

IV. Whether To Modify Replacement Fuel Goal

DOE has decided not to propose modification of the 2010 replacement fuel goal of 30 percent in this notice of proposed rulemaking. As noted earlier, the process of determining whether to adopt a regulatory requirement for private and local fleets depends on whether such a rule is "necessary" to achieve EPA's petroleum replacement fuel goals. As part of the process of evaluating whether to propose AFV acquisition mandates for private and local government fleets pursuant to EPA section 507, DOE reviewed the replacement fuel goals in EPA section 502 and considered whether to revise them, but decided for several reasons that it would not propose any such modifications.

First of all, EPA does not require DOE to revise the petroleum replacement fuel goal in order for DOE to determine whether a private and local government fleet rule is "necessary." Although section 507(e)(2) permits DOE to modify the replacement fuel goal in the context of making a private and local government fleet determination, the statute does not require the goals to be modified.

Second, DOE believes it would not promote the right incentives or actions to propose modifications to the 2010 replacement fuel goal at this time. Congress in 1992 created by statute (in EPA section 502(b)(2)) an initial national goal of using replacement fuels for at least 10 percent of motor fuel used in the United States in 2000, and a long-term goal of at least 30 percent in 2010, on a petroleum fuel energy equivalent basis. EPA's legislative history does not explain why Congress chose these particular goals and dates, nor does it provide any analysis supporting them. However, and in light of the overall purposes of EPA, DOE believes that Congress set these particular goals to establish aggressive aspirational petroleum reduction targets for the Federal government and the public. Congress apparently intended to encourage action that would aggressively advance the availability and use of replacement fuels. DOE believes that the goals as set in EPA were intended to encourage actions that would lead to significant increases in replacement fuel use.

Since EPA's enactment in late 1992, the Federal government has implemented a number of regulatory and voluntary programs in an effort to increase the use and availability of replacement fuels. These programs are discussed in more detail in the

Introduction section of this **SUPPLEMENTARY INFORMATION.** While these programs have had a favorable impact on the environment and on the use of alternative fuels and replacement fuels, these programs have not had the desired effect of greatly increasing the availability or use of alternative and replacement fuels, or of causing the use of replacement fuels to become a viable alternative, on a large-scale basis, to the use of petroleum-based fuels in vehicles. The result is that although the use of replacement and alternative fuels has increased since 1992, the overall use of these fuels relative to total petroleum consumption remains relatively small. In 1992, replacement fuels accounted for slightly less than 2 percent of total motor fuel consumption; by 2001, replacement fuels accounted for less than 3 percent. *See Transportation Fuels 2000* at Table 10. Thus, to date, very little progress has been made toward achieving the aggressive goals established by EPA and little progress will be made in the future without major new initiatives.

At the same time, DOE takes note of the fact that Congress is widely expected to take up comprehensive legislation that may significantly affect our nation's energy future and may bear importantly not only on the achievability of the current goals but also on what any potential revised goals might be. Moreover, the President and DOE have proposed bold initiatives to dramatically increase the availability, use and commercial viability of replacement fuels in the transportation sector. DOE's primary efforts are focused on the long-term goal of developing the technology and infrastructure to allow hydrogen to become a key motor vehicle fuel. These efforts, if fully supported with necessary enabling legislation and funding as DOE has proposed, offer the potential to achieve the long term goal of replacing petroleum as the primary transportation fuel.

In light of the momentum that these various efforts are engendering; in light of what DOE understands to be the principal purpose of EPA's replacement goals in section 502(b)(2)—to encourage policymakers, industry and the public to engage in aggressive action to expand the use of alternative and replacement fuels; and in light of the likelihood of consideration and enactment of new legislation by this Congress that would have significant bearing on these issues, DOE has concluded that it should not make a determination under EPA concerning the achievability of the 2010 goals at this time. Therefore DOE is not at this

time proposing to change the 2010 replacement fuel goal set forth in EPA section 502(b)(2). DOE will continue to evaluate this issue and may in the future, if it considers appropriate, review and modify the 2010 replacement fuel goal pursuant to its authority in EPA Title V.

V. Opportunity for Public Comment

A. Participation in Rulemaking

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments with respect to the subject set forth in this notice and the proposals made by DOE. DOE encourages the maximum level of public participation possible in this proceeding. Individual consumers, representatives of consumer groups, manufacturers, associations, coalitions, States or other government entities, and others are urged to submit written comments on the proposal. DOE also encourages interested persons to participate in the public hearing announced at the beginning of this notice. Whenever applicable, full supporting rationale, data and detailed analyses should also be submitted.

B. Written Comment Procedures

Written comments (eight copies) should be identified on the outside of the envelope, and on the comments themselves, with the designation: "Alternative Fuel Transportation Program: Private and Local Government Fleet Determination, NOPR, Docket Number EE-RM-FCVT-03-001" and must be received by the date specified at the beginning of this notice. In the event any person wishing to submit written comments and cannot provide eight copies, alternative arrangements can be made in advance by calling Mr. Dana O'Hara at (202) 586-9171. Additionally, DOE would appreciate an electronic copy of the comments to the extent possible. Electronic copies should be e-mailed to regulatory_info@afdc.nrel.gov. DOE is currently using Corel WordPerfect or Microsoft Word.

All comments received on or before the date specified at the beginning of this notice of proposed rulemaking and other relevant information will be considered by DOE before final action is taken on the proposal. All comments submitted will be made available in the electronic docket set up for this rulemaking. This docket will be available on the World Wide Web at the following address—http://www.ott.doe.gov/epact/private_fleets.shtml. Pursuant to the provisions of 10 CFR 1004.1, anyone