsistent. Some early 1985 models will simply have an estimate for overall driving while the remaining ones will have two estimates—one for city driving and one for highway driving.

P. Technical Amendment

This final rule also contains a technical amendment to regulatory language addressing the inclusion of electric vehicle data in the CAFE data base (July 24, 1980; 45 FR 49256). The preamble to that rule (45 FR 49257) states that the rule would provide an exemption from complying with the

provision pertaining to electric vehicles for manufacturers of gasoline-fueled and/or diesel-powered vehicles with worldwide sales less than 10,000 units. The regulation language, however, did not provide this exemption. This oversight is corrected in this rulemaking.

IV. Public Participation

A public hearing was held on July 26, 1983, in Ann Arbor, Michigan. No private citizens or special interest groups chose to participate. Five manufacturers from the regulated industry participated.

The comment period was to have closed on September 1, 1983, but, at the request of the manufacturers, was extended to September 16, 1983. A transcript of the hearing is contained in the docket for this rulemaking.

V. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will result in an annual effect on the economy of less than $100 million. Also, this regulation should not result in increased costs or prices for consumers, industries, or others, nor should it have adverse effects on competition, employment, investment, or productivity.

This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection in the docket for this rulemaking: Docket No. A–80–32. The EPA's Central Docket Section (A–130) is located at 401 M Street, SW., Washington, D.C. 20460.

VI. Reporting and Recordkeeping Requirements

Information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2000–0390.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory flexibility analysis. The revision of the fuel economy regulations established by this rulemaking should not significantly increase and may reduce the burden, including costs of compliance with fuel economy requirements, for the industry as a whole, as well as for small entities. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 600

Electric power, Energy conservation, Gasoline, Labeling, Motor vehicles, Reporting and recordkeeping requirements, Administrative practice and procedure, Fuel economy.

Dated: March 30, 1984.

William D. Ruckelshaus,

Administrator.

PART 600—[AMENDED]

For the reasons set forth in the preamble, 40 CFR Part 600 is amended as follows:

1. The authority for Part 600 reads as follows:

Authority: Title III of the Energy Policy and Conservation Act of 1975, Pub. L. 94–163, 89 Stat. 871, Title IV of the National Energy Conservation Policy Act of 1978, Pub. L. 95–619, 92 Stat. 3206.

2. A new § 600.001–81 is added to read as follows:

§ 600.001–81 General applicability.

(a) The provisions of this subpart are applicable to 1981 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of this subpart, except with regard to the requirements in those sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

3. A new § 600.301–81 is added to read as follows:

§ 600.301–81 General applicability.

(a) The provisions of this subpart are applicable to 1981 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of this subpart, except with regard to the requirements in those sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

4. A new § 600.501–81 is added to read as follows:

§ 600.501–81 General applicability.

(a) The provisions of this subpart are applicable to 1981 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of ths subpart, except with regard to the requirements in those sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

5. A new § 600.001–85 is added to read as follows:

§ 600.001–85 General applicability.

(a) Except as provided in paragraph (c) of this section, the provisions of this subpart are applicable to 1985 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of this subpart, except with regard to the requirements in those sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

(c) Subject to prior approval by the Administrator, manufacturers may optionally implement, for 1985 model year vehicles provisions of this subpart that are applicable to 1986 and later model year vehicles.

6. A new § 600.002–85, which is identical to § 600.002–81 except for revised paragraphs (a) (4), (8), (15), (22), (24), and (27), and added paragraphs (a) (50) and (51), is added to read as follows:

§ 600.002–85 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part I of Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Secretary" means the Secretary of Transportation or his authorized representative.

(4) "Automobile" means:

(i) Any four-wheel vehicle propelled by a combustion engine using onboard fuel or by an electric motor drawing current from rechargeable storage batteries or other portable energy storage devices (rechargeable using energy from a source off the vehicle such as residential electric service),

(ii) Which is manufactured primarily for use on public streets, roads, or highways (except any vehicle operated on a rail or rails),

(iii) Which is rated at not more than 8,500 pounds gross vehicle weight, which has a curb weight of not more than 6,000 pounds, and which has a basic vehicle frontal area of not more than 45 square feet, or

(iv) Is a type of vehicle which the Secretary determines is substantially used for the same purposes.

(5) "Passenger Automobile" means any automobile which the Secretary determines is manufactured primarily for use in the transportation of no more than 10 individuals.

(6) "Model Year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term "model year" means the calendar year.

(7) "Federal Emission Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Part 86 for the respective model year, which are used to derive city fuel economy data for gasoline-fueled or diesel vehicles.

(8) "Federal Highway Fuel Economy Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Subpart B of this part and which are used to derive highway fuel economy data for gasoline-fueled or diesel vehicles.

(9) "Fuel" means (i) gasoline and diesel fuel for gasoline- or diesel-powered automobiles or (ii) electrical energy for electrically powered automobiles.

(10) "Fuel Economy" means (i) the average number of miles traveled by an automobile or group of automobiles per gallon of gasoline or diesel fuel consumed as computed in § 600.113 or § 600.207 or (ii) the equivalent petroleum-based fuel economy for an electrically powered automobile as determined by the Secretary of Energy.

(11) "City Fuel Economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal emission test procedure.

(12) "Highway Fuel Economy" means the fuel economy determined by operating a vehicle (or vehicles) over the driving schedule in the Federal highway fuel economy test procedure.

(13) "Combined Fuel Economy" means the fuel economy value determined for a vehicle (or vehicles) by harmonically averaging the city and highway fuel economy values, weighted 0.35 and 0.45 respectively, for gasoline-fueled and diesel vehicles. For electric vehicles, the term means the equivalent petroleum-based fuel economy value as determined by the calculation procedure promulgated by the Secretary of Energy.

(14) "Average Fuel Economy" means the unique fuel economy value as computed under § 600.510 for a specific class of automobiles produced by a manufacturer that is subject to average fuel economy standards.

(15) "Certification Vehicle" means a vehicle which is selected under § 86.084–24(b)(1) and used to determine compliance under § 86.084–30 for issuance of an original certificate of conformity.

(16) "Fuel Economy Data Vehicle" means a vehicle used for the purpose of determining fuel economy which is not a certification vehicle.

(17) "Label" means a sticker that contains fuel economy information and is affixed to new automobiles in accordance with subpart D of this part.

(18) "Dealer" means a person who resides or is located in the United States, any territory of the United States, or the District of Columbia and who is engaged in the sale or distribution of new automobiles to the ultimate purchaser.

(19) "Model Type" means a unique combination of car line, basic engine, and transmission class.

(20) "Car Line" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Car line does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats, or windows, except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different car lines than passenger cars.

(21) "Basic Engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator. For electric vehicles, basic engine means a unique combination of manufacturer and electric traction motor, motor controller, battery configuration, electrical charging system, energy storage device, and other components as specified by the Administrator.

(22) "Transmission Class" means a group of transmissions having the following common features: Basic transmission type (manual, automatic, or semi-automatic); number of forward gears used in fuel economy testing (e.g., manual four-speed, three-speed automatic, two-speed semi-automatic); drive system (e.g., front wheel drive, rear wheel drive; four wheel drive), type of overdrive, if applicable (e.g., final gear ratio less than 1.00, separate overdrive unit); torque converter type, if applicable (e.g., non-lockup, lockup, variable ratio); and other transmission characteristics that may be determined to be significant by the Administrator.

(23) "Base Level" means a unique combination of basic engine inertia weight class and transmission class.

(24) "Vehicle Configuration" means a unique combination of basic engine, engine code, inertia weight class, transmission configuration, and axle ratio within a base level.

(25) "Engine Code" means, for gasoline-fueled and diesel vehicles, a unique combination, within an engine-system combination (as defined in Part 86 of this chapter), of displacement, carburetor (or fuel injection) calibration, distributor calibration, choke calibration, auxiliary emission control devices, and other engine and emission control system components specified by the Administrator. For electric vehicles, engine code means a unique combination of manufacturer, electric traction motor, motor configuration, motor controller, and energy storage device.

(26) "Inertia Weight Class" means the class, which is a group of test weights, into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions or Part 86.

(27) "Transmission Configuration" means the Administrator may further subdivide within a transmission class if the Administrator determines that sufficient fuel economy differences exist. Features such as gear ratios, torque converter multiplication ratio, stall speed, shift calibration, or shift speed may be used to further distinquish characteristics within a transmission class.

(28) "Axle Ratio" means the number of times the input shaft to the differential (or equivalent) turns for each turn of the drive wheels.

(29) "Auxiliary Emission Control Device (AECD)" means an element of design as defined in Part 86.

(30) "Rounded" means a number shortened to the specific number of decimal places in accordance with the "Round Off Method" specified in ASTM E 29–67.

(31) "Calibration" means the set of specifications, including tolerances, unique to a particular design, version of application of a component, or component assembly capable of functionally describing its operation over its working range.

(32) "Production Volume" means, for a domestic manufacturer, the number of vehicle units domestically produced in a particular model year but not exported, and for a foreign manufacturer, means the number of vehicle units of a particular model imported into the United States.

(33) "Body Style" means a level of commonality in vehicle construction as defined by number of doors and roof treatment (e.g., sedan, convertible, fastback, hatchback) and number of seats (i.e., front, second, or third seat) requiring seat belts pursuant to National Highway Traffic Safety Administration safety regulations. Station wagons and light trucks are identified as car lines.

(34) "Hatchback" means a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window.

(35) "Pickup Truck" means a nonpassenger automobile which has a passenger compartment and an open cargo bed.

(36) "Station Wagon" means a passenger automobile with an extended roof line to increase cargo or passenger capacity, cargo compartment open to the passenger compartment, a tailgate, and one or more rear seats readily removed or folded to facilitate cargo carrying.

(37) "Gross Vehicle Weight Rating" means the manufacturer's gross weight rating for the individual vehicle.

(38) "Ultimate Consumer" means the first person who purchases an automobile for purposes other than resale or leases an automobile.

(39) "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) "Base Vehicle" means the lowest priced version of each body style that makes up a car line.

(41) "Nonpassenger Automobile" means an automobile that is not a passenger automobile, as defined by the Secretary of Transportation at 49 CFR 523.5.

(42) "Four-Wheel-Drive General Utility Vehicle" means a four-wheel-drive, general purpose automobile capable of off-highway operation that has a wheelbase not more than 110 inches and that has a body shape similar to a 1977 Jeep CJ–5 or CJ–7, or the 1977 Toyota Land Cruiser, as defined by the Secretary of Transportation at 49 CFR 553.4.

(43) "Test Weight" means the weight within an inertia weight class which is used in the dynamometer testing of a vehicle, and which is based on its loaded vehicle weight in accordance with the provisions of Part 86.

(44) "Secretary of Energy" means the Secretary of Energy or his authorized representative.

(45) "Electric Traction Motor" means an electrically powered motor which provides tractive energy to the wheels of a vehicle.

(46) "Energy Storage Device" means a rechargeable means of storing tractive energy on board a vehicle such as storage batteries or a flywheel.

(47) "Motor Controller" means an electronic or electro-mechanical device to convert energy stored in an energy storage device into a form suitable to power the traction motor.

