and by when annual reports should be sent.

Proposed paragraph (b) describes the required information that would be included in this annual report. Most of the requirements are self-explanatory, however, subparagraph (b)(4) deserves discussion for clarification purposes.

Proposed subparagraph (b)(4) would only allow a fleet or covered person to report either the number of alternative fueled vehicles acquired in excess of acquisition requirements or the number of alternative fueled vehicles acquired in advance of the start date of the acquisition requirements, not both of them. Once the first model year in which acquisition requirements apply has begun, credits can no longer be earned for early acquisition of alternative fueled vehicles.

Subpart G—Investigations and Enforcement

Proposed Section 490.601 Powers of the Secretary

Proposed § 490.601 sets forth the powers of the Secretary provided specifically by section 513 of the Act. Some of these powers (e.g., subpoenas for witnesses or documents) can be used either in a investigative effort begun with orders to show cause or in connection with a civil penalty proceeding.

Proposed Section 490.602 Special Orders

Proposed § 490.602 tracks the provisions of section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. § 2005(b)(1). Those provisions are applicable under part 490 because section 505(b)(1) is cross referenced in section 513 of the Act. Orders under this section could be used to deal with a wide variety of circumstances. One example would be the failure to submit a required report. Another would be an order to show cause why civil penalty proceedings should not be initiated for failure to comply with subparts C, D, or F.

Proposed Section 490.603 Prohibited

This proposed regulation tracks the language of section 511 of the Act. 42 U.S.C. 13261.

Proposed Section 490.604 Penalties and Fines

This proposed regulation follows section 512 of the Act. 42 U.S.C. § 13262. The text reflects DOE conclusions with regard to which of the subsections of section 512 provide for civil penalties and which provide for criminal fines.

Proposed Section 490.605 Statement of Enforcement Policy

In rare instances, DOE may initiate enforcement with the object of ensuring compliance and deterring future violations. This proposed section indicates that DOE will not proceed with enforcement if there is a satisfactory compliance agreement.

Proposed Section 490.606 Proposed Assessments and Orders

This proposed section provides for issuance of proposed assessments of civil penalty and an order to pay which becomes a final order for the Department if the recipient fails to appeal on a timely basis to the Office of Hearings and Appeals.

Proposed Section 490.607 Appeals

This proposed section provides for administrative due process if the recipient of a proposed assessment and order to pay wishes to contest the basis therefore. The appeal must be filed in the Office of Hearings and Appeals on or before 30 days from the date of the issuance of a proposed assessment and order. Most of the applicable procedures for the Office of Hearings and Appeals are in subpart H of 10 CFR part 205. In addition, paragraph (b) of proposed § 490.607 provides that the appellant has the ultimate burden of persuasion which is appropriate because the appellant will in most cases have unequal access to the relevant evidence (its own records). Paragraph (b) also provides that a trial-type hearing on contested issues of fact may occur only if the hearing officer concludes that cross examination will materially assist in determining the facts in addition to the evidence available in documentary form. There should not be extended hearings in order to fill the record with evidence which is largely repetitious.

## **III. Opportunity for Public Comment**

## A. Participation in Rulemaking

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or comments with respect to the subject set forth in this notice. The Department encourages the maximum level of public participation possible in this rulemaking. Individual consumers, representatives of consumer groups, manufacturers, associations, coalitions, states or other government entities, and others are urged to submit written comments on the proposal. The Department also encourages interested persons to participate in the public hearings to be held at the times and places indicated at the beginning of this

notice. Comments relating to the energy security, environmental, or economic effects that might result from the adoption of the proposals contained in this notice are specifically invited and desired. Whenever applicable, full supporting rationale, data and detailed analyses should also be submitted.

## B. Written Comment Procedures

Written comments (eight copies) should be identified on the outside of the envelope, and on the comments themselves, with the designation: "Alternative Fuel Provider Vehicle Acquisition Mandate and Alternative Fuel Vehicle Credit Program, NOPR, Docket Number EE-RM-95-110" and must be received by the date specified at the beginning of this notice. In the event any person wishing to submit a written comment cannot provide eight copies, alternative arrangements can be made in advance by calling Andi Kasarsky at (202) 586-3012. Additionally, the Department would appreciate an electronic copy of the comments to the extent possible. The Department is currently using WordPerfect 5.1 for DOS.

All comments received on or before the date specified at the beginning of this notice and other relevant information will be considered by DOE before final action is taken on the proposed rule. All comments submitted will be available for examination in the Rule Docket File in DOE's Freedom of Information Reading Room both before and after the closing date for comments. In addition, a transcript of the proceedings of the public hearings will be filed in the docket.

Pursuant to the provisions of 10 CFR 1004.11 any person submitting information or data that is believed to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information claimed to be confidential has been deleted. The Department of Energy will make its own determination of any such claim and treat it according to its determination.

## C. Public Hearing Procedures

The time and place of the public hearings are indicated at the beginning of this notice. The Department invites any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest to make a request for an opportunity to make an oral presentation at the hearing. Requests to speak should be sent to the address or phone number indicated in the ADDRESSES section of this notice and