

Meetings and discussions with automobile manufacturers focused primarily upon presentation of DOE's authority, possible approaches, and issues. The manufacturers indicated their continuing interest in alternative fueled vehicles and their desire in being informed concerning development of the rule. As a whole, the automakers expressed interest in options that provided the maximum flexibility to the fleets. They also encouraged aggressive enforcement of the existing requirements for Federal, State, and alternative fuel provider fleets. Several automakers reemphasized that their corporate policies do not favor governmental mandates.

C. Public Workshops—August—September 2000

Pursuant to its Notice of Intergovernmental Consultation, DOE conducted three public workshops (Argonne, IL; Golden, CO; and Washington, DC) and solicited written comments from the public concerning the replacement fuel goals and a potential private and local government fleet program. See 65 FR 44987 (July 20, 2000). These workshops were held to ensure that the requirements of Executive Order 13132 (*Federalism*) (See 64 FR 43255 (August 10, 1999)) and DOE's statement of policy regarding intergovernmental consultation (DOE *Statement of Policy*) (See 65 FR 13735 (March 14, 2000)) were met. Under these directives, DOE must consult with State and local governments before issuing any proposed rule which would have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. To ensure that State and local government organizations had ample opportunities to respond, the first two workshops were limited primarily to those types of organizations, with Clean Cities coordinators also permitted. The Washington, DC workshop was open to all groups. A total of over 100 interested persons attended, and 28 sets of written comments were received. Neither EarthJustice nor any of the entities it represents in the lawsuit that resulted in the court order compelling the issuance of this notice filed comments in those proceedings.

Public workshops were held in Chicago, IL (August 1, 2000); Denver, CO (August 22, 2000); and Washington, DC (September 26, 2000). DOE once again took the opportunity to solicit input on a number of different options for implementing a private and local

government fleet rule. Some of these options involved creative alternatives to the section 507(e) mandate that DOE acknowledged might require new legislative authority for their adoption. The options presented at these workshops included:

Option 1—No Regulatory Requirement for Local Government and Private Fleets is Proposed

Option 2—The Local Government and Private Fleet AFV Acquisition Program as Provided by Section 507(g) of EPAct

Option 3—The Fleet Rewards Program

Option 4—The Replacement Fuel Program

Option 5—Extension of Flexible Options to Other Fleets

Option 6—An Alternative Fueled Urban Transit Bus Acquisition Program as Provided by Section 507(k) of EPAct

The discussion that follows provides details concerning each of these options.

Option 1—No Regulatory Requirement for Local Government and Private Fleets Is Proposed

Under this option, DOE indicated that it could decide that no requirement for local private and local government fleets should be promulgated.

Option 2—The Local Government and Private Fleet AFV Acquisition Program as Provided by Section 507(g) of EPAct

Under this option, DOE would require certain private and local government fleets to acquire AFVs as a percentage of their new light-duty vehicle acquisitions starting with Model Year 2002. The program was envisioned to parallel the existing program for State and alternative fuel provider fleets.

DOE acknowledged that there were significant drawbacks to this option, primarily that it did not guarantee alternative fuel use or petroleum replacement. Because of the experiences with the similar programs for State and fuel provider fleets, as well as the Federal fleet, there was concern that this option would result in little actual alternative fuel use. DOE indicated that it had considered the option of promulgating a rule, based upon section 507(g), with a fuel use requirement, but stated at the time that it was doubtful that DOE had authority to require fuel use under section 507(g). For this reason, the options presented did not include a 507(g) rule with a fuel use requirement as had earlier been discussed as a possibility.

Option 3—The Fleet Rewards Program

Under this option, DOE would craft a regulatory program that encouraged fuel use. Although the local government and private fleet market is very large, imposing AFV acquisition requirements

on this market would not necessarily result in the expansion of alternative fuel use, nor the complementary expansion of the alternative fuel infrastructure necessary to permit that expansion. DOE again reiterated its belief that section 507(g) does not require the fleets to use alternative fuel in the AFVs they acquire. DOE indicated that it was considering adoption of a Fleet Rewards Program to fill this gap. Under this option, fleets could meet the requirements of 507(g) directly (through AFV acquisitions), or opt into the Fleet Rewards Program under which they could meet their requirements through a combination of voluntary AFV acquisitions and alternative fuel use.

Under the Fleet Rewards Program, the number of light-duty vehicles acquired by a fleet in a model year would still serve as the basis for determining the potential proposed rule's requirements. As under the prior option, a specific percentage of the light-duty vehicles each covered fleet acquired would have to be AFVs. However, the Fleet Rewards Program would differ by allowing a fleet to take specific actions, called AFV-Equivalency actions, to achieve compliance with its AFV acquisition requirements while also encouraging the use of alternative fuel. Specifically, a fleet would receive AFV-Equivalency Credits for any size and class of AFV it acquired, and for each 500 gasoline gallons equivalent (GGEs) of alternative fuel it consumed. Each AFV acquired by a fleet, regardless of size or class, would earn an AFV-Equivalency Credit. Each discrete use of 500 GGEs of alternative fuel would also earn an AFV-Equivalency Credit. Two AFV-Equivalency credits would be allocated for the acquisition of dedicated AFVs. The operation of an existing dedicated AFV in a fleet would also be eligible for AFV-Equivalency Credit.

Option 4—The Replacement Fuel Program

For Option 4, DOE stated it was considering whether to design a program different from the 507(g) acquisition requirements, that was more tailored to achieving the overall goals of displacing petroleum through use of replacement fuel. Such a program might avoid the shortcomings of EPAct's existing approach toward fleets, which solely focuses on acquiring AFVs, but not on the use of alternative fuel.

The Replacement Fuel Program would require fleets to reduce their light-duty vehicle petroleum usage by increasing the percentage of replacement fuel used by their light-duty vehicles. In order to use a sufficient amount of replacement