

certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's proposed determination and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

XII. Review of Impact on State Governments—Economic Impact on States

Section 1(b)(9) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (September 30, 1993), established the following principle for agencies to follow in rulemakings: "Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, agencies shall seek to harmonize Federal regulatory actions with regulated State, local and tribal regulatory and other governmental functions."

Because DOE is proposing to determine that a private and local government fleet AFV program is not "necessary" under section 507(e) and therefore is not proposing the promulgation of such a program, no significant impacts upon State and local governments are anticipated. The position of State fleets currently covered under the existing EPCA fleet program is unchanged by this action. Before reaching these conclusions, DOE sought and considered the views of State and local officials. DOE's efforts in this regard are discussed above in the portion of this **SUPPLEMENTARY INFORMATION** describing the workshops

DOE conducted on various options for implementing a fleet program.

XIII. Review of Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, requires each Federal agency to assess the effects of Federal regulatory actions on State, local and tribal governments and the private sector. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officials on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published in the **Federal Register** a statement of policy on its process for intergovernmental consultation under the Act (62 FR 12820). The notice of proposed rulemaking published today does not propose or contain any Federal mandate, so the requirements of the Unfunded Mandates Reform Act do not apply.

XIV. Review of Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105-277, requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. Today's notice of proposed rulemaking and proposed determination would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

XV. Review of Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

XVI. Review Under Executive Order 13175

Under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), 65 FR 67249 (November 9, 2000), DOE is required to consult with Indian tribal officials in development of regulatory policies that have tribal implications. Today's notice and proposed determination would not have such implications. Accordingly, Executive Order 13175 does not apply to this notice and proposed determination.

XVII. Review Under Executive Order 13045

Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks), 62 FR 19885 (April 23, 1997) contains special requirements that apply to certain rulemakings that are economically significant under Executive Order 12866. Today's action is not economically significant. Accordingly, Executive Order 13045 does not apply to this rulemaking.

XVIII. Review Under Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy, Supply, Distribution, or Use), 66 FR 28355 (May 22, 2001) requires preparation and submission to OMB of a Statement of Energy Effects for significant regulatory actions under Executive Order 12866 that are likely to have a significant adverse effect on the supply, distribution, or use of energy. A determination that a private and local government fleet AFV acquisition program is not "necessary" under EPCA section 507(e) does not require private and local government fleets, suppliers of energy, or distributors of energy to do or to refrain from doing anything. Thus, although today's proposed negative determination is a significant regulatory action, if finalized the determination will not have a significant adverse impact on the supply, distribution, or use of energy. Consequently, DOE has concluded there is no need for a Statement of Energy Effects.

Issued in Washington, DC, on February 26, 2003.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 03-4991 Filed 3-3-03; 8:45 am]

BILLING CODE 6450-01-P