PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

1. The authority citation for Part 277 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

2. In § 277.18,

a. paragraph (c)(1) is revised;

b. the second sentence in paragraph (c)(2)(ii)(A) is removed and two sentences are added in its place;

c. the second sentence in paragraph (c)(2)(ii)(B) is removed and two sentences are added in its place;

d. the second sentence in paragraph (c)(2)(ii)(C) is removed and two sentences are added in its place;

e. paragraph (c)(5) is added;

f. paragraph (e)(1) is amended by removing to words ''$1 million'' and adding in their place the words ''$5 million'';

g. paragraph (e)(3)(i) is amended by removing the words ''($300,000 or 10 percent, whichever is less)'' and adding in their place the words ''($1 million or more)'';

h. the third and fourth sentences of paragraph (p)(3) are removed and one sentence is added in their place.

The revisions and additions read as follows:

§ 277.18 Establishment of an Automated Data Processing (ADP) and Information Retrieval System.

* * * * *

(c) *General acquisition requirements.—(1) Requirement for prior FCS approval.* A State agency shall obtain prior written approval from FCS as specified in paragraph (c)(2) of this section when it plans to acquire ADP equipment or services with proposed FFP that it anticipates will have total acquisition costs of $5 million or more in Federal and State funds. This applies to both competitively bid and sole source acquisitions. A State agency shall also obtain prior written approval from FCS of its justification for a sole source acquisition when it plans to acquire ADP equipment or services non-competitively from a non-governmental source which has a total State and Federal acquisition cost of more than $1 million but no more than $5 million. However, a State agency shall obtain prior written approval from FCS for the acquisition of ADP equipment or services to be utilized in and EBT system regardless of the cost of the acquisition. The State agency shall request prior FCS approval by submitting the planning APD, the Implementation APD or the justification for the sole source acquisition signed by the appropriate State official to the FCS regional office.

(2) *Specific prior approval requirements.* * * *

(ii) * * *

(A) * * * However, RFPs costing up to $5 million for competitive procurement and up to $1 million for noncompetitive acquisitions from non-governmental sources and which are an integral part of the approval APD need not be submitted to FCS. Stated will be required to submit RFPs under this threshold amount on an exception basis or if the procurement strategy is not adequately described in an APD. * * *

(B) * * * However, contracts costing up to $5 million for competitive procurements and up to $1 million for noncompetitive acquisitions from nongovernmental sources, and which are an integral part of the approved APD need not be submitted to FCS. States will be required to submit contracts under this threshold amount on an exception basis or if the procurement strategy is not adequately described in an APD. * * *

(C) * * * However, contract amendments involving cost increases of up to $1 million or time extensions of up to 120 days, and which are an integral part of the approved ADP need not be submitted to FCS. States will be required to submit contract amendments under these threshold amounts on an exception basis or if the contract amendment is not adequately justified in an APD. * * *

* * * * *

(5) *Prompt action on requests for prior approval.* FCS will reply promptly to State requests for prior approval. If FCS has not provided written approval, disapproval or a request for additional information within 60 days of FCS' letter acknowledging receipt of the State's request, the request will be deemed to have provisionally met the prior approval requirement in 277.18(c). However, provisional approval will not exempt a State from having to meet all other Federal requirements which pertain to the acquisition of ADP equipment and services. Such requirements remain subject to Federal audit and review.

* * * * *

(p) * * *

(3) * * * State agencies shall maintain reports of their biennial ADP system security reviews, together with pertinent supporting documentation, for Federal on-site review.

* * * * *

Dated: July 26, 1995.

Ellen Haas,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 95–18789 Filed 7–28–95; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

[Docket No. EE–RM–95–110A]

RIN 1904–AA64

Alternative Fuel Transportation Program

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of limited reopening of the comment period.