(48) "Electrical Charging System" means a device to convert 60Hz alternating electric current, as commonly available in residential electric service in the United States, to a proper form for recharging the energy storage device.

(49) "Battery Configuration" means the electrochemical type, voltage, capacity (in Watt-hours at the c/3 rate), and physical characteristics of the battery used as the tractive energy storage device.

(50) "Drive System" is determined by the number and location of drive axles (e.g., front wheel drive, rear wheel drive, four wheel drive) and any other feature of the drive system if the Administrator determines that such other features may result in a fuel economy difference.

(51) "Subconfiguration" means a unique combination, within a vehicle configuration of equivalent test weight, road-load horsepower, and any other operational characteristics or parameters which the Administrator determines may significantly affect fuel economy within a vehicle configuration.

7. A new § 600.006–85 is added to read as follows:

§ 600.006–85 Data and Information Requirements for Fuel Economy Vehicles.

(a) For certification vehicles with less than 10,000 miles, the requirements of this section are considered to have been met except as noted in paragraph (c) of this section.

(b)(1) The manufacturer shall submit the following information for each fuel economy data vehicle:

(i) A description of the vehicle, exhaust emission test results, applicable deterioration factors, and adjusted exhaust emission levels.

(ii) A statement of the origin of the vehicle including total mileage accumulation, and modifications (if any) from the vehicle configuration in which the mileage was accumulated. (For modifications requiring advance approval by the Administrator, the name of the Administrator's representative approving the modification and date of approval are required.) If the vehicle was previously used for testing for compliance with Part 86 of this chapter or previously accepted by the Administrator as a fuel economy data vehicle in a different configuration, the requirements of this paragraph may be satisfied by reference to the vehicle number and previous configuration.

(iii) A statement that the fuel economy data vehicle, with respect to which data are submitted:

(A) Has been tested in accordance with applicable test procedures,

(B) Is, to the best of the manufacturer's knowledge, representative of the vehicle configuration listed, and

(C) Is in compliance with applicable exhaust emission standards.

(2) The manufacturer shall retain the following information for each fuel economy data vehicle, and make it available to the Administrator upon request:

(i) A description of all maintenance to engine, emission control system, or fuel system components performed within 2,000 miles prior to fuel economy testing.

(ii) In the case of electric vehicles, the manufacturer shall retain:

(A) A copy of calibrations for engine, fuel system, and emission control devices, showing the calibration of the actual components on the test vehicle as well as the design tolerances, and

(B) A description of all maintenance to electric motor, motor controller, battery configuration, or other components performed within 2,000 miles prior to fuel economy testing.

(iii) If calibrations for components in paragraph (b) of this section were submitted previously as part of the description of another vehicle or configuration, the original submittal may be referenced.

(c) The manufacturer shall submit the following fuel economy data:

(1) For vehicles tested to meet the requirements of Part 86 (other than those chosen in accordance with § 86.084–24 (c) and (h)), the city and highway fuel economy results from all tests on that vehicle, and the test results adjusted in accordance with paragraph (g) of this section.

(2) For each fuel economy data vehicle, all individual test results (excluding results of invalid and zero mile tests) and, if the data are used in fuel economy label calculations, the test results adjusted in accordance with paragraph (g) of this section.

(d) The manufacturer shall submit an indication of the intended purpose of the data (e.g., data required by the general labeling program or voluntarily submitted for specific labeling).

(e) In lieu of submitting actual data from a test vehicle, a manufacturer may provide fuel economy values derived from an analytical expression, e.g., regression analysis. In order for fuel economy values derived from analytical methods to be accepted, the expression (form and coefficients) must have been approved by the Administrator.

(f) If, in conducting tests required or authorized by this part, the manufacturer utilizes procedures, equipment, or facilities not described in the Application for Certification required in § 86.084–21, the manufacturer shall submit to the Administrator a description of such procedures, equipment, and facilities.

(g) (1) For test data generated by certification vehicles selected under 40 CFR 86.082–24(b) with engine/system combinations at more than 6,200 miles (10,000 kilometers) accumulation, the manufacturer shall adjust the test data using either of the following equations:

Equation A

$$FE_{4,000_{mi}} = FE_T[0.969 + 0.842 \times 10^{-3}(m)]^{-1}$$

Equation B

$$FE_{6,400_{km}} = FE_T\,[0.969 + 0.523 \times 10^{-3}\,(km)]^{-1}$$

Where:

$FE_{4,000_{mi}}$ = Fuel economy data adjusted to 4,000-mile test point

$FE_{6,400_{km}}$ = Fuel economy data adjusted to 6,400-kilometer test point

FE_T = Tested fuel economy value

mi = Miles accumulation at test point

km = Kilometer accumulation at test point

(2) For vehicles with 6,200 miles (10,000 kilometers) or less accumulated, the manufacturer is not required to adjust the data.

(Approved by the Office of Management and Budget under control number 2000–0390)

8. A new § 600.009–85, which is identical to § 600.009–77 except for revised paragraph (a), is added to read as follows:

§ 200.009–85 Hearings on acceptance of test data.

(a)(1) If the Administrator rejects the following:

(i) The use of a manufacturer's fuel economy data vehicle, in accordance with § 600.008 (e) or (g), or

(ii) The use of fuel economy data, in accordance with § 600.008 (c), or (f), or

(iii) The determination of a vehicle configuration, in accordance with § 600.206(a), or

(iv) The identification of a car line, in accordance with § 600.002(a)(20), or

(v) The fuel economy label values determined by the manufacturer under § 600.312(a), then

(2)(i) The manufacturer may, within 30 days following receipt of notification of rejection, request a hearing on the Administrator's decision.

(ii) The request must be in writing, signed by an authorized representative of the manufacturer, and include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objection.

(iii) If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue(s), the Administrator shall provide the manufacturer with an opportunity to request a hearing in accordance with the provisions of this section with respect to such issue(s).

(b)(1) After granting a request for a hearing under paragraph (a) of this section the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing has not been fixed by the Administrator under paragraph (a) of this section the hearing will be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(c)(1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer shall establish a hearing file. The file consists of the notice issued by the Administrator under paragraph (a) of this section together with any accompanying material, the request for a hearing and the supporting data submitted therewith and correspondence and other data material to the hearing.

(2) The hearing file will be available for inspection by the applicant at the office of the Presiding Officer.

(d) A manufacturer may appear in person, or may be represented by counsel or by any other duly authorized representative.

(e)(1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by the Presiding Officer to consider the following:

(i) Simplification and clarification of the issue;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(f)(1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of 19 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witnesses may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authority, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and will be reported as part of the record unless otherwise ordered.

(g)(1) The Presiding Officer will make an initial decision which shall include written findings and conclusions and the reasons or basis therefore on all material issues of fact, law or discretion presented on the record. The findings, conclusions, and written decisions shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator will have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administration will include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law or discretion presented on the appeal or considered in the review.

(h) A manufacturer's use of any fuel economy data which the manufacturer challenges pursuant to this section shall not constitute final acceptance by the manufacturer nor prejudice the manufacturer in the exercise of any appeal pursuant to this section challenging such fuel economy data.

9. A new § 600.101–85 is added to read as follows:

§ 600.101–85 General applicability.

(a) Except as provided in paragraph (b) of this section, the provisions of this subpart are applicable to 1985 and later model year gasoline-fueled and diesel automobiles.

(b) Subject to prior approval by the Administrator, manufacturers may optionally implement, for 1985 model year vehicles, provisions of this subpart that are applicable to 1986 and later model year vehicles.

10. A new § 600.201–85 is added to read as follows:

§ 600.201–85 General applicability.

(a) Except as provided in paragraph (b) of this section, the provisions of this subpart are applicable to 1985 and later model year gasoline-fueled and diesel automobiles.

(b) Subject to prior approval by the Administrator, manufacturers may optionally implement, for 1985 model year vehicles, provisions of this subpart that are applicable to 1986 and later model year vehicles.

11. A new § 600.209–85 is added to read as follows:

§ 600.209–85 Calculation of fuel economy values for labeling.

(a) For the purposes of calculating the EPA fuel economy estimates for labeling, the manufacturer shall multiply the city model type fuel economy value determined in § 600.207(b), by 0.90, rounding the product to the nearest whole mpg, and

(b) Multiply the highway model type fuel economy value determined in § 600.207(b) by 0.78, rounding to the nearest whole mpg.

(c) If the resulting city value determined in paragraph (a) of this section exceeds the resulting highway value determined in paragraph (b) of this section, the city value will be set equal to the highway value.

(d) The combined fuel economy for a model type, to be used in determining annual fuel costs under § 600.308(c), is determined by harmonically averaging the unrounded city and highway values, determined in § 600.209 (a) and (b), weighted 0.55 and 0.45 respectively, and rounded to the nearest whole mpg. (An example of this calculation procedure appears in Appendix II of this Part).

12. A new § 600.301–85 is added to read as follows:

§ 600.301–85 General applicability.

(a) Except as provided in paragraph (c) of this section, the provisions of this subpart are applicable to 1985 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of this subpart, except with regard to the requirements in those sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

(c) Subject to prior approval by the Administrator, manufacturers may optionally implement, for 1985 model year vehicles, provisions of this subpart that are applicable to 1986 and later model year vehicles.

13. A new § 600.306–85, which is identical to § 600.306–81 except for revised paragraphs (a)(4)(i), (a)(4)(ii), (b), (b)(1), and (b)(2), is added to read as follows:

§ 600.306–85 Labeling requirements.

(a) Prior to being offered for sale, each manufacturer shall affix or cause to be affixed and each dealer shall maintain or cause to be maintained on each automobile:

(1) A general fuel economy label as described in § 600.308 or;

(2) A specific label, as described in § 600.309, for those low altitude automobiles manufactured or imported before the date that occurs 15 days after general labels are approved for the manufacturer.

(i) If the manufacturer elects to use a specific label within a model type (as defined in § 600.002(a)(19)), he shall also have approved specific labels affixed on all automobiles within this model type, except on those automobiles manufactured or imported before the date that labels are required to bear range values as required by paragraph (b) of this section, or determined by the Administrator, or as permitted under § 600.310.

(ii) If a manufacturer elects to change from general to specific labels or vice versa within a model type, the manufacturer shall, within five calendar days, initiate or discontinue as applicable, the use of specific labels on all vehicles within a model type at all facilities where labels are affixed.

(3) For any vehicle for which a specific label is requested which has a fuel economy value at or below the minimum tax-free value, the following statement must appear on the specific label:

[Manufacturer's name] may have to pay IRS a Gas Guzzler Tax on this vehicle because of its low fuel economy unless the combination of mpg data from similar vehicles exceeds the minimum tax-free mpg.

(4)(i) At the time the general fuel economy values are determined for a model type, a manufacturer shall, except as provided in paragraph (a)(4)(ii) of this section, relabel, or cause to be relabeled, vehicles which:

(A) Have not been delivered to the ultimate purchaser, and

(B) Have a combined model type fuel economy value, as determined in § 600.207, of 0.1 mpg or more below the lowest fuel economy value at which a Gas Guzzler Tax of $0 is to be assessed.

