

**§ 490.805**

**10 CFR Ch. II (1–1–13 Edition)**

DOE notifies the State or covered person of the amount of petroleum reduction that may be applied to a future model year's petroleum reduction requirement.

(5) Excess petroleum reductions are not tradable.

(d) *Ineligible reductions.* The petroleum reduction plan required by paragraph (c)(4) of this section must not include reductions in petroleum attributable to incentives for third parties to reduce their petroleum use, petroleum reductions that are not transportation-related, or petroleum reductions attributable to non-qualified nonroad vehicles.

**§ 490.805 Application for waiver.**

(a) A State or covered person must apply for a waiver applicable to an entire fleet for a full model year in accordance with the deadlines specified in paragraph (b) of this section. DOE will not grant a waiver for less than an entire fleet or less than a full model year.

(b)(1) A State or covered person must register a preliminary intent to apply for a waiver by March 31 prior to the model year for which a waiver is sought.

(2) If a complete waiver application is dependent on information regarding the availability of motor vehicle models to be released by motor vehicle manufacturers, the waiver application must be received by DOE no later than July 31 prior to the model year for which a waiver is sought.

(3) If a complete waiver application is not dependent on information regarding the availability of motor vehicle models to be released by motor vehicle manufacturers, the waiver application must be received by DOE no later than June 30 prior to the model year for which a waiver is sought.

(c) A waiver application must include verifiable data that is sufficient to enable DOE to determine whether the State or covered person is likely to achieve the amount of petroleum reduction required for alternative compliance and whether the fleet is in compliance with Clean Air Act vehicle emission standards. At a minimum, the State entity or covered person must

provide DOE with the following information:

(1) The model year for which the waiver is requested;

(2) The total number of required alternative fueled vehicle acquisitions in the fleet including:

(i) The number of alternative fueled vehicle acquisitions that the State or covered person would, without a waiver, be required to acquire during the model year for which the waiver is requested;

(ii) The number of alternative fueled vehicle acquisitions that the State or covered person would, without a waiver, have been required to acquire during the model years for which waivers were previously granted;

(iii) The number of required alternative fueled vehicles existing in the fleet that were acquired during years in which no waiver was in force; and excluding

(iv) Any required alternative fuel vehicles acquired during a waiver or non-waiver year or light-duty vehicles acquired in lieu of alternative fuels vehicles during a waiver year that are to be retired before the beginning of the waiver year;

(3) The anticipated amount of gasoline and diesel and alternative fuel (calculated in gasoline gallon equivalents (gge)) to be used by the covered light-duty vehicles in the fleet for the waiver year including an estimate of per vehicle average fuel use in these vehicles;

(4) A petroleum reduction plan as described in paragraph (d) of this section; and

(5) Documents, or a certification by a responsible official of the State or covered person, demonstrating that the fleet is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act.

(d) The petroleum reduction plan required by paragraph (c)(4) of this section must contain a documented explanation as to how the State or covered person will meet the reduction in petroleum consumption required by § 490.803(a) of this subpart.

(1) The planned actions must:

(i) Be verifiable;

(ii) Demonstrate a reduction in petroleum use by motor vehicles or qualified nonroad vehicles owned, operated, leased or otherwise controlled by the State or covered person;

(iii) Provide for a net reduction in petroleum consumption as specified in § 490.803(a) of this subpart.

(2) The documentation for the plan may include, but is not limited to, published data on fuel efficiency, Government data, letters from manufacturers, and data on actual usage.

(e) A State or covered person must send its report, and two copies, to DOE on official company or agency letterhead, and the report must be signed by a responsible company or agency official. Send to: Regulatory Manager, Alternative Fuel Transportation Program, FreedomCAR and Vehicle Technologies Program, EE-2G/Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

**§ 490.806 Action on an application for waiver.**

(a) DOE grants or denies a complete waiver application within 45 business days after receipt of a complete application.

(b) If DOE determines that an application is not complete in that sufficient information is not provided for DOE to make a determination, DOE notifies the State or covered person of the information that must be submitted to complete the application.

(c) If DOE denies a waiver, and the State or covered person wishes to exhaust administrative remedies, the State or covered person must appeal within 30 days of the date of the determination, pursuant to 10 CFR part 1003, subpart C, to the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585. DOE's determination shall be stayed during the pendency of an appeal under this paragraph.

**§ 490.807 Reporting requirement.**

(a) By December 31 following a model year for which an alternative compliance waiver is granted, a State or covered person must submit a report to DOE that includes:

(1) A statement certifying:

(i) The total number of petroleum gallons and/or alternative fuel gge used by the fleet during the waiver year in its covered light-duty vehicles; and

(ii) The amount of petroleum motor fuel reduced by the fleet in the waiver year through alternative compliance.

(b) A State or covered person must send its report to DOE on official company or agency letterhead, and the report must be signed by a responsible company or agency official. Send to: Regulatory Manager, Alternative Fuel Transportation Program, FreedomCAR and Vehicle Technologies Program, EE-2G/Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

**§ 490.808 Use of credits to offset petroleum reduction shortfall.**

(a) If a State or covered person granted a waiver under this subpart wants to use alternative fueled vehicle credits purchased or earned pursuant to subpart F of this part to offset any shortfall in meeting the petroleum reduction required under § 490.803(a) of this subpart, it must make a written request to DOE.

(1) The State or covered person must provide details about the particular circumstances that led to the shortfall and provide documentation that shows a good faith effort to meet the requirements.

(2) DOE may request that a State or covered person supply additional information about the fleet and its operations if DOE deems such information necessary for a decision on the request.

(b) If DOE grants the request, it notifies the State or covered person of the credit amount required to offset the shortfall. DOE derives the credit amount using the fleet's fuel use per vehicle data.

(c) DOE gives the State entity or covered person until March 31 following the model year for which the waiver is granted, to acquire the number of credits required for compliance with this subpart.

**§ 490.809 Violations.**

If a State or covered person that receives a waiver under this subpart fails to comply with the petroleum motor