SUMMARY: On February 28, 1995, the Department of Energy (DOE) published a notice of proposed rulemaking (60 FR 10970) to implement statutorily-required alternative fueled vehicle acquisition requirements applicable to certain alternative fuel providers and State government fleets under sections 501 and 507(o) of the Energy Policy Act of 1992 (Act), respectively. Public hearings were held in three cities and the 60-day public comment period closed on May 1, 1995. The principal purpose of this notice is to reopen the comment period for 30 days in order to solicit comments on: options for defining the term ''substantial portion'' which is used to determine coverage for certain petroleum producers and importers; and options for modifying the proposed definition of ''alternative fuel'' with respect to alcohol fuels and biodiesel. In addition, this document announces DOE's receipt of new information regarding automakers' alternative fueled vehicle production plans for the near future.

DATES: Written comments (11 copies) on the issues presented in this notice must be received by the Department on or before August 30, 1995.

ADDRESSES: Written comments (11 copies) should be addressed to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–33, Docket No. EE–RM–95–110A, 1000 Independence Ave., SW, Washington, DC 20585, (202–586–3012).

Docket: Supporting information used in developing the proposed rule and written comments received on the Notice of Proposed Rulemaking are

contained in Docket No. EE–RM–95–110A. This Docket is available for examination in DOE's Freedom of Information Reading Room, 1E–090, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–586–6020, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth R. Katz, Program Manager, Office of Energy Efficiency and Renewable Energy (EE–33), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–6116.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 28, 1995, DOE published a notice of proposed rulemaking on implementation of statutorily-required alternative fueled vehicle acquisition requirements applicable to certain alternative fuel providers and State government fleets. Since the close of the 60-day comment period on that notice of proposed rulemaking, the Department has been reviewing the public comments. As a result of this review, the Department is now considering several policy options that are sufficiently different from the terms of the notice of proposed rulemaking to warrant an additional, focused opportunity for public comment.

On June 12, 1995, the Department published a notice reopening the record for additional public comment on options being considered for providing more lead time between the date the final rule is promulgated and the date the obligation to comply begins. 60 F.R. 30795. Today the Department publishes a notice reopening the record for additional public comment on issues relating to the definitions of ''substantial portion'' and ''alternative fuel.'' In addition, the Department is taking this opportunity to give notice of the receipt of new information regarding the availability of alternative fueled vehicles.

II. Definition of ''Substantial Portion''

Section 501(a)(2) of the Energy Policy Act of 1992 (the ''Act'') defines the class of alternative fuel providers potentially subject to the alternative fueled vehicle acquisition requirements to include persons who: (1) qualify as a ''covered person'' under section 301(5) of the Act, 42 U.S.C. 13211(5), and (2) produce or import an average of 50,000 barrels per day or more of petroleum and ''a substantial portion of whose business is producing alternative fuels.'' 42 U.S.C. 13251(a)(2)(C). Thus, the term ''substantial portion'' is a key statutory determinant of whether a covered person that produces or imports petroleum is an alternative fuel provider required by the Act to acquire alternative fueled vehicles.

However, even if an entity meets all of the qualifications for a section 501(a)(2)(C) alternative fuel provider, including the ''substantial portion'' test, it nevertheless may be excepted from the vehicle acquisition requirements under section 501(a)(3) or exempted by DOE under section 501(a)(5). Under section 501(a)(3)(A), the vehicle acquisition requirements only apply to an affiliate, division or business unit of a covered person who is substantially engaged in the alternative fuels business. *See* proposed § 490.304. Moreover, under section 501(a)(3)(B), the vehicle acquisition requirements do not apply to any entity whose principal business is transforming alternative fuel into a product other than alternative fuel or consuming such fuel to manufacture a product that is not an alternative fuel. Under section 501(a)(5), DOE may exempt alternative fuel providers from the vehicle acquisition requirements if they can show either that (1) alternative fuels that meet their normal business requirements and practices are not available; or (2) that alternative fueled vehicles that meet their normal business requirements and practices are not offered for purchase or lease on reasonable terms and conditions. See proposed § 490.308.

