

DEPARTMENT OF ENERGY

10 CFR Part 490

[Docket No. EE-RM-FCVT-03-001]

RIN 1904-AA98

Office of Energy Efficiency and Renewable Energy; Alternative Fuel Transportation Program; Private and Local Government Fleet Determination

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

ACTION: Notice of proposed rulemaking (NPR) and public hearing.

SUMMARY: Pursuant to the Energy Policy Act of 1992 (EPAct), the Department of Energy proposes to determine that a regulatory requirement for the owners and operators of certain private and local government fleets to acquire alternative fueled vehicles is not "necessary," and thus cannot and should not be promulgated, because such a program would result in no appreciable increase in the percentage of alternative fuel and replacement fuel used by motor vehicles in the United States and thus would not appreciably contribute to the achievement of the replacement fuel goal set forth in section 502(b)(2) of EPAct.

DATES: Written comments (eight copies and, if possible, an e-mail copy) on the proposed determination must be received by DOE on or before June 2, 2003; electronic copies of comments may be sent to the e-mail address listed below.

Oral views, data, and arguments may be presented at the public hearing, which will be held on May 7, 2003. The length of each oral presentation is limited to 10 minutes. The public hearing will be held at the U.S. Department of Energy Main Auditorium, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Requests to speak at the hearing must be submitted to DOE no later than 4 p.m. on April 22, 2003.

ADDRESSES: Written comments (eight copies) and requests to speak at the public hearing should be addressed to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-2G, Docket Number EE-RM-FCVT-03-001, 1000 Independence Avenue, SW., Washington, DC 20585-0121. E-mails may be sent to: regulatory_info@afdc.nrel.gov.

Copies of this notice, the transcript from the hearing, and written comments will be placed at the following website address: http://www.ott.doe.gov/epact/private_fleets.shtml. You may also

access these documents using a computer in DOE's Freedom of Information (FOI) Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. To request a copy of this notice or arrange on-site access to paper copies of other information in the docket, contact Mr. Dana V. O'Hara at the phone number or e-mail address below.

For more information concerning public participation in this rulemaking see the "Opportunity for Public Comment" section found in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice: Mr. Dana V. O'Hara, Office of Energy Efficiency and Renewable Energy (EE-2G), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0121; (202) 586-9171; regulatory_info@afdc.nrel.gov.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Section 507(e) of EPAct states that " * * the Secretary shall . . . determine whether a fleet requirement program is necessary under this section" with respect to certain private and local government vehicle fleets (42 U.S.C. 13257(e)). The Department of Energy (DOE) proposes to determine that it is not "necessary" to promulgate a regulation requiring these fleets to acquire alternative fueled vehicles

(AFVs). DOE proposes this determination because implementation of a private and local government fleet rule program would not appreciably contribute to the achievement of EPAct's existing 2010 replacement fuel goal of 30 percent, or of a revised replacement fuel goal were one to be adopted. DOE's review of EPAct, existing fleet programs, and the status of markets for alternative fuels and AFVs leads it to conclude that adopting a private and local government fleet rule would result in no appreciable increase in the percentage of alternative fuel and replacement fuel used by motor vehicles in the United States.

This conclusion and DOE's proposed determination are based on two interrelated findings and reasons. First, DOE has concluded that the number of fleets that would be covered by a private and local government fleet mandate and the number of AFV acquisitions that would occur are too small to cause an appreciable increase in the percentage of replacement fuel that is used as motor fuel. This is because of the limitations placed by EPAct itself on DOE's authority to promulgate a private and local government fleet acquisition mandate. For example, and as will be explained below, a private and local government fleet program could only apply to light duty vehicles (*i.e.*, less than 8,500 lbs. gross vehicle weight rating (GVWR)), to fleets that are located in certain metropolitan areas, and could not apply to a number of excluded vehicle classes and types (*e.g.*, rental vehicles, emergency vehicles, and vehicles garaged at residences overnight). Furthermore, EPAct requires that even fleets potentially covered by a fleet mandate may avoid some or all of its acquisition requirements if they fall within one of the numerous exemptions set forth in the statute.

Second, even if a private and local government fleet acquisition mandate were adopted and substantial numbers of AFVs were acquired as a result, there is no assurance that the AFVs acquired by covered fleets would actually use replacement fuel. EPAct gives DOE no authority to require that vehicles acquired by private and local government fleets use any particular fuel. Moreover, DOE's experience with implementation of the Federal fleet, State fleet, and alternative fuel provider fleet programs required by EPAct leads DOE to conclude that as a result of the lack of alternative fuel infrastructure, lack of suitable AFV models, lack of reasonable vehicle prices, and high alternative fuel costs relative to conventional motor fuels, market forces would prevent appreciable increases in