Administration, or other law enforcement agencies of the Federal Government, or by state highway patrols, municipal law enforcement, or other similar law enforcement agencies, and which is used for the purpose of law enforcement activities including, but not limited to, chase, apprehension, surveillance, or patrol of people engaged in or potentially engaged in unlawful activities. This definition is intended to clarify the difference between law enforcement vehicles and vehicles used for other security purposes. Under this definition, a vehicle is considered to be a law enforcement vehicle and is exempt by virtue of its use for official law enforcement purposes, as conveyed by local, state or federal government mandate. Security vehicles do not usually comply with this definition, and as such are not excluded from the definition of "fleet" unless they are contracted by a law enforcement agency for the purposes described above.

Proposed § 490.2 defines the term "lease" to mean use of a vehicle for transportation purposes pursuant to a rental contract or similar arrangement, the term of such contract or similar arrangement is for a period of 120 days or more, and such person has control over the vehicle. This definition closely tracks EPA's definition of "owned or operated, leased or otherwise controlled by such person," found at 40 CFR §88.302–94. The intent of this definition is to include, for compliance purposes, any vehicles controlled by a covered person, whether by ownership or lease. The 120-day period is slightly longer than a calendar season, and is intended to reflect the fact that the leasing of vehicles can occur for short periods of time, including seasonal uses, and that such short term, temporary leases should not be subject to the conditions of the program. However, fleets and covered persons leasing or renting a vehicle for more than 120 days must include this vehicle in the company's total count of new light duty motor vehicles acquired for the respective model year.

Proposed § 490.2 defines the term "model year" for the purposes of vehicle acquisition requirements as September 1 of the previous calendar year through August 31. This definition closely tracks EPA's definition of "model year," found at 40 CFR § 88.302–94. For purposes of compliance, covered persons should compute their vehicle acquisitions during the period beginning September 1 of each year through August 31. This definition of model year coincides with the period in which most automobile manufacturers introduce their new

annual models, which should facilitate compliance since fleets can make their acquisition plans regarding alternative fueled vehicles when they make plans for acquiring new model year vehicles. This definition is intended to clarify which vehicles count toward the required annual acquisitions under the program. This definition is also intended to ensure that all fleets and covered persons acquire vehicles based on the same annual period, which is important to facilitate enforcement of the programs. Thus, any new vehicles that are acquired by a fleet or covered person between September 1 and August 31 are counted and used as the basis for determining the acquisition requirement of the same year, and are considered of the same model year as the January that falls between them.

Motor vehicles held for lease or rental to the general public" are excluded from the definition of "fleet." Proposed § 490.3 follows EPA's definition of this phrase found at 40 CFR § 88.302–94 which defines "motor vehicles held for lease or rental to the general public" as meaning a vehicle that is owned or controlled primarily for the purpose of short-term rental or extended-term leasing, without a driver, pursuant to a contract. According to this definition, the vehicles must be owned primarily for the purpose of renting or leasing them without a driver, effectively granting someone else control over them in exchange for money or other compensation. In addition, this exchange must be based on a contract. Thus, a firm cannot be found to "lease" its vehicles to its employees unless the vehicles are owned primarily for leasing them to the general public and they are leased pursuant to formal contracts which give control of the vehicle to the lessee.

'Motor vehicles used for motor vehicle manufacturer product evaluations and test" are also excluded from the definition of "fleet." Proposed § 490.3 follows EPA's definition of the phrase "vehicle used for motor vehicle manufacturer product evaluations and tests" at 40 CFR § 88.302-94. There the phrase is defined to mean vehicles that are owned and operated by a motor vehicle manufacturer, or motor vehicle component manufacturer, or owned or held by a university research department, independent testing laboratory, or other such evaluation facility, solely for the purpose of evaluating the performance of such vehicle for engineering, research and development, or quality control reasons. It is the intent of this provision to exclude vehicles which are part of a "fleet" used by an Original Equipment

Manufacturer for production control or quality control reasons.

"Motor vehicles which under normal operations are garaged at personal residences at night" is another category of vehicles excluded from the definition of "fleet." Proposed § 490.2 tracks the language of section 301(h) of the Act.

Proposed § 490.2 defines the term "Original Equipment Manufacturer Vehicle" as meaning a vehicle engineered, designed and produced by an Original Equipment Manufacturer. This term applies to conventionally fueled Original Equipment Manufacturer vehicles as well as to alternative fueled vehicles. Included in this definition are vehicles that were conventionally fueled Original Equipment Manufacturer vehicles, but were converted prior to sale by the Original Equipment Manufacturer, through a contract with a conversion company, to operate on an alternative fuel and which are covered under the **Original Equipment Manufacturer** warranty.

## Proposed Section 490.3 Excluded Vehicles

Proposed § 490.3 sets forth the vehicles which may be excluded when counting to determine whether there are a sufficient number of vehicles to constitute a "fleet" as defined in proposed § 490.2. Some of the exclusions are categories capsulized in a term such as "dealer demonstration vehicle," "emergency vehicle," and "law enforcement vehicle." Those terms are defined in proposed § 490.2 and are discussed above.

## Proposed Section 490.4 General Information Inquiries

In other regulatory programs, DOE has learned that on occasion representatives of regulated persons make informal inquiries, usually by telephone, and need a quick response from the program office even if the response is not binding on DOE. Proposed § 490.4 would make this device for obtaining information available to those who are subject to regulation under part 490.

Proposed Section 490.5 Requests for an Interpretive Ruling

For those who want a more authoritative answer as to how the Department intends to construe and apply its regulations to particular factual situations, and for whom other procedures such as petitions for exemption are irrelevant, proposed § 490.5 would provide a useful option. The uncertainties related to the complex provisions applicable to determining who must comply and the extent of