

§ 490.6

(1) With the Assistant Secretary;
(2) In an envelope labeled "Request for Interpretive Ruling under 10 CFR Part 490;" and

(3) By messenger or mail at the Office of Energy Efficiency and Renewable Energy, EE-33, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 or at such other address as DOE may provide by notice in the FEDERAL REGISTER.

(c) *Content of request for interpretive ruling.* At a minimum, a request under this section shall—

- (1) Be in writing;
- (2) Be labeled "Request for Interpretive Ruling Under 10 CFR Part 490;"
- (3) Identify the name, address, telephone number, and any designated representative of the person requesting the interpretive ruling;
- (4) State the facts and circumstances relevant to the request;
- (5) Be accompanied by copies of relevant supporting documents, if any;
- (6) Specifically identify the pertinent regulations and the related question on which an interpretive ruling is sought with regard to the relevant facts and circumstances; and
- (7) Contain any arguments in support of the terms of an interpretation the requester is seeking.

(d) *Public comment.* DOE may give public notice of any request for an interpretive ruling and invite public comment.

(e) *Opportunity to respond to public comment.* DOE may provide an opportunity for any person who requested an interpretive ruling to respond to public comments.

(f) *Other sources of information.* DOE may—

- (1) Conduct an investigation of any statement in a request;
- (2) Consider any other source of information in evaluating a request for an interpretive ruling; and
- (3) Rely on previously issued interpretive rulings dealing with the same or a related issue.

(g) *Informal conference.* DOE, on its own initiative, may convene an informal conference with the person requesting an interpretive ruling.

(h) *Effect of an interpretive ruling.* The authority of an interpretive ruling shall be limited to the person request-

10 CFR Ch. II (1–1–06 Edition)

ing such ruling and shall depend on the accuracy and completeness of the facts and circumstances on which the interpretive ruling is based. An interpretive ruling by the Assistant Secretary shall be final for DOE.

(i) *Reliance on an interpretive ruling.* No person who obtains an interpretive ruling under this section shall be subject to an enforcement action for civil penalties or criminal fines for actions reasonably taken in reliance thereon, but a person may not act in reliance on an interpretive ruling that is administratively rescinded or modified, judicially invalidated, or its prospective effect is overruled by statute or regulation.

(j) *Denials of requests for an interpretive ruling.* DOE shall deny a request for an interpretive ruling if DOE determines that—

- (1) There is insufficient information upon which to base an interpretive ruling;
- (2) The questions posed should be treated in a general notice of proposed rulemaking under 42 U.S.C. 7191 and 5 U.S.C. 553;

(3) There is an adequate procedure elsewhere in this part for addressing the question posed such as a petition for exemption; or

(4) For other good cause.

(k) *Public file.* DOE may file a copy of an interpretive ruling in a public file labeled "Interpretive Rulings Under 10 CFR Part 490" which shall be available during normal business hours for public inspection at the DOE Freedom of Information Reading Room at 1000 Independence Avenue, SW, Washington, DC 20585, or at such other addresses as DOE may announce in a FEDERAL REGISTER notice.

§ 490.6 Petitions for generally applicable rulemaking.

(a) *Right to file.* Pursuant to 42 U.S.C. 7191 and 5 U.S.C. 553(e), any person may file a petition for generally applicable rulemaking under titles III, IV, and V of the Act with the DOE General Counsel.

(b) *How to file.* A petition for generally applicable rulemaking under this section shall be filed by mail or messenger in an envelope addressed to the Office of General Counsel, GC-1,

Department of Energy

Pt. 490, Subpt. A, App. A

U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

(c) *Content of rulemaking petitions.* A petition under this section must—

(1) Be labeled “Petition for Rulemaking Under 10 CFR Part 490”;

(2) Describe with particularity the terms of the rule being sought;

(3) Identify the provisions of law that direct, authorize, or affect the issuance of the rules being sought; and

(4) Explain why DOE should not choose to make policy by precedent through interpretive rulings, petitions for exemption, or other adjudications.