In the February 28, 1995 notice of proposed rulemaking, DOE proposed to define the term ''substantial portion'' to mean that at least two percent of a covered person's refinery yield of petroleum products is composed of alternative fuels. See proposed § 490.301. DOE explained that it chose the two percent of refinery yield threshold because it represented the average yield for the production of alternative fuels by petroleum refiners, as reported by the Energy Information Administration. 60 FR 10978.

The notice of proposed rulemaking also explained that in developing the proposed definition of ''substantial portion,'' the Department had considered, as an alternative, basing the definition on the portion of the gross revenue an entity derives from the production of alternative fuels. Ultimately, DOE did not propose a gross revenue threshold because the information needed to support that alternative was more fragmented than that available to support the two percent of refinery yield criterion, and DOE believed the percent of refinery yield criterion would adequately define the class of petroleum producers and importers who are ''covered persons'' under the Act. 60 FR 10979. Nevertheless, DOE asked for comment on whether reliable information exists that would allow establishment of a revenue measure for determining whether alternative fuels production comprises a substantial portion of a company's business, and it solicited suggestions for any other alternative definitions of ''substantial portion.'' 60 FR 10979.

DOE received many comments on the definition of ''substantial portion.'' Some commenters supported DOE's proposed definition of ''substantial portion,'' agreeing that if at least two percent of a refinery's product yield is composed of an alternative fuel, the fuel provider should have to meet the Act's acquisition requirements. However, most comments on this issue criticized the two percent of refinery yield as being too low a threshold. Some commenters stated that the two percent refinery yield of petroleum products threshold would impose vehicle acquisition requirements on many refineries that only produce alternative fuels (principally propane) as incidental by-products of the refining process. Several commenters recommended that DOE modify the rule to provide that at least 10 percent of a covered the percent of refinery yield criterion which focuses solely on refining operations.

Despite the lack of comprehensive, publicly available information about petroleum producers' and importers' revenue sources on a product-by-product basis, DOE has been able to collect enough information about their sales of alternative fuels to frame a possible definition of ''substantial portion'' based on percent of gross revenue derived from alternative fuels.

One option DOE is considering is whether to define ''substantial portion'' to mean that at least 30 percent of the annual gross revenue of a covered person is derived from the sale of alternative fuels. This percentage of gross revenue appears to be an appropriate gross revenue threshold for two reasons. First, available information shows that major U.S. energy producing companies historically derive at least 30 percent of their annual gross revenue from the sale of alternative fuels.[1] Major energy producers are typically consolidated or integrated companies that are involved in oil and gas

[1] Sources used were: Energy Information Administration's *Performance Profiles of Major Energy Producers*, 1993 (DOE/EIA–0206); Moody's 1994 Industrial Manual; 1995 U.S.A. Oil Industry Directory; and Standard & Poor's 1994 Register—Corporations.

exploration, oil and gas production or importing, petroleum refining and marketing, transportation of products, other energy operations (coal, nuclear and other energy) and nonenergy businesses (primarily chemicals). Second, this definition would exclude from the class of covered persons subject to the vehicle acquisition person's refinery yield of petroleum products must be composed of alternative fuels before that person would be deemed to have a ''substantial portion'' of its business involved in the production of alternative fuels. Other commenters urged DOE to adopt a definition of ''substantial portion'' that would be the same as the ''principal business'' criterion used in section 501(a)(2) for defining other categories of alternative fuel providers.

A few of the commenters recommended that DOE adopt a percentage of gross revenue derived from the sale of alternative fuels as the basis for the definition of ''substantial portion.'' They pointed out that gross revenue is the measure used for determining whether other alternative fuel providers are ''covered persons'' because their ''principal business'' is in alternative fuels. In their view, if gross revenue can be used to determine whether an entity's principal business involves alternative fuels, it also should be used for determining whether a petroleum producer or importer has a substantial portion of its business in the production of alternative fuels.

After carefully reviewing all of the comments received on this issue, DOE thinks that a percentage of gross revenue derived from the sale of alternative fuels may be a better measure of an entity's involvement in the alternative fuels business than is the percentage of refinery yield of petroleum products included in the proposed rule's definition of ''substantial portion.'' As pointed out by some commenters, a gross revenue measure can be applied to all producers and importers of petroleum, unlike the requirements those refiners who produce alternative fuels only as an incidental by-product of the refining process. Refiners are typically involved only in petroleum refining and marketing operations.