(ii) The manufacturer has the option of relabeling vehicles during the first five working days after the general label values are known.

(iii) For those vehicle model types which have been issued a specific label and are subsequently found to have tax liability, the manufacturer is responsible for the tax liability regardless of whether the vehicle has been sold or not or whether the vehicle has been relabeled or not.

(b) The manufacturer shall include the current ranges of fuel economy values of comparable automobiles (as described in § 600.314) in the label of each vehicle manufactured more than fifteen calendar days after the current ranges are made available by the Administrator.

(1) Automobiles manufactured before a date sixteen calendar days after the initial label ranges are made available under § 600.314(d)(1) may be labeled without the ranges of fuel economy values of comparable automobiles. In place of the ranges of fuel economy of comparable automobiles, the label must contain a statement indicating that, as of the date or production or importation of this automobile, the ranges of fuel economy values of comparable automobiles were not available.

(2) Automobiles manufactured more than fifteen calendar days after the initial or updated label ranges are made available under § 600.314(d) (1) or (2) will be labeled with the current ranges of fuel economy of comparable automobiles as approved for that general or specific label.

(c) The fuel economy label must be readily visible from the exterior of the automobile and remain affixed until the time the automobile is delivered to the actual custody and possession of the ultimate consumer.

(1) The fuel economy label must be located on the windshield, or on a side window. If the window is not large enough to contain both the Automobile Information Disclosure Act label and the fuel economy label, the manufacturer shall have the fuel economy label affixed on another window and as close as possible to the Automobile Information Disclosure Act label.

(2) The fuel economy label information may be included with the Automobile Information Disclosure Act label if the prominence and legibility of the fuel economy label is maintained. For this purpose, all fuel economy label information must be placed on a separate section of the label and may not be intermixed with the Automobile Information Disclosure Act label information.

(3) The manufacturer shall have the fuel economy label affixed in a manner so that appearance and legibility are maintained until after the vehicle is delivered to the ultimate consumer.

(Approved by the Office of Management and Budget under control number 2000–0390)

14. A new § 600.307–85 is added to read as follows:

§ 600.307–85 Format and contents of labels.

(a) Fuel economy labels must be rectangular in shape, contain the EPA and DOE logos and the title "Fuel Economy Rating," be printed in a color which contrasts with the paper color and in a type size that is easily readable and be large enough to allow inclusion of all required information.

(b) Fuel economy labels must contain the following information:

(1) The word "Model" or "Vehicle," as appropriate, for general and specific fuel economy labels, respectively, followed by the description of the labeled vehicle as described in the manner and degree of detail specified in §600.308(a) or § 600.309(a), as applicable.

(2) A statement: "The estimated mileage for this vehicle is to be used for comparison. Your own mileage may vary depending upon options, driving conditions, your own driving habits, and the vehicle's operating condition."

(3) A statement: "The range of estimated fuel economy values of other (vehicle class as determined by the Administrator pursuant to § 600.315) cars (vehicles or trucks)) was from —— to —— mpg in the city and from —— to —— mpg on the highway as of (date). Consult the *Gas Mileage Guide* for further information."

(i) The fuel economy ranges required by this paragraph are calculated and supplied to the manufacturer by the Administrator in accordance with § 600.311.

(ii) If the fuel economy ranges for other models has not been supplied by the manufacturer to the Administrator at the time a vehicle is to be labeled or within the time constraints permitted by § 600.306(b), the statement required by paragraph (b)(3) of this section shall be replaced by the statement: "A range of MPG numbers for other models of similar size was not available when this car (vehicle or truck) was labeled."

(4) The phrase "annual fuel cost:" followed by the annual fuel cost and the phrase "based on —— mpg, miles per year, —— cents (dollars)/gallon."

(i) The annual fuel cost, average miles driven per year, and cost of fuel will be calculated and supplied by the Administrator in accordance with § 600.308(c) for general labels or § 600.309(c), for specific labels, as applicable.

(ii) The mpg used in determining annual fuel cost is that given in § 600.209(d).

(5) The paragraph "Ask the dealer for the FREE 1985 GAS MILEAGE GUIDE to compare the Estimated MPG of other cars (trucks or vehicles). It will tell you how to use these numbers."

(6) For general labels for passenger automobile model types requiring a tax statement under § 600.513, the phrase "A Gas Guzzler Tax: of $ has been imposed on this vehicle. The tax is administered by the Internal Revenue Service. See the *Gas Mileage Guide* for details."

(i) The tax value required by this paragraph shall be that inducated in § 600.513 and shall be based on the combined fuel economy value for the model type calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg.

(7) (i) A statement: "Results reported to EPA indicate that the majority of vehicles with these estimates will achieve between —— and —— mpg in the city, and between —— and —— mpg on the highway."

(ii) The range values for this statement are to be calculated in accordance with the following:

(A) The lower range values shall be determined by multiplying the city and highway estimates by 0.85, than rounding to the next lower integer value.

(B) The upper range values shall be determined by multiplying the city and highway estimates by 1.15 and rounding to the next higher integer value.

(8) The statement: "Under EPA's previous fuel economy program, used prior to the 1985 model year, this vehicle would have received a single estimate of [insert unadjusted city value, rounded to the nearest whole mpg, as determined in § 600.207(b)] mpg."

(C) The fuel economy estimate required by paragraph (b)(2) of this section shall be highlighted by being in type no less than four times the size of the next largest print on the label (excluding the title and logos) or by such other means as may be approved by the Administrator.

(d) The applicable statements described in § 600.307–86 may be substituted for the statements required in this section.

(Approved by the Office of Management and Budget under control number 2000–0390)

15. A new § 600.308–85, which is identical to § 600.308–79 except for revisions to paragraphs (b), (c), and (c)(iii), is added to read as follows:

§ 600.308–85 General Label contents.

(a) The vehicle description to be used on general labels shall include the following:

(1) Model year;

(2) Vehicle car line;

(3) Engine displacement, in cubic inches, cubic centimeters, or liters

whichever is consistent with the customary description of that engine;

(4) Number of engine cylinders;

(5) Transmission class;

(6) Catalyst usage, if necessary to distinguish otherwise identical model type;

(7) Fuel metering system, including number of carburetor barrels, if applicable; and

(8) California emission control system usage, if applicable and if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states.

(b) The fuel economy estimates to be used on general labels shall be the city and highway values, labeled accordingly, calculated in § 600.209.

(c) The annual fuel cost estimate for operating an automobile included in a model type shall be computed by using values for the fuel cost per gallon and average annual mileage, predetermined by the Administrator, and the fuel economy determined in § 600.209(d).

(1) The annual fuel cost estimate for a model type is computed by multiplying:

(i) Fuel cost per gallon expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile of the fuel economy value determined in § 600.209(d) for a model type.

(2) The product computed in (c)(1) and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on general labels for the model type.

(Approved by the Office of Management and Budget under control number 2060-0390)

16. A new § 600.309-85, which is identical to § 600.309-79 except for the revisions to paragraphs (b), (c), and (c)(1)(iii), is added to read as follows:

§ 600.309-85 Specific label contents.

(a) The vehicle description to be used on specific labels shall include the following:

(1) Model year;

(2) Vehicle car line;

(3) Engine displacement, in cubic centimeters, or liters, whichever is consistent with the customary description of that engine;

(4) Number of engine cylinders;

(5) Transmission class;

(6) Catalyst usage, if so equipped;

(7) Fuel metering system, including number of carburetor barrels, if applicable;

(8) Inertia weight class;

(9) Axle ratio;

(10) Other engine or vehicle parameters; and

(11) California emission control system usage, where applicable and if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states.

(b) The fuel economy estimates to be used on specific labels shall be the city and highway values, labeled accordingly, calculated in § 600.209.

(c) The annual fuel cost estimate for operating an automobile included in a vehicle configuration will be computed by using values for the fuel cost per gallon and average annual mileage and the fuel economy determined in paragraph (c)(1)(iii) of this section.

(1) The annual fuel cost estimate for a vehicle configuration is computed by multiplying:

(i) Fuel cost per gallon expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the fuel economy value determined in § 600.206(a)(2)(iii) for a vehicle configuration (city and highway values will be adjusted by the factors in § 600.209 (a) and (b) and combined according to § 600.209(d) before the calculation).

(2) The product computed in (c)(1) of this section and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on specific labels for that vehicle configuration.

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17. A new § 600.311-85, which is identical to § 600.311-79 except for the revisions to paragraphs (a), (a)(1), (a)(4), and (b), is added to read as follows:

§ 600.311-85 Range of fuel economy for comparable automobiles.

(a) The Administrator will determine the city and highway ranges of fuel economy values for each class of comparable automobiles.

(1) The range of fuel economy values within a class is the maximum and the minimum values of the respective city and the highway values for all general labels as determined in § 600.308(b) regardless of manufacturer.

(2) If the Administrator determines that automobiles intended for sale in California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will compute separate ranges of fuel economy values for each class of automobiles for California and for the other states.

(3) For high altitude vehicles determined under § 600.310, both general and specific labels will contain the range of comparable fuel economy computed in this paragraph.

(4) The ranges of comparable fuel economy values for a class of automobiles is derived from the latest available data approved by the Administrator for that class of automobiles.

(b) The manufacturer shall include the ranges of fuel economy values determined by the Administrator in paragraph (a) of this section, on each label affixed to an automobile within that class except as provided in § 600.306.

(Approved by the Office of Management and Budget under control number 2060-0390)

18. A new § 600.501-85 is added to read as follows:

§ 600.501-85 General applicability.

(a) Except as provided in paragraph (c) of this section, the provisions of this subpart are applicable to 1985 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of this subpart, except with regard to the requirements in those sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

(c) Subject to prior approval by the Administrator, manufacturers may optionally implement, for 1985 model year vehicles, provisions of this subpart that are applicable to 1986 and later model year vehicles.

19. A new § 600.001-86, which is identical to § 600.001-85 except that paragraph (a) has been revised and paragraph (c) has been deleted, is added to read as follows:

§ 600.001-86 General applicability.

(a) The provisions of this subpart are applicable to 1986 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of this subpart, except with regard to the requirements in those

sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

20. A new § 600.006–86, which is identical to § 600.006–85 except that paragraph (g) has been revised, is added to read as follows:

§ 600.006–86 Data and information requirements for fuel economy vehicles.

(a) For certification vehicles with less than 10,000 miles, the requirements of this section are considered to have been met except as noted in paragraph (c) of this section.

(b)(1) The manufacturer shall submit the following information for each fuel economy data vehicle:

(i) A description of the vehicle, exhaust emission test results, applicable deterioration factors, and adjusted exhaust emission levels.

(ii) A statement of the origin of the vehicle including total mileage accumulation, and modifications (if any) from the vehicle configuration in which the mileage was accumulated. (For modifications requiring advance approval by the Administrator, the name of the Administrator's representative approving the modification and date of approval are required.) If the vehicle was previously used for testing for compliance with part 86 of this chapter or previously accepted by the Administrator as a fuel economy data vehicle in a different configuration, the requirements of this paragraph may be satisfied by reference to the vehicle number and previous configuration.