(d) *Determination upon rulemaking petitions.* After considering the petition and other information deemed to be appropriate, DOE may grant the petition and issue an appropriate rulemaking notice, or deny the petition because the rule being sought—

(1) Would be inconsistent with statutory law;

(2) Would establish a generally applicable policy in an area that should be left to case-by-case determinations;

(3) Would establish a policy inconsistent with the underlying statutory purposes; or

(4) For other good cause.

§ 490.7 Relationship to other law.

(a) Nothing in this part shall be construed to require or authorize sale of, or conversion to, light duty alternative fueled motor vehicles in violation of applicable regulations of any Federal, State or local government agency.

(b) Nothing in this part shall be construed to require or authorize the use of a motor fuel in violation of applicable regulations of any Federal, State, or local government agency.

APPENDIX A TO SUBPART A OF PART 490—METROPOLITAN STATISTICAL AREAS/CONSOLIDATED METROPOLITAN STATISTICAL AREAS WITH 1980 POPULATIONS OF 250,000 OR MORE

Albany-Schenectady-Troy MSA NY
Albuquerque MSA NM
Allentown-Bethlehem-Easton MSA PA
Appleton-Oshkosh-Neenah MSA WI
Atlanta MSA GA
Augusta-Aiken MSA GA-SC
Austin-San Marcos MSA TX
Bakersfield MSA CA
Baton Rouge MSA LA

Beaumont-Port Arthur MSA TX
Binghamton MSA NY
Birmingham MSA AL
Boise City MSA ID
Boston-Worcester-Lawrence CMSA MA-NH-ME-CT
Buffalo-Niagara Falls MSA NY
Canton-Massillon MSA OH
Charleston MSA SC
Charleston MSA WV
Charlotte-Gastonia-Rock Hill MSA NC-SC
Chattanooga MSA TN-GA
Chicago-Gary-Kenosha CMSA IL-IN-WI
Cincinnati-Hamilton CMSA OH-KY-IN
Cleveland-Akron CMSA OH
Colorado Springs MSA CO
Columbia MSA SC
Columbus MSA OH
Columbus MSA GA-AL
Corpus Christi MSA TX
Dallas-Fort Worth CMSA TX
Davenport-Moline-Rock Island MSA IA-IL
Dayton-Springfield MSA OH
Daytona Beach MSA FL
Denver-Boulder-Greeley CMSA CO
Des Moines MSA IA
Detroit-Ann Arbor-Flint CMSA MI
Duluth MSA MN-WI
El Paso MSA TX
Erie MSA PA
Eugene-Springfield MSA OR
Evansville-Henderson MSA IN-KY
Fort Wayne MSA IN
Fresno MSA CA
Grand Rapids-Muskegon-Holland MSA MI
Greensboro-Winston Salem-High Point MSA NC
Greenville-Spartanburg-Anderson MSA SC
Harrisburg-Lebanon-Carlisle MSA PA
Hartford MSA CT
Hickory-Morganton MSA NC
Honolulu MSA HI
Houston-Galveston-Brazoria CMSA TX
Huntington-Ashland MSA WV-KY-OH
Indianapolis MSA IN
Jackson MSA MS
Jacksonville MSA FL
Johnson City-Kingsport-Bristol MSA TN-VA
Johnstown MSA PA
Kalamazoo-Battle Creek MSA MI
Kansas City MSA MO-KS
Knoxville MSA TN
Lakeland-Winter Haven MSA FL
Lancaster MSA PA
Lansing-East Lansing MSA MI
Las Vegas MSA NV-AZ
Lexington MSA KY
Little Rock-N. Little Rock MSA AR
Los Angeles-Riverside-Orange County CMSA CA
Louisville MSA KY-IN
Macon MSA GA
Madison MSA WI
McAllen-Edinburg-Mission MSA TX
Melbourne-Titusville-Palm Bay MSA FL
Memphis MSA TN-AR-MS
Miami-Fort Lauderdale CMSA FL