

issues related to potential alternative fuel transportation requirements for private and local government fleets. In furtherance of its objective of consulting with affected State and local government officials, the first two workshops were open only to State and local officials. DOE held workshops on August 1, 2000 in Chicago, Illinois; on August 22, 2000 in Denver, Colorado; and on September 26, 2000 in Washington, DC.

On January 2, 2002, EarthJustice, on behalf of the Center for Biological Diversity, Bluewater Network, and Sierra Club, filed a lawsuit in the U.S. District Court for the Northern District of California which, in addition to seeking redress of other grievances, sought to compel DOE to “issue a proposed rule and final determination on the necessity of a private and municipal fleet program.” On July 26, 2002, the Court granted plaintiffs’ motion for summary judgment on the issue of whether DOE had missed the deadline set forth in EPCA section 507(e) for completing the rulemaking; as a result, the Court ordered a September 26, 2002, hearing to determine a timetable for completing the rulemaking. See *Center for Biological Diversity v. Abraham, et al.*, No. C 02–00027 (N.D. Calif., July 26, 2002) (order on motions for summary judgment). On September 27, 2002, the District Court ordered DOE to complete its proposed rulemaking by January 27, 2003 and its final rule by November 27, 2003. See *Center for Biological Diversity v. Abraham, et al.*, No. C 02–00027 (N.D. Calif., Sept. 27, 2002). The Court subsequently granted a 30-day extension (to February 26, 2003) of the deadline for DOE to complete work on this notice of proposed rulemaking.

As required by section 507 of EPCA and the order of the U.S. District Court for the Northern District of California, DOE has issued today’s notice of proposed rulemaking which proposes to determine that DOE should not promulgate regulatory requirements for private and local government fleets.

C. Program Background

Titles III, IV, and V of EPCA are focused on promoting the use of non-petroleum motor fuels, including replacement fuels and alternative fuels, in the transportation sector. EPCA focused on the transportation sector because of its almost complete reliance on petroleum as a fuel source and its significant contribution to petroleum demand. The transportation sector is nearly 97 percent dependent on oil as a fuel and is a major reason the U.S. is so dependent on imported oil. See Center

for Transportation Analysis, Oak Ridge National Laboratory, *Transportation Energy Data Book Edition 22*, p. 2–4 (Table 2.2) (ORNL 6967) (Sept. 2002) (www.ornl.gov) [hereinafter *Energy Data Book*]. The transportation sector’s demand for oil has continued to grow while other sectors have become less reliant on oil. In 1973, the U.S. transportation sector accounted for 52 percent of total U.S. petroleum use (9.05 of 17.31 million barrels per day (mmbd)). *Id.* at p. 1–18 (Table 1.13). In 2001, transportation sector demand for petroleum accounted for roughly 67 percent of total U.S. petroleum demand and exceeded domestic production by 5.2 mmbd equivalent of oil. *Id.* at pp. 1–16 (Table 1.12), 1–18 (Table 1.13).

The U.S. Energy Information Administration (EIA) has projected that transportation sector consumption of petroleum will rise to 19.22 mmbd by 2020. See EIA, *Annual Energy Outlook 2002*, p. 141 (Table A11) (DOE/EIA–0383(2002)) (December 2001) [hereinafter AEO 2002]. In 2020, passenger cars and light-duty trucks, which are the primary focus of Titles III–V of EPCA, are expected to account for 59 percent of the total energy used by the transportation sector. *Id.* at p. 136 (Table A7). In 2020, it is projected that U.S. oil production will provide only about half the total energy needed to fuel light-duty vehicles. *Id.* at pp. 141 (Table A11), 136 (Table A7).

As demand for transportation petroleum has grown, so too have U.S. petroleum imports. Dependence on imported petroleum was 41 percent when EPCA was enacted (6.96 mmbd), reached nearly 56 percent in 2001 (10.9 mmbd), and is expected to reach 63 percent by 2020 (16.6 mmbd). See *Energy Data Book* at p. 1–16 (Table 1.12), and AEO 2002 at p. 141 (Table A11). Of net U.S. imports, members of the Organization of Petroleum Exporting Countries (OPEC) currently supply almost 50 percent, with Persian Gulf states supplying almost half of this amount. See EIA, *Monthly Energy Review*, Table 1.8 (November 2002) (<http://www.eia.doe.gov/emeu/mer/txt/mer1–8>). OPEC members now account for approximately 40 percent of world oil production, and 52 percent of the petroleum export market. See EIA, *International Energy Outlook 2002* Tables D4, 11; <http://www.eia.doe.gov/oiaf/ieo/> [hereinafter *IEO 2002*]. According to the *IEO 2002* (Table 11), OPEC’s share of worldwide crude oil exports is projected to increase to 64 percent by 2020. Much of the oil controlled by OPEC is concentrated in the Middle East, which contains nearly

two-thirds of the world’s proven reserves. See *IEO 2002* Table 8.

Reducing total petroleum use and reducing petroleum imports decrease our economy’s vulnerability to oil price shocks. Reducing dependence on oil imports from unstable regions enhances our energy security and can reduce payments to nations that may be hostile to U.S. interests. In 2000, the annual U.S. trade deficit in oil reached \$106 billion. See *AEO 2002* at p. 141 (Table A–11). Reducing the growth rate of oil use through conservation and use of non-petroleum motor fuels also relieves pressure on an already strained domestic refinery capacity, decreasing the likelihood of price volatility. Finally, conserving energy and using non-petroleum fuels, many of which are low in carbon intensity, help achieve the goal of decreasing greenhouse gas emissions.

Reductions in the U.S. demand for petroleum can significantly affect worldwide oil demand because the U.S. accounts for one-fourth of total world oil consumption. See *Energy Data Book* at 1–5 (Table 1.4). The consumption of motor fuels by U.S. light-duty vehicles in 2000 accounted for almost 10 percent of total world demand. As demand declines, prices for oil also are generally expected to decline. DOE has previously stated that a “reasonable rule of thumb is that a 1 percent decrease in U.S. petroleum demand will reduce world oil price by 0.5 percent, in the long-run.” Short-term impacts are expected to be even greater. See *Energy Efficiency and Renewable Energy, DOE, Replacement Fuel and Alternative Fuel Vehicle—Technical and Policy Analysis* p. viii–ix (Dec. 1999—Amendments Sept. 2000); <http://www.ccities.doe.gov/pdfs/section506.pdf> [hereinafter *Section 506 Report*] (issued pursuant to EPCA section 506).

DOE manages a number of different programs that are aimed at reducing reliance on petroleum motor fuels. Part of this effort includes continued implementation of the programs contemplated under EPCA, including the fleet AFV acquisition programs for Federal, State government and fuel provider fleets (see below for discussion of EPCA Programs). These programs are primarily focused on the development and use of AFVs. DOE will continue efforts through its Clean Cities Program to encourage fleets to expand their use of alternative fuels and AFVs. These efforts involve primarily focusing on niche market fleets, but also include continued support for regulated fleets. DOE also plans to continue research programs involving replacement fuels, including biofuels, such as ethanol and