

Subpart I—Alternative Compliance

SOURCE: 72 FR 12964, Mar. 20, 2007, unless otherwise noted.

§ 490.801 Purpose and scope.

This subpart implements section 514 of the Act (42 U.S.C. 13263a) which permits States and alternative fuel providers to petition for alternative compliance waivers from the alternative fueled vehicle acquisition requirements in subparts C and D of this part, respectively.

§ 490.802 Eligibility for alternative compliance waiver.

Any State subject to subpart C of this part and any covered person subject to subpart D of this part may apply to DOE for a waiver from the applicable alternative fueled vehicle acquisition requirements.

§ 490.803 Waiver requirements.

DOE grants a State or covered person a waiver:

(a) If DOE determines that the State or covered person will achieve a reduction in petroleum consumption, through eligible reductions as specified in § 490.804 of this subpart, equal to the amount of alternative fuel used if the following vehicles were operated 100 percent of the time on alternative fuel during the model year for which a waiver is requested:

(1) Previously required alternative fueled vehicles in the fleet's inventory at the start of the model year for which a waiver is requested;

(2) Alternative fueled vehicles that the State or covered person would have been required to acquire in the model year for which a waiver is requested, and in previous model years in which a waiver was granted, absent any waivers;

(b) The State or covered person is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 *et seq.*); and

(c) The State or covered person is in compliance with all applicable requirements of this subpart.

§ 490.804 Eligible reductions in petroleum consumption.

(a) *Motor vehicles.* Demonstrated reductions in petroleum consumption during the model year for which a waiver is requested that are attributable to motor vehicles owned, operated, leased or otherwise under the control of a State or covered person are applicable towards the petroleum fuel reduction required in § 490.803(a) of this subpart.

(b) *Qualified nonroad vehicles.* Demonstrated reductions in petroleum consumption during the model year for which a waiver is requested that are attributable to nonroad vehicles owned, operated, leased or otherwise under the control of a State or covered person acquired during waiver years are applicable towards the petroleum fuel reduction required in § 490.803(a) of this subpart:

(1) If acquisition of the nonroad vehicles leads directly to the establishment or upgrading of refueling or recharging infrastructure during a waiver year that would also allow for increased petroleum replacement by serving the fleet's on-road light-duty vehicles; and

(2) To the extent that additional reductions attributable to motor vehicles are not reasonably available.

(c) *Rollover of excess petroleum reductions.* (1) Petroleum reductions achieved by a fleet in excess of the amount required for alternative compliance in a previous model year are applicable towards the petroleum fuel reduction requirements for that fleet under § 490.803(a) of this subpart upon approval by DOE.

(2) Requests for approval to apply rollover reductions to future model years for which a waiver is requested must be made to DOE in writing as part of the reporting requirement specified in § 490.807 of this subpart.

(3) DOE will apply approved rollover reductions to a model year for which a waiver was granted but the required reduction in petroleum use was not achieved only to the extent that additional reductions attributable to motor vehicles were not reasonably available.

(4) Following receipt of a request to roll over excess petroleum reduction,