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§ 490.204 Process for granting exemptions.

(a) To obtain an exemption, in whole or in part, from the vehicle mandates of this subpart, a State shall submit to DOE a written request for exemption, along with supporting documentation which demonstrates 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 sale or lease commercially on reasonable terms and conditions in any of the States; or

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

(b) Requests for exemption may be submitted on an ongoing basis and must be accompanied with supporting documentation.

(c) DOE shall grant exemptions for one model year only, and they may be renewed annually if supporting documentation is provided.

(d) If a State is seeking an exemption under—

(1) Paragraph (a)(1) of this section, the types of documentation that are to accompany the request must include, but are not limited to, maps of vehicle operation zones and maps of locations providing alternative fuel; or

(2) Paragraph (a)(2) of this section, the types of documentation that are to accompany the request must include, but are not limited to, alternative fueled vehicle purchase or lease requests, a listing of vehicles that meet the normal practices and requirements of the State fleet and any other documentation that exhibits good faith efforts at acquiring alternative fueled vehicles; or

(3) Paragraph (a)(3) of this section, it must submit a statement identifying what portion of the alternative fueled vehicle acquisition requirement should be subject to the exemption and describing the specific nature of the financial hardship that precludes compliance.

(e) Requests for exemption shall be addressed to the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–33, 1000 Independence Ave., SW, Washington, DC 20585, or to such other address as DOE may announce in a **Federal Register** notice.

(f) The Assistant Secretary shall provide to the State within 30 days a written determination as to whether the State's request has been granted or denied.

(g) If the Assistant Secretary denies an exemption, in whole or in part, and the State wishes to exhaust administrative remedies, the State must appeal within 30 days of the date of the determination, pursuant to 10 CFR part 205, subpart D, to the Office of Hearings and Appeals, U. S. Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585. The Assistant Secretary's determination shall be stayed during the pendency of an appeal under this paragraph.

§490.205 Reporting requirements.

(a) Any State subject to the requirements of this subpart must submit a report on or before the December 31 after the close of the model year, beginning with model year 1996.

(b) The report shall include the following information:

(1) Number of new light duty motor vehicles acquired by a state during the model year;

(2) Number of new light duty alternative fueled vehicles that must be acquired in the model year;

(3) Number of new light duty alternative fueled vehicles acquired by a State during the model year;

(4) Number of alternative fueled vehicle credits transferred to or from the State during the model year;

(5) Number of alternative fueled vehicle credits applied against acquisition requirements;

(6) For each new light duty alternative fueled vehicle acquired—

(i) Vehicle make and model;

(ii) Model year; and

(iii) Vehicle identification number;

(7) Number of light duty alternative fueled vehicles acquired by municipal and private fleets during the model year under an approved Light Duty Alternative Fueled Vehicle Plan (if applicable).

(c) If credits are applied against vehicle acquisition requirements, then a credit activity report, as described in subpart F of this part, must be submitted with the report under this section.

(d) Records shall be maintained and retained for a period of three years from the start of this program.

(e) All reports, marked "Annual Report," shall be sent to the Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE– 33, 1000 Independence Ave., SW, Washington, DC, 20585, or such other address as DOE may provide by notice in the **Federal Register**.

§490.206 Violations.

Violations of this subpart are subject to investigation and enforcement under subpart G of this part.

Subpart D—Alternative Fuel Provider Vehicle Acquisition Mandate

§490.300 Purpose and Scope.

This subpart implements section 501 of the Act, which requires, subject to some exemptions, that certain annual percentages of newly acquired light duty motor vehicles acquired by alternative fuel providers must be alternative fueled vehicles.

§490.301 Definitions.

In addition to the definitions found in § 490.2, the following definitions apply to this subpart—

Affiliate means a person that, directly or indirectly, controls, is controlled by, or is under common ownership or control of the subject person.

Alternative Fuels Business means activities undertaken to derive revenue from—

(1) Producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity; or

(2) Generating, transmitting, importing, or selling at wholesale or retail electricity.

Business unit means a semiautonomous major grouping of activities for administrative purposes and organizational structure within a business entity.

Division means a major administrative unit of an enterprise comprising at least several enterprise units or constituting a complete integrated unit for a specific purpose.

Normal Requirements and Practices means the operating business practices and required conditions under which the principal business of the covered person operates.

Principal Business means the salesrelated activity that produces the greatest gross revenue.

Substantial Portion means that at least 2 percent of a covered person's refinery yield of petroleum products is composed of alternative fuels.

Substantially Engaged means that a covered person, or affiliate, division, or other business unit thereof, regularly derives sales-related gross revenue from an alternative fuels business.

§ 490.302 Vehicle acquisition mandate schedule.

(a) Except as provided in § 490.304 of this part, of the light duty motor vehicles newly acquired by a covered