DOE also believes this gross revenue percentage comports with the terms of section 501(a)(2) of the Act, 42 U.S.C. § 13251(a)(2). If the term ''substantial portion'' were defined to include a percentage of gross revenue derived from alternative fuels that was higher than 30 percent, the distinction in the Act between ''substantial portion'' which applies to covered petroleum producers and importers (§ 501(a)(2)(C)) and ''principal business'' which applies to other alternative fuel providers (§ 501(a)(2)(A) and (B)) would be rendered meaningless. As noted in the preamble to the notice of proposed rulemaking, alternative fuels constitute an entity's ''principal business'' if the entity derives a plurality of its gross revenue from sales of alternative fuels, and a plurality may be less than 50 percent. 60 FR 10978. Therefore, DOE believes that 30 percent of gross revenue from alternative fuels may constitute a reasonable basis for the definition of ''substantial portion.''

This possible interpretation of ''substantial portion'' also appears to be consistent with the underlying intent of Congress with regard to petroleum-related entities. That intent was to apply the alternative fueled vehicle acquisition requirements only to major energy producers and importers.

DOE requests comments from interested members of the public on this possible option for defining ''substantial portion'' or any alternative options they would like DOE to consider. DOE is particularly interested in receiving data or analysis that are relevant to this issue.

III. Definition of ''Alternative Fuel''

Section 301(2) of the Energy Policy Act,[2] 42 U.S.C. 13211, defines the term ''alternative fuel'' to mean ''methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.''

[2] The conference report on the Energy Policy Act of 1992 states that ''the intent of section 501(a)(1) is not to cover all affiliates or divisions of the many large energy companies which have some, but not all, of their corporate units engaged in alternative fuels operations. For example, the oil and gas production affiliate or division of a major energy company described in 501(a)(1)(C) would be covered; so might a propane pipeline unit or a natural gas processing division, if the ''substantially engaged'' test is met. But an oil tanker division, a gasoline marketing affiliate, or a petrochemical unit whose major operations are the production of plastics, for example, would not be covered. . . .'' H.R. Rep. 1018, 102d Cong., 2d Sess. 387 (1992).

A. Alcohol Blends

In proposed § 490.2, DOE defined ''alternative fuel'' to include mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and other alcohols. However, the proposal did not decrease the alcohol percentage to no less than 70 percent as authorized by section 301(2) of the Act. DOE received comments requesting that the definition of ''alternative fuel'' include alcohol blends down to no less than 70 percent alcohol by volume. These comments point out that automobile manufacturers' winter test programs have shown that lower level alcohol blends are required for improved cold start performance in winter conditions and are recommended in Owners' Manuals. Some comments also point out that recent cold weather testing by American Automobile Manufacturers Association (AAMA) members on alcohol blends indicates that the cold start threshold (the lowest temperature at which a vehicle will start) can be lowered by 10–15 degrees Fahrenheit by decreasing the alcohol content from 85% down to 70%. However, none of these commenters submitted test data to support their request to lower the minimum alcohol percentage.

DOE recognizes the concerns that these commenters have with the cold start capability of alcohol-fueled vehicles in winter conditions. DOE, therefore, invites interested persons to provide additional data, reports and analyses that are relevant to this matter. DOE will evaluate any information it receives in response to this invitation and decide whether to amend the proposed definition of ''alternative fuel'' to include a lower alcohol percentage as provided in section 301(2).

B. Biodiesel

Many commenters requested that biodiesel be included in the Department's regulatory definition of ''alternative fuel.'' As described in the comments, biodiesel is produced from vegetable oils, such as soybean oil, which are biological materials. The commenters stated that biodiesel offers significant reduction in harmful tailpipe emissions of hydrocarbons, carbon monoxide and particulate matter; is essentially free of sulfur and harmful aromatics; and is non-toxic and biodegradable. These commenters also submitted information to show that biodiesel can be made wholly from domestic products, and that it has a positive energy balance in its production process.