(iii) A statement that the fuel economy data vehicle, with respect to which data are submitted:

(A) Has been tested in accordance with applicable test procedures,

(B) Is, to the best of the manufacturer's knowledge, representative of the vehicle configuration listed, and

(C) Is in compliance with the applicable exhaust emission standards.

(2) The manufacturer shall retain the following information for each fuel economy data vehicle, and make it available to the Administrator upon request:

(i) A description of all maintenance to engine, emission control system, or fuel system components performed within 2,000 miles prior to fuel economy testing.

(ii) In the case of electric vehicles, the manufacturer should provide a description of all maintenance to electric motor, motor controller, battery configuration, or other components performed within 2,000 miles prior to fuel economy testing.

(iii) A copy of calibrations for engine, fuel system, and emission control devices, showing the calibration of the actual components on the test vehicle as well as the design tolerances.

(iv) In the case of electric vehicles, the manufacturer should provide a copy of calibrations for the electric motor, motor controller, battery configuration, or other components on the test vehicle as well as the design tolerances.

(v) If calibrations for components in paragraph (b) of this section were submitted previously as part of the description of another vehicle or configuration, the original submittal may be referenced.

(c) The manufacturer shall submit the following fuel economy data:

(1) For vehicles tested to meet the requirements of Part 86 (other than those chosen in accordance with § 86.084–24 (c) and (h)), the city and highway fuel economy results from all tests on that vehicle, and the test results adjusted in accordance with paragraph (g) of this section.

(2) For each fuel economy data vehicle, all individual test results (excluding results of invalid and zero mile tests) and, if the data are used in fuel economy label calculations, the test results adjusted in accordance with paragraph (g) of this section.

(d) The manufacturer shall submit an indication of the intended purpose of the data (e.g., data required by the general labeling program or voluntarily submitted for specific labeling).

(e) In lieu of submitting actual data from a test vehicle, a manufacturer may provide fuel economy values derived from an analytical expression, e.g., regression analysis. In order for fuel economy values derived from analytical methods to be accepted, the expression (form and coefficients) must have been approved by the Administrator.

(f) If, in conducting tests required or authorized by this part, the manufacturer utilizes procedures, equipment, or facilities not described in the Application for Certification required in § 86.084–21, the manufacturer shall submit to the Administrator a description of such procedures, equipment, and facilities.

(g)(1) The manufacturer shall adjust all test data used for fuel economy label calculations generated by vehicles with engine-system combinations with more than 6,200 miles (10,000 kilometers) using either of the following equations:

Equation A

$$FE_{4,000\ mi} = FE_T\ [0.969 + 0.842 \times 10^{-5}(m)]^{-1}$$

Equation B

$$FE_{6,400km} = FE_T[0.969 = 0.523 \times 10^{-5}(km)]^{-1}$$

Where:

$FE_{4,000mi}$ = Fuel economy data adjusted to 4,000-mile test point

$FE_{6,400km}$ = Fuel economy data adjusted to 6,400-kilometer test point

FE_T = Tested fuel economy value

km = Kilometer accumulation at test point

mi = Miles accumulation at test point

(2) For vehicles with 6,200 miles (10,000 kilometers) or less accumulated, the manufacturer is not required to adjust the data.

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21. A new § 600.010–86, which is identical to § 600.010–77 except for revised paragraph (a) and new paragraphs (c) and (d), is added to read as follows:

§ 600.010–86 Vehicle test requirements and minimum data requirements.

(a) For each certification vehicle defined in this part, and for each vehicle tested according to the emission test procedures in Part 86 for addition of a model after certification § 86.079–32 or, approval of a running change (§§ 86.079–33 and 86.082–34):

(1) The manufacturer shall generate city fuel economy data by testing according to the applicable procedures.

(2) The manufacturer shall generate highway fuel economy data by:

(i) Testing according to applicable procedures, or

(ii) Using an analytical technique, as described in § 600.006(e).

(3) The data generated in paragraphs (a) (1) and (2) of this section, shall be submitted to the Administrator in combination with other data for the vehicle required to be submitted in Part 86.

(b) For each fuel economy data vehicle:

(1) The manufacturer shall generate city fuel economy data and highway fuel economy data by:

(i) Testing according to applicable procedures, or

(ii) Use of an analytical technique as described in § 600.006(e), in addition to testing (e.g., city fuel economy data by testing, highway fuel economy data by analytical technique).

(2) The data generated shall be submitted to the Administrator according to the procedures in § 600.006.

(c) *Minimum data requirements for labeling:* (1) In order to establish fuel economy label values under § 600.306, the manufacturer shall use only test data accepted in accordance with

§ 600.008 (b) and (f) and meeting the minimum coverage of:

(i) Data required for emission certification under §§ 86.084–24, 86.079–32, 86.079–33, and 86.082–34,

(ii) Data from the highest projected model year sales subconfiguration within the highest projected model year sales configuration for each base level, and

(iii) For additional model types established under §600.207(a)(2), data from each subconfiguration included within the model type.

(2) For the purpose of recalculating fuel economy label values as required under §600.314(b), the manufacturer shall submit data required under § 600.507.

(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 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(a).

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22. A new § 600.101–86, which is identical to § 600.101–85 except that paragraph (a) has been revised and paragraph (b) has been deleted, is added to read as follows:

§ 600.101–86 General applicability.

(a) The provisions of this subpart are applicable to 1986 and later model year gasoline-fueled and diesel automobiles.

23. A new § 600.201–86, which is identical to § 600.201–85 except that paragraph (a) has been revised and paragraph (b) has been deleted, is added to read as follows:

§ 600.201–86 General applicability.

(a) The provisions of this subpart are applicable to 1986 and later model year gasoline-fueled and diesel automobiles.

24. A new § 600.206–86, which is identical to § 600.206–81 except for revised paragraphs (a)(1), (a)(2)(i), (a)(2)(ii), and (a) (2)(iii), is added to read as follows:

§ 600.206–86 Calculation and use of fuel economy values for gasoline-fueled, diesel, and electric vehicle configurations.

(a) Fuel economy values determined for each vehicle, and as approved in § 600.008 (b) or (f), are used to determine city, highway, and combined fuel economy values for each vehicle configuration (as determined by the Administrator) for which data are available.

(1) If only one set of city and highway fuel economy values is accepted for a vehicle configuration, these values, rounded to the nearest tenth of a mile per gallon, comprise the city and highway fuel economy values for that configuration.

(2) If more than one city or highway fuel economy value is accepted for a vehicle configuration:

(i) All data shall be grouped according to the subconfiguration for which the data were generated using sales projections supplied in accordance with § 600.207(a)(3).

(ii) Within each group of data, all values are harmonically averaged and rounded to the nearest 0.0001 of a mile per gallon in order to determine city and highway fuel economy values for each subconfiguration at which the vehicle configuration was tested.

(iii) All city fuel economy values and all highway fuel economy values calculated in paragraph (a)(2)(ii) of this section are (separately for city and highway) averaged in proportion to the sales fraction (rounded to the nearest 0.0001) within the vehicle configuration (as provided to the Administrator by the manufacturer) of vehicles of each tested subconfiguration. The resultant values, rounded to the nearest 0.0001 mile per gallon, are the city and highway fuel economy values for the vehicle configuration.

(3) The combined fuel economy value for a vehicle configuration is calculated by harmonically averaging the city and highway fuel economy values, as determined in § 600.206(a) (1) or (2), weighted 0.55 and 0.45 respectively, and rounded to the nearest 0.0001 mile per gallon. A sample of this calculation appears in Appendix II to this part.

(b) If only one equivalent petroleum-based fuel economy value exists for an electric configuration, that value, rounded to the nearest tenth of a mile per gallon, will comprise the petroleum-based fuel economy for that configuration.

(c) If more than one equivalent petroleum-based fuel economy value exists for an electric vehicle configuration, all values for that vehicle configuration are harmonically averaged and rounded to the nearest 0.0001 mile per gallon for that configuration.

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25. A new § 600.207–86, which is identical to § 600.207–80 except for revised and renumbered paragraphs (a)(2) through (a)(6) is added to read as follows:

§ 600.207–86 Calculation of fuel economy values for a model type.

(a) Fuel economy values for a base level are calculated from vehicle configuration fuel economy values as determined in § 600.206(a) for low-altitude tests.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each base level for vehicles intended for sale in California and for each base level for vehicles intended for sale in the rest of the states.

(2) In order to highlight the fuel efficiency of certain designs otherwise included within a model type, a manufacturer may wish to subdivide a model type into one or more additional model types. This is accomplished by separating subconfigurations from an existing base level and placing them into a new base level. The new base level is identical to the existing base level except that it shall be considered, for the purposes of this paragraph, as containing a new basic engine. The manufacturer will be permitted to designate such new basic engines and base level(s) if:

(i) Each additional model type resulting from division of another model type has a unique car line name and that name appears on the label and on the vehicle bearing that label,

(ii) The subconfigurations included in the new base levels are not included in any other base level which differs only by basic engine (i.e., they are not included in the calculation of the original base level fuel economy values), and

(iii) All subconfigurations within the new base level are represented by test data in accordance with § 600.010(c)(ii).

(3) The manufacturer shall supply total model year sales projections for each car line/vehicle subconfiguration combination.

(i) Sales projections must be supplied separately for each car line-vehicle subconfiguration intended for sale in California and each car line/vehicle subconfiguration intended for sale in the rest of the states if required by the Administrator under paragraph (a)(1) of this section.

(ii) Manufacturers shall update sales projections at the time any model type value is calculated for a label value.

(iii) The requirements of this paragraph may be satisfied by providing an amended application for certification, as described in § 86.084–21.

(4) Vehicle configuration fuel economy values, as determined in § 600.206(a), are grouped according to base level.

(i) If only one vehicle configuration within a base level has been tested, the fuel economy value from that vehicle configuration constitutes the fuel economy for that base level.

(ii) If more than one vehicle configuration within a base level has been tested, the vehicle configuration fuel economy values are harmonically averaged in proportion to the respective sales fraction (rounded to the nearest 0.0001) of each vehicle configuration and the resultant fuel economy value rounded to the nearest 0.0001 mile per gallon.

(5) The procedure specified in § 600.207(a) will be repeated for each base level, thus establishing city, highway, and combined fuel economy values for each base level.

(6) For the purposes of calculating a base level fuel economy value, if the only vehicle configuration(s) within the base level are vehicle configuration(s) which are intended for sale at high altitude, the Administrator may use fuel economy data from tests conducted on these vehicle configuration(s) at high altitude to calculate the fuel economy for the base level.

(b) For each model type, as determined by the Administrator, a city, highway, and combined fuel economy value will be calculated by using the projected sales and fuel economy values for each base level within the model type.

(1) If the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will calculate fuel economy values for each model type for vehicles intended for sale in California and for each model type for vehicles intended for sale in the rest of the states.

(2) The sales fraction for each base level is calculated by dividing the projected sales of the base level within the model type by the projected sales of the model type and rounding the quotient to the nearest 0.0001.

