Independence Avenue, S.W., Washington, DC 20585, (202) 586-6116. SUPPLEMENTARY INFORMATION: In the February 28, 1995, notice of proposed rulemaking, DOE described the statutory provisions of the Act that impose the alternative fueled vehicle acquisition schedules and provide for a starting date of September 1, 1995 (the beginning of model year 1996). Among other things, DOE pointed out that, with respect to the acquisition requirements applicable to alternative fuel providers in model years 1997 and thereafter, section 501(b) of the Act authorizes DOE to reduce the percentage to no less than 20 percent and to extend the deadlines for up to two years. 42 U.S.C. 13251(b). DOE indicated that it did not intend to exercise its discretion under section 501(b), but requested comment on the conditions that should be the basis for such action. DOE also pointed out that, with respect to the statutory vehicle acquisition schedule applicable to State government fleets, section 507(o) does not contain a provision similar to section 501(b), and therefore, does not explicitly authorize DOE to amend the percentages or deadlines in the statutory schedule. 60 FR 10970–1.

DOE received a significant amount of comment on the desirability of a delay of the vehicle acquisition schedules. Some of the comments argue that DOE should delay the acquisition schedules so as to provide the same amount of lead time as the Act contemplates between the statutory deadlines for promulgation of final regulations (January 1, 1994, for alternative fuel providers and April 24, 1994, for State fleets) and the date the vehicle acquisition requirements take effect (September 1, 1995). Others argue for a one or two-year delay of the vehicle acquisition requirements for both alternative fuel providers and State fleets. A one-year delay would shift the starting point for both vehicle acquisition schedules to the beginning of model year 1997 on September 1, 1996. A two-year delay would shift the starting point for both vehicle acquisition schedules to the beginning of model year 1998 on September 1, 1997. In making a case for delay, some comments have argued that a hiatus between the date of promulgation and the date the vehicle acquisition requirements become effective is needed so that those who are subject to the regulations can take necessary actions to comply and suppliers of alternative fuel and alternative fueled vehicles can adjust to the requirements. Moreover, some State officials have argued that a delay is necessary because section

507(o)(2)(A) of the Act provides for a 12-month period after promulgation of final regulations during which the State can submit an Alternative State Plan.

Other commenters argue against any modification of the statutory schedule, claiming that such a delay would be detrimental to those who planned and acted in light of the September 1, 1995, beginning date. They argue that the exemption process is adequate to provide relief to those who cannot comply for good cause.

DOE recognizes that it is appropriate to provide for lead time between the date the final regulations are promulgated and the date the vehicle acquisition requirements are enforced. Lead time could be provided by amending the statutory vehicle acquisition schedule, staying enforcement, or some combination of amending the schedule and staying enforcement. However, DOE must act within the constraints on its delegated authority under the Act to modify the statutory vehicle acquisition schedules. In this connection, DOE invites comment on the legal implications of: (1) The omission from section 501(b) of explicit authority to modify the model year 1996 percentage applicable to alternative fuel providers; and (2) the lack of any explicit authority in section 507(o) to change the scheduled percentages applicable to State government fleets for model year 1996 or any model year thereafter. The Act does not provide any restrictions on DOE's enforcement discretion.

DOE also seeks comment on options for staying enforcement of the vehicle acquisition requirements in order to provide lead time. Relying on its broad enforcement discretion, DOE could modify proposed § 490.605 to provide for a stay of enforcement for both alternative fuel providers and State government fleets. Proposed §§ 490.201 (the requirements for State government fleets) and 490.302 (the requirements for alternative fuel providers) would be modified to be "subject to § 490.605."

DOE seeks comment on several options being considered for redrafting proposed § 490.605. One option would provide in substance that DOE: (1) Shall not enforce during the lead time period; and (2) thereafter shall enforce as if the statutory vehicle acquisition schedules had been amended to begin after the end of the lead time period. For example, if DOE chose to provide for one model year of lead time, this approach would provide for no enforcement in model year 1996 and enforcement of the model year 1996 requirements in model year 1997, and so on. Another option would

only provide that DOE shall not enforce during the lead time period, but would not affect the enforcement requirements for later model years. The difference between these options is that under the latter option, after expiration of the lead time period, enforcement would begin at the applicable percentage set forth in the statutory vehicle acquisition schedule rather than at the percentage applicable for model year 1996.

The options being considered for the duration of the lead time period include one model year, two model years, or the lead time specifically provided by section 501 and 507(o) (20 months and 16 months, respectively). However, DOE is open to other suggestions.

A stay of enforcement would not preclude modifying the alternative fuel providers' vehicle acquisition schedule for model year 1997 and thereafter consistent with section 501(b) of the Act. Neither would it preclude processing of exemption requests under the criteria set forth in sections 501(a)(5) and 507(i) of the Act.

Options involving a stay of enforcement would have the virtue of leaving intact the statutory provision to acquire alternative fueled vehicles in model year 1996 and future years. Those who may have acted in reliance on the dates in the statutory schedule, such as the major domestic automobile manufacturers, could benefit from the stimulus to purchase that the program would still provide. In this connection, it is worth noting that Ford and Chrysler have indicated their plans to accept orders for alternative fuel vehicles during the second half of model year 1995 with delivery starting during the first half of model year 1996. They, as well as the General Motors Corporation, have also indicated that they have model year 1997 plans to broaden their product offerings.

DOE urges interested members of the public to comment on the important issue discussed in this notice.

Issued in Washington, DC on June 2, 1995.

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[FR Doc. 95-14236 Filed 6-9-95; 8:45 am]

BILLING CODE 6450-01-P