section 501(a)(3)(A), and should be read in conjunction with the proposed definitions of "affiliate," "division," and "business unit" in § 490.301.

## Proposed Section 490.305 Acquisitions Satisfying the Mandate

Proposed § 490.305 deals with the three types of acquired vehicles that will count toward compliance with proposed § 490.302, in addition to alternative fueled vehicle credits under Subpart F. These categories provide flexibility for organizations in acquiring vehicles to meet this regulation. An alternative fueled light duty motor vehicle shall be considered newly acquired, regardless of model year, if:

(a) The vehicle is an Original Equipment Manufacturer vehicle capable of operating on alternative fuels and was not previously under the control of the covered person; or

(b) The vehicle is an after-market converted vehicle and was not previously under the control of the covered person; or

(c) The vehicle is an Original Equipment Manufacturer vehicle that has been converted to operate on alternative fuels prior to the vehicle's first use in service.

A vehicle that meets the description of paragraph (a) is one that is manufactured by an Original Equipment Manufacturer to be capable of operating on alternative fuels. For example, if a covered person acquires a 1993 flex-fuel light duty motor vehicle during model year 1996, this vehicle is classified as being a new acquisition for that organization.

A vehicle that meets the description of paragraph (b) is one that has been converted by a licensed converter to be capable of operating on alternative fuels. A vehicle that meets the description of paragraph (c) is a vehicle that upon acquisition by the organization is taken to a licensed converter for conversion to an alternative fueled vehicle and is never intended to be operated solely on petroleum-based fuel. It is important to note that section 507(j) of the Act states that no fleet owner shall be required to acquire converted vehicles in order to meet compliance with this or any fleet acquisition requirement.

## Proposed Section 490.306 Vehicle Operation Requirements

Proposed § 490.306 largely tracks the provisions of section 501(a)(4), which requires that all alternative fueled vehicles acquired pursuant to section 501 be operated solely on alternative fuels, except when these vehicles are operating in an area where alternative fuel is not available. Proposed Section 490.307 Option for Electric Utilities

Proposed §490.307 deals with the statutory option for electric utilities. Proposed paragraph (a) tracks the provisions of section 501(c) of the Act, which provides that a covered person whose principal business is generating, transmitting, importing, or selling, at wholesale or retail, electricity has the option of delaying the alternative fuel vehicle acquisition schedule in section 501(a) of the Act until January 1, 1998, if that covered person intends to comply with this regulation by acquiring electric motor vehicles. DOE considered delaying the date that electric utilities would have to start acquiring vehicles until the beginning of model year 1999 which starts on September 1, 1998. But given that the California Air Resources Board requires that 2 percent of all vehicles sold in California by major auto producers be Zero Emission Vehicles, (emission level currently only achievable by electric vehicles) starting September 1, 1997, DOE decided not to propose a delay in the effective date of the 30 percent alternative fueled vehicle acquisition requirement. Also, the States of New York and Massachusetts have enacted laws which adopt California standards and timetables.

Proposed paragraph (b) provides the date (January 1, 1996) by which notification must be received by DOE for an electric utility to be eligible for this delayed schedule. That date is dictated by section 501(c) of the Act. This notification should be in letter format and must explain the utility's commitment to electric vehicles.

Proposed paragraph (c) describes the acquisition schedule that an electric utility must comply with if the electric utility notifies the Secretary by the required date.

## Proposed Section 490.308 Process for Granting Exemptions

Proposed § 490.308 deals with the requirements of section 501(a)(5) of the Act which provides for a simple and reasonable exemption process for those covered persons seeking exemptions either because alternative fuel is not available or alternative fueled vehicles are not reasonably available. Proposed paragraph (a) describes the procedure that a covered person needs to complete to receive an exemption. The first category of exemption is if any covered person demonstrates to the satisfaction of the Secretary that alternative fuels that meet the normal requirements and practices of the principal business of that person are not available in the area where the vehicles are to be operated.

The second category of exemption is if any covered person demonstrates to the satisfaction of the Secretary that alternative fueled vehicles that meet the normal requirements and practices of the principal business of that person are not reasonably available for acquisition because they are not offered for acquisition commercially on reasonable terms and conditions in the United States. These exemptions would be granted for one model year only. To receive exemptions for additional model years, alternative fuel providers must reapply to the Secretary each year. Criteria for granting exemptions will be based on documentation that specifically relates to the availability of alternative fuels and alternative fueled vehicles.

To determine whether alternative fuel is "not available," an alternative fuel provider must map out the operating area and base of operations for its fleet of vehicles. Next it must locate on the map the alternative fueling facilities within its MSA or CMSA. Then, for each vehicle, it must determine whether any location providing alternative fuel is in the area in which the vehicle is operated. If there is any location providing alternative fuel within the vehicle's operating area, alternative fuel is available. If there are no locations providing alternative fuel, for any alternative fuel that meets the normal requirements and practices of the covered person's principal business, within the vehicle's operating area, then alternative fuel is "not available."

The Act requires that the exemption process be reasonable and simple. DOE invites comment on the proposed process for exemptions, in whole or in part.

It is anticipated that alternative fuel will be available and accessible for almost all alternative fuel providers, and that it will be difficult for fuel providers to prove that alternative fuel is not available. Since alternative fuel providers stand to benefit greatly from the expanded use of alternative fuels and the proliferation of alternative fueled vehicles, it is also anticipated that they will help accelerate the establishment of the alternative fuels infrastructure and be less likely to seek exemptions based on alternative fuels being "not available."

To receive an exemption based on the criteria in subparagraph (a)(2) a covered person must show that there are no alternative fueled vehicles available for commercial acquisition on reasonable terms and conditions in any State. The covered person also must show good faith effort in attempting to obtain these vehicles. DOE requests comment on the extent to which vehicle cost, either