(3) The city fuel economy values of the model type (calculated to the nearest 0.0001 mpg) are determined by dividing one by a sum of terms, each of which corresponds to a base level and which is a fraction determined by dividing:

(i) The sales fraction of a base level, by

(ii) The city fuel economy value for the respective base level.

(4) The procedure specified in paragraph (b)(3) of this section is repeated in an analogous manner to determine the highway and combined fuel economy values for the model type.

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26. A new § 600.301-86, which is identical to § 600.301-85 except that paragraph (a) has been revised and paragraph (c) has been deleted, is added to read as follows:

§ 600.301-86 General applicability.

(a) The provisions of this subpart are applicable to 1986 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of this subpart, except with regard to the requirements in those sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

27. A new § 600.306-86, which is identical to § 600.306-85 except for revised paragraphs (a)(1), (a)(2), (b)(1), (b)(2), (c), (c)(2), is added to read as follows:

§ 600.306-86 Labeling requirements.

(a) Prior to being offered for sale, each manufacturer shall affix or cause to be affixed and each dealer shall maintain or cause to be maintained on each automobile:

(1) A general fuel economy label (initial, or updated as required in § 600.314) as described in § 600.307(b)(3) or:

(2) A specific label, as described in § 600.307(b)(4), for those automobiles manufactured or imported before the date that occurs 15 days after general labels have been determined by the manufacturer.

(i) If the manufacturer elects to use a specific label within a model type (as defined in § 600.002(a)(19)), he shall also affix specific labels on all automobiles within this model type, except on those automobiles manufactured or imported before the date that labels are required to bear range values as required by paragraph (b) of this section, or determined by the Administrator, or as permitted under § 600.310.

(ii) If a manufacturer elects to change from general to specific labels or vice versa within a model type, the manufacturer shall, within five calendar days, initiate or discontinue as applicable, the use of specific labels on all vehicles within a model type at all facilities where labels are affixed.

(3) For any vehicle for which a specific label is requested which has a fuel economy value at or below the minimum tax-free value, the following statement must appear on the specific label:

[Manufacturer's name] may have to pay IRS a Gas Guzzler Tax on this vehicle because of its low fuel economy unless the combination of mpg data from similar vehicles exceeds the minimum tax-free mpg.

(4)(i) At the time a general fuel economy value is determined for a model type, a manufacturer shall, except as provided in paragraph (a)(4)(ii) of this section, relabel, or cause to be relabeled, vehicles which:

(A) Have not been delivered to the ultimate purchaser, and

(B) Have a combined model type fuel economy value of 0.1 mpg or more below the lowest fuel economy value at which a Gas Guzzler Tax of $0 is to be assessed.

(ii) The manufacturer has the option of relabeling vehicles during the first five working days after the general label value is known.

(iii) For those vehicle model types which have been issued a specific label and are subsequently found to have tax liability, the manufacturer is responsible for the tax liability regardless of whether the vehicle has been sold or not or whether the vehicle has been relabeled or not.

(b) The manufacturer shall include the current range of fuel economy of comparable automobiles (as described in §§ 600.311 and 600.314) in the label of each vehicle manufactured or imported more than 15 calendar days after the current range is made available by the Administrator.

(1) Automobiles manufactured before a date 16 or more calendar days after the initial label range is made available under § 600.311(c) may be labeled without a range of fuel economy of comparable automobiles. In place of the range of fuel economy of comparable automobiles, the label must contain a statement indicating that, as of the date of production or importation of this automobile, no range of fuel economy of comparable automobiles was available.

(2) Automobiles manufactured more than 15 calendar days after the initial or updated label range is made available under § 600.311 (c) or (d) will be labeled with the current range of fuel economy of comparable automobiles as approved for that label.

(c) The fuel economy label must be readily visible from the exterior of the automobile and remain affixed until the

time the automobile is delivered to the ultimate consumer.

(1) The fuel economy label must be located on a side window. If the window is not large enough to contain both the Automobile Information Disclosure Act label and the fuel economy label, the manufacturer shall have the fuel economy label affixed on another window and as close as possible to the Automobile Information Disclosure Act label.

(2) The fuel economy label information may be included with the Automobile Information Disclosure Act label if the prominence and legibility of the fuel economy label is maintained. For this purpose, all fuel economy label information must be placed on a separate section in the lower or right hand portion of the label and may not be intermixed with the Automobile Information Disclosure Act label information, except for vehicle descriptions as noted in § 600.307(b)(5).

(3) The manufacturer shall have the fuel economy label affixed in such a manner that appearance and legibility are maintained until after the vehicle is delivered to the ultimate consumer.

(Approved by the Office of Management and Budget under control number 2060-0390)

28. A new § 600.307-86 is added to read as follows:

§ 600.307-86 Fuel economy label format requirements.

(a)(1) Fuel economy labels must be:

(i) Rectangular in shape with a minimum height of 4.5 inches (114 mm) and a minimum length of 7.0 inches (178 mm) as depicted in Appendix VIII.

(ii) Printed in a color which contrasts with the paper color.

(iii) The label shall have a contrasting border at least 0.25 inches (6.4 mm) wide.

(2) The top 50 percent of the total fuel economy label area shall contain only the following information and in the same format depicted in the label format in Appendix VIII:

(i) The titles "CITY MPG" and "HIGHWAY MPG", centered over the applicable fuel economy estimates, in bold caps 10 points in size.

(ii) The city and highway fuel economy estimates calculated in accordance with § 600.209 (a) and (b).

(iii) The fuel pump logo, and

(iv) The phrase "Compare this [vehicle/truck] to others in the FREE GAS MILEAGE GUIDE available at the dealer," shall be "dropped-out" of the top border as depicted in the sample label format in Appendix VIII. The phrase shall be in lower case in a medium condensed type except for the words "FREE GAS MILEAGE GUIDE" which shall be capitalized in a bold condensed type and no smaller than 12 points in size.

(3) The bottom 50 percent of the label shall contain the following information:

(i) The [vehicle/truck] description, as described in paragraph (c) or (d) of this section, when applicable.

(ii)(A) A statement: "Actual mileage will vary with options, driving conditions, driving habits and [vehicle's/truck's] condition. Results reported to EPA indicate that the majority of [vehicle/truck] with these estimates will achieve between —— and —— mpg in the city, and between —— and —— mpg on the highway."

(B) The range values for this statement are to be calculated in accordance with the following:

(*1*) The lower range values shall be determined by multiplying the city and highway estimates by 0.85, then rounding to the next lower integer value.

(*2*) The upper range values shall be determined by multiplying the city and highway estimates by 1.15 and rounding to the next higher integer value.

(iii)(A) A statement: "For comparison shopping, all [vehicles/trucks] classified as [insert category as determined in § 600.511] have been issued mileage estimates ranging from —— to —— city and —— to —— mpg highway." (The range values are those determined in accordance with § 600.311.) Or, when applicable,

(B) A statement: "A range of fuel economy values for other [insert category as determined in § 600.511] was not available when this [vehicle/truck] was labeled."

(iv)(A) The statement: "Estimated Annual Fuel Cost:" followed by the appropriate value calculated in accordance with paragraph (g) or (h) of this section.

(B) At the manufacturers option, it may include the fuel cost and the annual mileage interval used to determine the annual fuel cost.

(v) For the 1986 model year only, the statement: "Under EPA's previous fuel economy program, used prior to the 1985 model, year this [vehicle/truck] would have received a single estimate of [insert unadjusted city value, rounded to the nearest whole mpg, as determined in § 600.207(b)] mpg."

(vi)(A) The Gas Guzzler statement, when applicable (see paragraph (f) of this section), must be centered on a separate line between the bottom border and the Estimated Annual Fuel Cost statements. The words "Gas Guzzler" shall be highlighted.

(B) The type size will be the largest type size in the bottom 50 percent of the label.

(4) The maximum type size for the statements located in the lower 50 percent of the label shall not exceed 10 points in size.

(b)(1) The city mpg number shall be displayed on the left and the highway mpg number displayed on the right.

(2) Each mpg digit shall measure at least 0.35 inches by 0.6 inches (9 x 15 mm) in width and height respectively.

(3) The strike width of each mpg digit shall be at least 0.075 inches (1.9 mm).

(4)(i) MPG digits not printed as a single character shall be made of a matrix of smaller characters. This matrix shall be at least four characters wide by five characters high (with the exception of three characters wide for the numerical character denoting "one".)

(ii) The small characters shall be made of successive overstrikes to form a reasonably dark and continuous line that approximates a single large character.

(5)(i) If manufacturer chooses to enlarge the label from that depicted in Appendix VIII the logo and the fuel economy label values, including the titles "CITY MPG" and "HIGHWAY MPG", must be increased in the same proportion.

(ii) The area bounded by the bottom of the fuel pump logo to the top of the border must continue to represent at least 50 percent of the available label area.

(c) The vehicle description on general labels will be as follows:

(1) Model year;

(2) Vehicle car line;

(3) Engine displacement, in cubic inches, cubic centi-meters, or liters whichever is consistent with the customary description of that engine;

(4) Number of engine cylinders or rotors;

(5) Additional engine description, if necessary to distinguish otherwise identical model types, as approved by the Administrator;

(6) Fuel metering system, including number of carburetor barrels, if applicable;

(7) Transmission class;

(8) Catalyst usage, if necessary to distinguish otherwise identical model types; and

(9) California emission control system usage, if applicable and if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other states.

(d) The vehicle description on specific labels will be as follows:

(1) The descriptions of paragraph (b) of this section;

(2) Interia weight class;

(3) Axle ratio; and

(4) Other engine or vehicle parameters, if approved by the Administrator.

(e) Where the fuel economy label is incorporated with the pricing information sticker, the applicable vehicle description, as set forth in paragraph (c) or (d) of this section, does not have to be repeated if the information is readily found on the Motor Vehicle Information and Cost Savings Act label.

(f)(1) For fuel economy labels of passenger automobile model types requiring a tax statement under § 600.513, the phrase "* * * Gas Guzzler Tax: $——— * * *".

(2) The tax value required by this paragraph shall be based on the combined fuel economy value for the model type calculated in accordance with § 600.207 and rounded to the nearest 0.1 mpg. Adjustments in accordance with § 600.209 will not be used to determine the tax liability.

(g) General Labels: The annual fuel cost estimate for operating an automobile included in a model type shall be computed by using values for the fuel cost per gallon and average annual mileage, predetermined by the Administrator, and the fuel economy determined in § 600.209(d).

(1) The annual fuel cost estimate for a model type is computed by multiplying:

(i) Fuel cost per gallon expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest, 1,000 miles per year, by

(iii) The average, rounded to the nearest 0.0001 gallons per mile of the fuel economy value determined in § 600.209(d) for a model type.

(2) The product computed in (g)(1) and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on general labels for the model type.

(h) Specific Labels: The annual fuel cost estimate for operating an automobile included in a vehicle configuration will be computed by using values for the fuel cost per gallon and average annual mileage and the fuel economy determined in paragraph (h)(1)(iii) of this section.