After carefully reviewing all of the comments on this issue, it appears that neat (or 100 percent) biodiesel is already covered in the statutory and proposed regulatory definitions of ''alternative fuel'' which refer to any ''fuel, other than alcohol, that is derived from biological materials.'' The Department, therefore, is considering amending the proposed definition of ''alternative fuel'' specifically to include neat biodiesel. DOE requests interested members of the public to submit views and information relating to this possible revision to the definition of the term ''alternative fuel.'' It is noted that a DOE interpretation of ''alternative fuel'' to include neat biodiesel would not relieve biodiesel manufacturers from other federal or state regulatory requirements or modify automobile manufacturer warranty requirements with respect to motor fuels.

Many commenters also urged DOE to include mixtures or blends of biodiesel in the definition of ''alternative fuel.'' The issue of including biodiesel mixtures or blends comprised of more than 20 percent biodiesel is currently under study. However, this subject is complex and will require significantly more data and information, and a separate, future rulemaking, before DOE can make a determination as to whether to include them in the definition of ''alternative fuel.''

IV. Automobile Manufacturers' Alternative Fueled Vehicle Production Plans

On May 25, 1995, representatives of DOE met with representatives of the American Automobile Manufacturers Association (AAMA). This meeting was one in a series of periodic meetings that have been held between the DOE and the AAMA since 1993 to exchange information on subjects of mutual interest. At this meeting, the automobile manufacturers' representatives presented DOE with publicly available information about each company's upcoming alternative fueled vehicle production plans.

Both Ford and Chrysler provided to DOE a one-page list of their alternative fueled vehicle offerings for Model Years 1995 and 1996. Ford also provided a copy of a presentation that was delivered on May 2, 1995, at the 6th Annual Alternative Vehicle Fuels Market Fair & Symposium in Austin, Texas. This presentation included detailed information regarding when Ford alternative fueled vehicles could be ordered and when deliveries can be expected.

Although Chrysler representatives did not provide DOE with documentation of its plans, they did state that Chrysler will begin taking orders for its dedicated compressed natural gas line of trucks and full-size vans (utilizing the 5.2L engine) in June 1995, with deliveries scheduled to begin in August 1995. Chrysler plans to begin taking orders for dedicated compressed natural gas minivans (using the 3.3L engine) during the last quarter of 1995, with anticipated deliveries scheduled to begin in the first quarter of 1996. Chrysler representatives also stated that an electric minivan may be available in calendar year 1997.

General Motors (GM) representatives stated that GM does not plan to manufacture any alternative fueled vehicles for Model Year 1996. However, GM does plan on making alternative fueled vehicles in Model Year 1997. According to a May 11, 1995, press release that GM provided, all of the model year 1997 Chevrolet S-series and GMC Sonoma 4-cylinder light duty pickup trucks will be produced as flexible-fuel vehicles, which can operate on ethanol, gasoline, or a combination of the two fuels. These trucks are scheduled for production beginning in the summer of 1996. GM also indicated that customers can currently order vehicles in several models and engine families that are powered by gaseous fuel compatible engines. These engines can be converted to operate on propane or natural gas. According to GM, the engine families that are gaseous fuel compatible and the vehicles that they power are the 4-cylinder 2.2L (Corsica), the 4.3L V–8 (Caprice), and the 6.0L V–8 and 7.0L V–8 (Topkick, Kodiak and School Bus).

Copies of the written information provided to DOE at this meeting have been entered into the public docket for this rulemaking.

Issued in Washington, DC, July 26, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy

[FR Doc. 95–18737 Filed 7–28–95; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ANM–13]

Proposed Amendment to Class E Airspace; Sheridan, Wyoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Sheridan, Wyoming, Class E airspace to accommodate a new instrument approach procedure at Sheridan County Airport, Sheridan, Wyoming. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before August 31, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 95–ANM–13, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Riley, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 95–ANM–13, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ANM–13.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each