affected vehicle inventories prompted DOE to devise proposed § 490.5. Any interpretive ruling that the Department issues would apply only to the person who requested it. However, the Department will make copies of these rulings available for inspection and copying in a public file in its Freedom of Information Reading Room in the Forrestal Building at 1000 Independence Ave., SW, Washington, DC 20585.

Proposed Section 490.6 Petitions for Generally Applicable Rulemaking

Proposed § 490.6 sets forth procedures for petitioning the Department to issue new or amended rules of general applicability for part 490. These procedures implement rights available to members of the public under the Administrative Procedure Act. 5 U.S.C. 553(e).

Proposed Section 490.7 Relationship to Other Law

Proposed § 490.7 makes a declaratory statement to avoid arguments that provisions of part 490, by their silence, authorize acquisition of vehicles or conversion of vehicles in a manner that does not comply with other laws and regulations at the Federal, state, or local level.

## Subpart B—[Reserved]

## Subpart C—Mandatory State Fleet Program

Proposed Section 490.201 Alternative Fueled Vehicle Acquisition Mandate Schedule

Proposed § 490.201 sets forth the requirements, subject to some exemptions, for the percentage of new light duty motor vehicles for State fleets that must be alternative fueled vehicles when acquired under the Mandatory State Fleet Program. Beginning with the 1996 model year, September 1, 1995, any state fleet that is covered under this subpart must comply with these requirements, unless otherwise provided in this subpart.

In cases where acquisition percentages result in something less than a whole number, DOE is proposing that these fractions be rounded up to the next whole number.

Proposed Section 490.202 Acquisitions Satisfying the Mandate

Proposed § 490.202 provides in substance that an acquisition of an alternative fueled vehicle, regardless of the year of manufacture, counts toward satisfaction of the vehicle acquisition mandate. Such a vehicle would be new to the fleet operator. Credits acquired under subpart F also count toward satisfaction of the mandate.

Proposed Section 490.203 Light Duty Alternative Fueled Vehicle Plan

The Act provides an alternative means of compliance for States. In lieu of a State meeting the acquisition requirements proposed by § 490.201 solely through acquisition of new Stateowned vehicles, a State may comply with a Light Duty Alternative Fueled Vehicle Plan submitted by the State and approved by DOE. The Plan must demonstrate that there will be a sufficient number of light duty motor vehicles by State, local and private fleets, which in aggregate meet or exceed the applicable vehicle percentage for any given year.

DOE is proposing that any acquisition or conversion of light duty alternative fueled vehicles for a State may be part of the Plan, irrespective of whether the vehicles are in the excluded categories of vehicles in the definition of "fleet" as enumerated in proposed § 490.3. This allows for law enforcement vehicles, or other vehicles otherwise excluded from the definition of "fleet" to be part of a Light Duty Alternative Fueled Vehicle Plan.

DOE is proposing that, until a Plan is approved or unless DOE grants an exemption, a State is subject to the fleet percentage requirements in proposed § 490.201. This will be equally true in instances where a State plan participant (such as a municipality) fails to fulfill its commitments under the Plan. However, if the State is able to find a substitute participant, then the State may submit to DOE for approval an amendment to the Plan.

DOE is proposing in paragraph (b) of this section to require States to monitor and verify on an ongoing basis the implementation of its Plan. This is to ensure that all participants in the Plan are indeed in compliance, and that at the end of the model year, all requirements will have been met. If for whatever reasons a participant is unable to fulfill its commitments, the State should be able to find a substitute participant before the end of the year.

Paragraph (c) proposes to require a State to submit to DOE, for approval, its Light Duty Alternative Fueled Vehicle Plan no later than the June 1 prior to the model year covered by the Plan. A State should know by this deadline the number of light duty motor vehicles it plans to acquire during the upcoming model year. DOE would like to receive comments as to whether it is reasonable to require all Plans be submitted by the June 1 prior to the model year. Proposed Section 490.204 Process for Granting Exemptions

Section 507 (i)(1) of the Act provides three categories under which a State may seek exemptions in whole or in part from the annual acquisition percentages. A State may seek exemption if it can demonstrate that—

(1) Alternative fuels that meet the normal requirements and practices of the principal business of the State fleet are not available in the area where the vehicles are to be operated; or

(2) Alternative fueled vehicles that meet the normal requirements and practices of the principal business of the state fleet are not reasonably available for acquisition because they are not offered for acquisition commercially on reasonable terms and conditions in any of the States; or

(3) The application of such requirements would pose an unreasonable financial hardship.

Category 1 tracks section 507(i)(1) of the Act. Category 2 is based on section 507(i)(1) and would preclude arguments that the physical unavailability in a state is not a valid reason for exemption when a vehicle can be ordered from somewhere else in the United States. Time delays in delivery of alternative fueled vehicles are generally not acceptable as an excuse. States must be cognizant of the possible irregular manufacturer production schedules and considerably longer lead times involved in the acquisition of alternative fueled vehicles compared with conventional vehicles. It is the responsibility of the state to plan and schedule its ordering and acquisitions of alternative fueled vehicles so as to comply with the acquisition requirements for each model year. Regarding category 3, section 507(i)(1) allows only States, not alternative fuel providers, the right to seek an exemption based on financial hardship. Proposed paragraph (d)(3) describes the few items of information that a State must submit to DOE when requesting an exemption based on financial hardship. (Earlier in this Supplementary Information, States were invited to comment on how DOE should interpret and apply the term "financial hardship.")

Proposed paragraph (g) provides that the Assistant Secretary for Energy Efficiency and Renewable Energy may grant a request for exemption. In order to keep the procedures simple, the Assistant Secretary may act finally for the Department, and there is no requirement to obtain the specific approval of the Secretary. If the Assistant Secretary denies the request for exemption, proposed paragraph (g)