(1) The annual fuel cost estimate for vehicle configuration is computed by multiplying:

(i) Fuel cost per gallon expressed in dollars to the nearest 0.05 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest 1,000 miles per year, by

(iii) The inverse, rounded to the nearest 0.0001 gallons per mile, of the fuel economy value determined in § 600.206(a)(2)(iii) for a vehicle configuration (city and highway values will be adjusted by the factors in § 600.209 (a) and (b) and combined according to § 600.209(d) before the calculation).

(2) The product computed in (h)(1) of this section and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on specific labels for that vehicle configuration.

(Approved by the Office of Management and Budget under control number 2060-0390)

§ 600.308-86 [Reserved]

29. Section 600.308-86 is reserved.

§ 600.309-86 [Reserved]

30. Section 600.309-86 is reserved.

31. A new § 600.310-86 is added to read as follows:

§ 600.310-86 Labeling of high altitude vehicles.

(a) The Administrator may approve, at the request of the manufacturer, specific labels for high altitude vehicles according to § 600.306.

(b) A high altitude vehicle may be labeled with a general or specific label by a manufacturer without regard to the type of label (general or specific) used at low altitude for that model type or vehicle configuration.

32. A new § 600.311-86 is added to read as follows:

§ 600.311-86 Range of fuel economy for comparable automobiles.

(a) The Administrator will determine the range of city and the range of highway fuel economy values for each class of comparable automobiles.

(b) The range of city fuel economy values within a class is the maximum city and the minimum city fuel economy value for all general labels as determined in § 600.307(b)(3) regardless of manufacturer. The range of highway values is determined in the same manner.

(c) The initial range will be made available on a date specified by the Administrator that closely coincides to the date of the general model introduction for the industry.

(d) The ranges of comparable fuel economy values for a class of automobiles will be updated periodically and will be derived from the latest available label values reported to the Administrator for that class of automobiles.

(e) If the Administrator determines that automobiles intended for sale in California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will compute separate ranges of fuel economy values for each class of automobiles for California and for the other states.

(f) For high altitude vehicles determined under § 600.310, both general and specific labels will contain the range of comparable fuel economy computed in this section.

(g) The manufacturer shall include the appropriate range of fuel economy determined by the Administrator in paragraph (c) or (d) of this section, on each label affixed to an automobile within that class except as provided in § 600.306(b)(7)(ii).

(Approved by the Office of Management and Budget under control number 2060-0390)

33. A new § 600.312-86 is added to read as follows:

§ 600.312-86 Labeling, reporting, and recordkeeping; Administrator reviews.

(a)(1) The manufacturer shall determine label values (general and specific) using the procedures specified in Subparts C and D of this part and submit the label values, and the data sufficient to calculate the label values, to the Administrator according to the timetable specified in § 600.313.

(2) Except under paragraph (a)(4) of this section, the manufacturer is not required to obtain Administrator approval of label values prior to the introduction of vehicles for sale.

(3) The label values that the manufacturer calculates and submits under paragraph (a)(1) of this section shall constitute the EPA fuel economy estimates unless the Administrator determines that they are not calculated according to the procedures specified in Subpart C and D of this part.

(4) If required by the Administrator, the manufacturer shall obtain Administrator approval of label values prior to affixing labels to vehicles.

(5)(i) If at any time during the model year, any label values are determined not to be calculated according to the procedures specified in Subparts C and D of this part, the Administrator shall notify the manufacturer in writing.

(ii) If the Administrator has sufficient information to enable calculation of the correct label values, this notification shall specify the correct label values which constitute the EPA Fuel Economy Estimates.

(iii) If additional information is required, the Administrator shall request

such additional information and a recalculation of the label value by the manufacturer.

(6) If the Administrator determines revised label values under paragraph (a)(5) of this section are lower than the label values calculated by the manufacturer, the manufacturer shall affix the revised labels to all affected new vehicles which are unsold beginning no later than 15 calendar days after the date of notification by the Administrator.

(b)(1) The manufacturer is responsible for affixing vehicle labels that meet the format and content requirements of this subpart.

(2) The manufacturer shall retain for examination, at the Administrator's discretion, typical label formats representing all information required on the manufacturer's fuel economy labels. The information shall include the text of all required and voluntary information as well as the size and color of print and paper, spacing, and location of all printed information. Where the fuel economy label is incorporated with the Automobile Information Disclosure Act label, the above requirements pertain to those sections of the label concerning fuel economy labeling information.

(3) If the Administrator determines upon examination of record that the label format or content do not meet the requirements of this subpart, the Administrator may:

(i) Require the manufacturer to make specific changes in subsequent labels, and

(ii) Require such changes to be implemented on a reasonable timetable, but no sooner than 15 days from the date of notification to the manufacturer.

(Approved by the Office of Management and Budget under control number 2000–0390)

34. A new § 600.313–86 is added to read as follows:

§ 600.313–86 Timetable for data and information submittal and review.

(a) A manufacturer shall submit to the Administrator fuel economy label values and sufficient information to determine fuel economy label values within the following time constraints (except for manufacturers designated under § 600.312(a)(4) who shall submit the information no later than thirty calendar days prior to the date the model type [vehicle] is initially offered for sale.

(1) For initial general label values, no later than five working days before the date that the model type is initially offered for sale;

(2) For specific label values, no later than five working days before any vehicles are offered for sale.

(3) For model types having label values updated because of running changes (as required under § 600.314(b)), the submission must be made at least five working days before the date of implementation of the running change.

(b) A manufacturer may not proceed with any label calculation until the data from each vehicle used in such calculation satisfies the requirements of § 600.008.

(c) If the Administrator has waived any testing in paragraph (b) of this section and subsequently finds that the decision to waive testing was based on an incorrect data submission or that a fuel economy offset exists (based on subsequent testing of that manufacturer's product line), the Administrator may require confirmation of the data generated by any such waived vehicle.

(Approved by the Office of Management and Budget under control number 2000–0390)

35. A new § 600.314–86 is added to read as follows:

§ 600.314–86 Updating label values, annual fuel cost, Gas Guzzler Tax, and range of fuel economies for comparable automobiles.

(a) The label values established in § 600.312 shall remain in effect for the model year unless updated in accordance with paragraph (b) of this section.

(b)(1) The manufacturer shall recalculate the model type fuel economy values for any model type containing base levels affected by running changes specified in §600.507(a).

(2) For separate model types created in § 600.207(a)(2), the manufacturer shall recalculate the model type values for any additions or deletions of subconfigurations to the model type. Minimum data requirements specified in §600.010(c)(1)(ii) shall be met prior to recalculation.

(3) Label value recalculations shall be performed as follows:

(i) The manufacturer shall use updated total model year projected sales for label value recalculations.

(ii) All model year data approved by the Administrator at the time of the recalculation for that model type shall be included in the recalculation.

(iii) Using the additional data under paragraph (b) of this section, the manufacturer shall calculate new model type city and highway values in accordance with §§ 600.207 and 600.209 except that the values shall be rounded to the nearest 0.1 mpg.

(iv) The existing label values, calculated in accordance with §§ 600.207 and 600.209, shall be rounded to the nearest 0.1 mpg.

(4)(i) If the recalculated city or highway fuel economy value in paragraph (b)(3)(iii) of this section is less than the respective city or highway value in paragraph (b)(3)(iv) of this section by 1.0 mpg or more, the manufacturer shall affix labels with the recalculated model type values (rounded to whole mpg's) to all new vehicles of that model type beginning on the day of implementation of the running change.

(ii) If the recalculated city or highway fuel economy value in paragraph (b)(3)(iii) of this section is higher than the respective city or highway value in paragraph (b)(3)(iv) of this section by 1.0 mpg or more, then the manufacturer has the option to use the recalculated values for labeling the entire model type beginning on the day of implementation of the running change.

(c) For fuel economy labels updated using recalculated fuel economy values determined in accordance with paragraph (b) of this section, the manufacturer shall concurrently update all other label information (e.g., the annual fuel cost, range of comparable vehicles and the applicability of the Gas Guzzler Tax if required by Department of Treasury regulations).

(d) The Administrator shall periodically update the range of fuel economies of comparable automobiles based upon all label data supplied to the Administrator.

(Approved by the Office of Management and Budget under control number 2000–0390)

36. A new § 600.501–86, which is identical to § 600.501–85 except that paragraph (a) has been revised and paragraph (c) has been deleted, is added to read as follows:

§ 600.501–86 General applicability.

(a) The provisions of this subpart are applicable to 1986 and later model year gasoline-fueled and diesel automobiles.

(b)(1) Manufacturers that produce only electric vehicles are exempt from the requirement of this subpart, except with regard to the requirements in those sections pertaining specifically to electric vehicles.

(2) Manufacturers with worldwide production (excluding electric vehicle production) of less than 10,000 gasoline-fueled and/or diesel powered passenger automobiles and light trucks may optionally comply with the electric vehicle requirements in this Subpart.

§ 600.506–86 [Reserved]

37. Section 600.506–86 is reserved.

38. A new § 600.507–86 is added to read as follows:

§ 600.507-86 Running change data requirements.

(a) Except as specified in paragraph (d) of this section, the manufacturer shall submit additional running change fuel economy data as specified in paragraph (b) of this section for any running change approved or implemented under §§ 86.079-32, 86.079-33, or 86.082-34 which:

(1) Creates a new base level or,

(2) Affects an existing base level by:

(i) Adding an axle ratio which is 10 percent (or more) larger than the largest axle ratio tested.

(ii) Increasing the road-load horsepower for a subconfiguration by 10 percent or more for the individual running change or, when considered cumulative, since original certification (for each cumulative 10 percent increase using the originally certified road-load horsepower as a base).

(iii) Adding a new subconfiguration by increasing the equivalent test weight for any previously tested subconfiguration in the base level.

(b)(1) The additional running change fuel economy data requirement in paragraph (a) of this section will be determined based on the sales of the vehicle configurations in the created or affected base level(s) as updated at the time of running change approval.

(2) Within each newly created base level as specified in paragraph (a)(1) of this section, the manufacturer shall submit data from the highest projected total model year sales subconfiguration within the highest projected total model year sales configuration in the base level.

(3) Within each base level affected by a running change as specified in paragraph (a)(2) of this section, fuel economy data shall be submitted for the vehicle configuration created or affected by the running change which has the highest total model year sales. The test vehicle shall be of the subconfiguration created by the running change which has the highest projected total model year sales within the applicable vehicle configuration.

(c) The manufacturer shall submit the fuel economy data required by this section to the Administrator in accordance with § 600.313(a)(2).

(d) For those model types created under § 600.207(a)(2), the manufacturer shall submit data for each subconfiguration added by a running change.

(Approved by the Office of Management and Budget under control number 2000-0390)

§ 600.508-86 [Reserved]

39. Section 600.508-86 is reserved.

40. A new § 600.509-86, is added to read as follows:

§ 600.509-86 Voluntary submission of additional data.

(a) The manufacturer may, at his option, submit data in addition to the data required by the Administrator.

(b) Additional fuel economy data may be submitted by the manufacturer for any vehicle configuration which is to be tested as required in § 600.507 or for which fuel economy data were previously submitted under paragraph (c) of this section.

(c) Within a base level, additional fuel economy data may be submitted by manufacturing for any vehicle configuration which is not required to be tested by § 600.507.

(Approved by the Office of Management and Budget under control number 2000-0390)

41. A new § 600.510-86, which is identical to § 600.510-80 except for revised paragraphs (b), (b)(1), and (b)(2), and deleted paragraphs (a)(7) and (b)(2)(vi), is added to read as follows:

§ 600.510-86 Calculation of average fuel economy.

(a) Average fuel economy will be calculated to the nearest 0.1 mpg for the classes of automobiles identified herein, and the results of such calculations will be reported to the Secretary of Transportation for use in determining compliance with the applicable fuel economy standards.

(1) An average fuel economy calculation will be made for the category of passenger automobiles that is domestically manufactured as defined in § 600.511(d)(1).

(2) An average fuel economy calculation will be made for the category of passenger automobiles that is not domestically manufactured as defined in § 600.511(d)(2).

(3) An average fuel economy calculation will be made for the category of light trucks which is defined in § 600.511(e)(1) and has two-wheel drive.

(4) An average fuel economy calculation will be made for the category of light trucks which is defined in § 600.511(e)(1) and has four-wheel drive.

(5) An average fuel economy calculation will be made for the category of light trucks which is defined in § 600.511(e)(2) and has two-wheel drive.

(6) An average fuel economy calculation will be made for the category of light trucks which is defined in § 600.511(e)(2) and has four-wheel drive.

(b) For the purpose of calculating average fuel economy under paragraph (c), of this section:

(1) All fuel economy data submitted in accordance with § 600.006(e) or § 600.512(c) shall be used.

(2) The combined city/highway fuel economy will be calculated for each model type in accordance with § 600.207 of this section except that:

(i) Separate fuel economy values will be calculated for model types and base levels associated with car lines that are:

(A) Domestically produced, and

(B) Nondomestically produced and imported;

(ii) Total model year production data, as required by this subpart, will be used instead of sales projections;

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to correct gallons of diesel fuel to equivalent gallons of gasoline;

(iv) The fuel economy value will be rounded to the nearest 0.1 mpg;

(v) At the manufacturer's option, those vehicle configurations that are selfcompensating to altitude changes may be separated by sales into high-altitude sales categories and low-altitude sales categories. These separate sales categories may then be treated (only for the purpose of this section) as separate configurations in accordance with the procedure of paragraph § 600.207(a)(4)(ii), and

(3) The fuel economy value for each vehicle configuration is the combined fuel economy calculated according to § 600.206 except that:

(i) Separate fuel economy values will be calculated for vehicle configurations associated with car lines that are:

(A) Domestically produced, and

(B) Nondomestically produced and imported:

(ii) Total model year production data, as required by this subpart will be used instead of sales projections; and

(iii) The fuel economy value of diesel-powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline.

(c) Except as permitted in paragraph (d) of this section, the average fuel economy will be calculated individually for each category identified in § 600.510(a) as follows:

(1) Divide the total production volume of that category of automobiles by

(2) A sum of terms, each of which corresponds to a model type within that category of automobiles and is a fraction determined by dividing

(i) The number of automobiles of that model type produced by the manufacturer in the model year by

(ii) The fuel economy calculated for that model type in accordance with paragraph (b)(2) of this section.

(d) The Administrator may approve alternative calculation methods if they are part of an approved credit plan under the provisions of Section 503(b) of U.S.C. 2003(b).

(Approved by the Office of Management and Budget under control number 2000–0390)

42. A new § 600.512–86, which is identical to § 600.512–80 except for revised paragraphs (b)(1), (b)(2), (c)(1), and (c)(2), is added to read as follows:

§ 600.512–86 Model year report.

(a) For each model year, the manufacturer shall submit to the Administrator a report, known as the model year report, containing all information necessary for the calculation of the manufacturer's average fuel economy.

(b)(1) The model year report shall be in writing, signed by the authorized representative of the manufacturer and shall be submitted no later than 60 days after the report required in § 86.082–37 for the final production quarter.

(2) The Administrator may waive the requirement that the model year report be submitted within 60 days after the final quarterly production report. Based upon a request by the manufacturer, if the Administrator determines that 60 days is insufficient time for the manufacturer to provide all additional data required as determined in § 600.507, the Administrator shall establish a date by which the model year report must be submitted.

(3) Separate reports shall be submitted for passenger automobiles and light trucks (as identified in § 600.510).

(c) The model year report must include the following information:

(1) All fuel economy data used in the labeling calculations and subsequently required by the Administrator in accordance with § 600.507.

(2) All fuel economy data for certification vehicles and for vehicles tested for running changes approved under §§ 86.079–32, 86.079–33, and 86.082–34.

(3) Any additional fuel economy data submitted by the manufacturer under § 600.509.

(4) A fuel economy value for each model type of the manufacturer's product line calculated according to § 600.510(b)(2).

(5) The manufacturer's average fuel economy value calculated according to § 600.510(c).

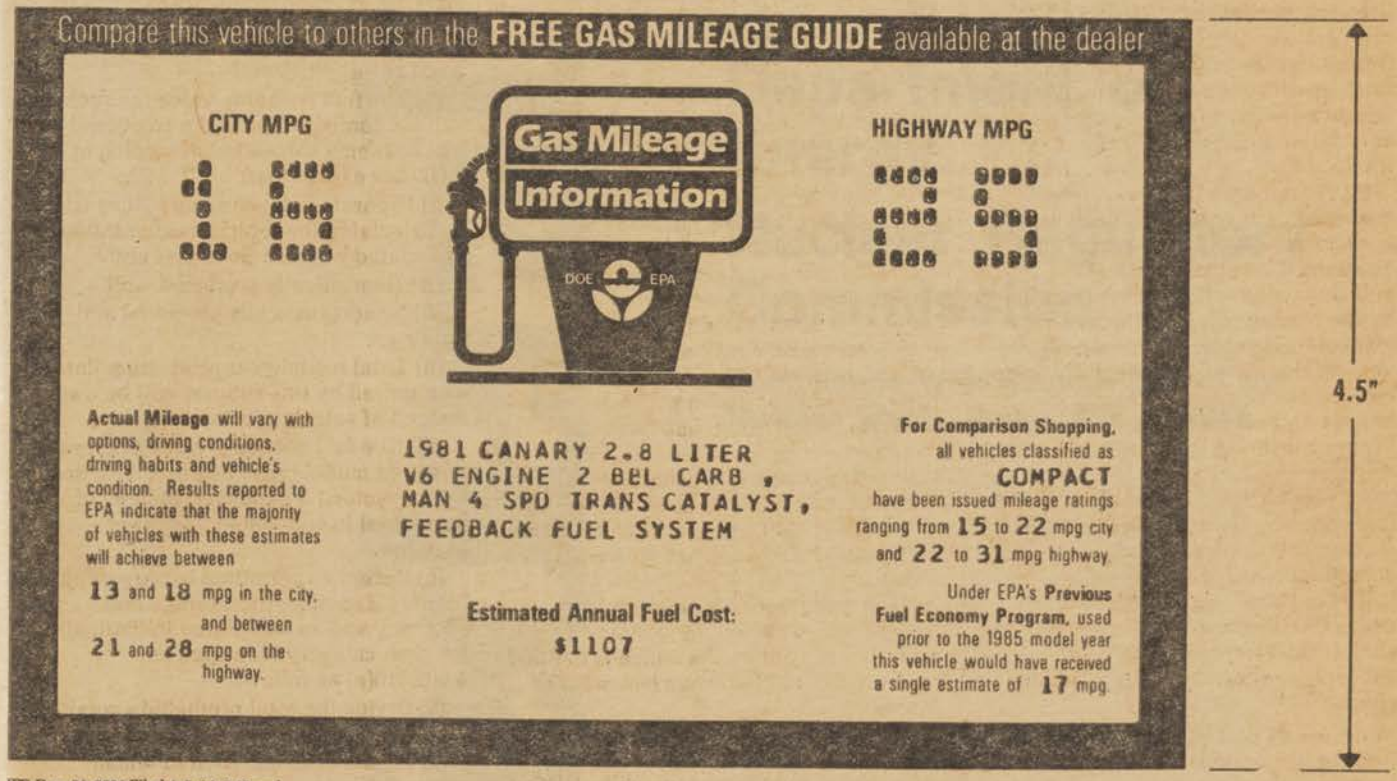
(6) A listing of both domestically and nondomestically produced car lines as determined in § 600.511 and the cost information upon which the determination was made.

(7) The authenticity and accuracy of production data must be attested to by the corporation, and shall bear the signature of an officer (a corporate executive of at least the rank of vice-president) designated by the corporation. Such attestation shall constitute a representation by the manufacturer that the manufacturer has established reasonable, prudent procedures to ascertain and provide production data that are accurate and authentic in all material respects and that these procedures have been followed by employees of the manufacturer involved in the reporting process. The signature of the designated officer shall constitute a representation by the required attestation.

(Approved by the Office of Management and Budget under control number 2000–0390)

43. Appendix VIII is added as follows:

Appendix VIII



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federal register

Friday
April 6, 1984

Part V

Department of Energy
Nuclear Regulatory Commission

Compliance With Section 223 of the Nuclear Waste Policy Act of 1982

DEPARTMENT OF ENERGY

NUCLEAR REGULATORY COMMISSION

Compliance With Section 223 of the Nuclear Waste Policy Act of 1982

AGENCIES: Department of Energy and Nuclear Regulatory Commission.

ACTION: Update of the previously published notice of offer to cooperate with and provide technical assistance to nonnuclear weapons states in the field of spent nuclear fuel storage and disposal.

SUMMARY: The Department of Energy and the Nuclear Regulatory Commission, in accordance with Section 223 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425), January 7, 1983 (the Act), published in the **Federal Register** on March 30, 1983 (48 FR 13253, corrected on April 30, 1983 by notice 48 FR 16960) an offer to cooperate with and provide technical assistance to nonnuclear weapon states for alleviating problems that may develop from accumulation of spent nuclear fuel. This notice updates and again tenders this offer as provided by the Act. Available resources, scope, criteria, and modes of cooperation are described in this offer, which will be further updated and reissued annually for the next 4 years.

Background

Section 223 of the Act provides that "it shall be the policy of the United States to cooperate with and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal."

Section 223(b)(1) of the Act required that within 90 days of enactment of the Act the Department of Energy and the Nuclear Regulatory Commission would:

> * * * publish a joint notice in the **Federal Register** stating that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of at-reactor spent fuel storage; away-from-reactor spent fuel storage; monitored, retrievable spent fuel storage; geologic disposal of spent fuel; and the health, safety, and environmental regulation of such activities. The notice shall summarize the resources that can be made available for international cooperation and assistance in these fields through existing programs of the Department and the Commission, including the availability of: (i) Data from past or ongoing research and development projects; (ii) consultations with expert Department or Commission personnel or contractors; and (iii) liaison with private business entities and organizations working in these fields.

It is the intention of the Department of Energy and the Nuclear Regulatory Commission to offer to provide cooperation and technical assistance to other nations to improve spent fuel storage conditions as deemed necessary. It is not the intention of this offer to include transfer to the United States of spent fuel from foreign nuclear power reactors.

Section 223(c) of the Act specifies:

> Following publication of the annual joint notice referred to in paragraph (2), the Secretary of State shall inform the governments of non-nuclear weapon states and, as feasible, the organizations operating nuclear powerplants in such states, that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of spent fuel storage and disposal, as set forth in the joint notice. The Secretary of State shall also solicit expressions of interest from non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators concerning their participation in expanded United States cooperation and technical assistance programs in these fields. The Secretary of State shall transmit any such expressions of interest to the Department and the Commission.

Responses to Initial Offer

This notice was first published in the **Federal Register** on March 30, 1983. To date, five countries have accepted this offer.

Discussion and Description of Proposed Cooperative Activities and Programs

For several years the United States has been cooperating with other nations as well as international organizations in areas related to spent fuel handling, storage, and disposition. The Department of Energy and the Nuclear Regulatory Commission have adhered to policies of sharing the results of their studies and programs in these areas with other nations and they have sought to establish a framework to permit U.S. private organizations working in these fields to cooperate with their counterparts in the other nations. To the extent feasible, it is the intention of the Department of Energy and the Nuclear Regulatory Commission to augment their international cooperative ties in these areas. Any arrangements relative to funding of joint research and development projects will be developed on a case by case basis subject to program demands and the authorization and appropriation of funds by Congress.

In the course of developing the proposed new arrangements with other governments or foreign institutions, both the Department of Energy and the Nuclear Regulatory Commission will be guided by a number of factors and criteria, including the following:

—Whether the proposed program of cooperation will be useful in assisting a nonnuclear weapon state in overcoming significant and timely spend fuel storage or handling problems;
—Whether the arrangements will serve to advance knowledge in the field;
—Whether the arrangements will help solve common spent fuel handling problems; and
—Whether the arrangements will contribute to more predictability in fuel cycle operations.

While it is anticipated that in the near future most nations will be able to solve their spent fuel storage problems on a national basis, this is an area that could benefit from enhanced international cooperation. As noted by the Final Report of the International Atomic Energy Agency's Expert Group on International Spent Fuel Management (IAEA–ISFM/EG/26, Rev. 1, page 4, July 1982), prior to 1990 there is reasonably good assurance that adequate provision for dealing with spent fuel will exist. During the 1990s, however, the Report states that greater reliance must be placed on spent fuel management options which are now mainly in the planning stage, and further states that "By the year 2000 additional capacity remains to be identified and eventually provided. As greater reliance is placed upon planned facilities, some international cooperation could provide greater assurances that adequate means to deal with the spent fuel arisings would be provided."

Some new storage technologies now under development hold promise for achieving further economies in storage arrangements. Also, there are incentives for developing common standards and guidelines between nations relating to the conditions for shipping spent fuel, nations can benefit from comparing information on the applicable regulatory practices, and in some cases it may be productive for nations sharing common spent fuel storage problems to explore new institutional mechanisms designed to facilitate joint action.

The following paragraphs in this notice briefly summarize the nature of the activities of the Department of Energy and the Nuclear Regulatory Commission in these areas as well as the major cooperative activities that these agencies would propose to explore or engage in, as circumstances warrant.

The U.S. Department of Energy

The Department of Energy is now working with industry and utilities to assure that sufficient spent fuel storage capacity will be available for meeting

U.S. domestic needs. U.S. utilities operating power reactors are presently storing spent fuel in water-filled pools at their reactor sites. In the next few years additional capacity will be needed at some sites and the gravity of this problem could increase rapidly unless additional storage capacities are made available on a timely basis. Accordingly, the Department of Energy, industry, and utilities are now actively developing alternative methods for consolidating, transporting, and storing spent light water reactor fuel in order to increase storage capacity.

The emphasis of this domestic program is to work jointly with industry for developing and licensing alternative storage technologies. Within this context, the Department of Energy is now in the process of working with industry and utilities in developing and demonstrating spent fuel rod consolidation and dry storage equipment and technology in support of utility license applications and is participating in efforts to assure the licensability of the entire system for handling, packaging, transportation, and storage. In addition, the conceptual alternatives of monitored retrievable storage systems have been studied.

With these considerations in mind, and considering the criteria cited above, the Department of Energy is prepared to engage in the following kinds of cooperative activities with nonnuclear weapon states and international organizations:

—To provide information, in the form of exchanges of documents and reports, on Department of Enery funded research and development projects in the specific areas of spent fuel handling and storage; pool storage; spent fuel packaging for storage or disposal; dry storage in metal casks, drywells, vaults and concrete silos; and on the technology of away-from-reactor and monitored retrievable storage;

—To arrange, on an appropriate basis, visits and briefing between foreign representatives and Department of Energy and contractor personnel in those areas and to facilitate, within the terms of applicable U.S. laws, regulations and policies, contacts with private U.S. business entities and organizations with specialized capabilities in these fields;

—To arrange consultations between foreign representatives and expert Department of Energy and contractor personnel to review and comment on, as appropriate, other nations' proposed development program plans and facility designs;

—To furnish, under mutually agreed terms, information on certain U.S. standards and verified computer codes that may be used for equipment, component and facility design; and

—To cooperate, as appropriate, with international organizations to disseminate information to nonnuclear weapon states.

As U.S. program demands and the authorization and appropriation of funds by Congress permit, the Department of Energy also is prepared to participate in jointly funded development and demonstration activities such as:

—The demonstration of concepts for disassembling spent fuel assemblies and for consolidating fuel rods in operating reactor pools;

—The development and demonstration of technology for packaging spent fuel for storage and disposal;

—Activities related to assessing the feasibility of away-from-reactor storage, including foreign participation in or observation of U.S. tests and demonstrations of equipment and technology for dry storage of spent fuels; and

—The conduct of joint studies to evaluate monitored retrievable spent fuel storage.

In addition to the management of spent fuel in retrievable modes, the Department of Energy also is conducting extensive research and development on the geologic disposal of nuclear waste, including the spent fuel option. Where there is mutual interest, information in these areas can be exchanged through:

—The transmittal of published information;

—Arrangement of visits and consultations with the Department of Energy and contractor experts on spent fuel disposal methodology;

—Program planning; and

—Systems analyses.

The research and development activities conducted under the Department of Energy geologic isolation program include:

—The detailed characterization of spent fuel;

—Research and systems studies on spent fuel disposal packages and containers, and their materials;

—Safety analysis; and

—Disposal repository designs, including their performance evaluations in various host rock media.

As part of these activities, the U.S. Geological Survey is also available through the Department of Energy for discussions on the earth science characteristics of disposal sites.

Under the cooperative activities that have been described above, the information to be provided could possibly include exchanges of documents and reports, visits between specialists, short- or long-term assignments, the undertaking of joint seminars and meetings, and jointly supported research and development projects.

The Nuclear Regulatory Commission

In regard to the issue at hand, the Nuclear Regulatory Commission is responsible for safety and environmental reviews, licensing, inspection and enforcement, and the conduct of research on the safety and environmental regulation of reactor waste in the United States, including the handling, storage, treatment, and disposal of spent reactor fuel. These responsibilities include licensing dry and wet at-reactor and away-from-reactor storage, monitored retrievable storage, and spent fuel and waste disposal (including geological disposal) at permanent repositories.

The Nuclear Regulatory Commission is prepared to cooperate with, and provide technical assistance to, nonnuclear weapon states in the areas of the health, safety, and environmental regulation of spent fuel management and disposal activities. Cooperation could include the following:

—Making available data from past and ongoing research and regulatory efforts: These data consist of evaluated and documented experimental results, validated and fully documented computer codes, and research results for which documentation and evaluation are complete. These data are primarily documented as written reports, which the Nuclear Regulatory Commission can provide in specific technical subject areas, as agreed. State-of-the-art information on ongoing safety research programs can be acquired through attendance by representatives from participating countries at the annual Water Reactor Safety Research Information Meeting and other occasional topical meetings. Additional data more directly related to regulatory activities, such as regulations, standards, and guides, can also be provided as appropriate in specific subject areas as requested;

—Consulting with expert Nuclear Regulatory Commission personnel and Nuclear Regulatory Commission contractor staff. As arranged by specific agreement with the Nuclear Regulatory Commission, expert technical consultation can be provided by Nuclear Regulatory Commission personnel and, as

needed, by contractor employees in the regulatory areas within the Commission's purview;

—Helping (to the extent permitted by U.S. laws, regulations, and policies) foreign governments to establish initial contacts with private U.S. entities that conduct business in the applicable waste management activities;

—Cooperating, as appropriate, with international organizations to disseminate information to nonnuclear weapon states; and

—Participating in joint research programs. The Nuclear Regulatory Commission is ready to negotiate and engage in jointly funded research programs with appropriate foreign entities, subject to the authorization and appropriation of funds by the Congress.

Relationships With Multinational Organizations and International Scientific Bodies

In addition to the foregoing activities, and within the framework of such foreign policy guidance as may be provided by the U.S. Department of State, it is expected that the Nuclear Regulatory Commission and Department of Energy will continue to participate in activities related to spent fuel handling that are undertaken by international organizations, if appropriate. These organizations have sponsored a range of activities relevant to this subject, and it is recognized that some nonnuclear weapon states may wish to avail themselves of the services of these bodies as well as the cooperative programs that are available bilaterally. The Nuclear Energy Agency of the Organization for Economic Cooperation and Development, for example, has been actively involved in studies related to the disposal of nuclear wastes. Also, as mentioned above, through the efforts of an Expert Group on International Spent Fuel Management, the International Atomic Energy Agency in 1982 completed a study on the potential for international cooperation in the management of spent fuel, giving emphasis to technical, economic, institutional, and legal considerations. Several of the recommendations of this International Atomic Energy Agency Expert Group could serve as a stimulus for further cooperative initiatives. Areas that may merit further study include the establishment of nuclear safety standards recommended by the International Atomic Energy Agency for spent fuel storage and transport, and possible further studies, as the interests of the international community dictate, such as multinational or regional approaches to spent fuel management and disposal.

Storage and Disposition of Research Reactor Spent Fuels

The cooperative programs described in this announcement are addressed to the problems associated with the storage and handling of power reactor spent fuel that originates primarily in light water reactors. As such, they do not address any issues associated with the accumulation of foreign research reactor fuels.

Solicitation of Expressions of Interest From Nonnuclear Weapon States

As the next step is developing this offer of cooperation and technical assistance, nonnuclear weapon states will again be contacted through diplomatic channels to acquaint them with this proposal and to solicit expressions of interest. The Department of State will transmit any such expressions of interest to the Department of Energy and the Nuclear Regulatory Commission.

Requests for Information

Inquiries about this notice may be sent to the following:

Michael J. Lawrence, Acting Director, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, Washington, D.C. 20585 (Tel. No. 202/252–6850)

Joseph D. Lafleur, Jr., Deputy Director, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Tel. No. 301/492–7131)

Dated: April 2, 1984.

Approval:

Donald Paul Hodel,

Secretary of Energy, Department of Energy.

Dated: April 2, 1984.

Nunzio J. Palladino,

Chairman, Nuclear Regulatory Commission.

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