

implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

The proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. We do not know of any stationary combustion turbines owned or operated by Indian tribal governments. However, if there are any, the effect of these rules on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to the proposed rule.

#### *D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

#### *E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

Executive Order 13211 (66 FR 28355, May 22, 2001), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs,

Office of Management and Budget, a Statement of Energy Effects for certain actions identified as “significant energy actions.” Section 4(b) of Executive Order 13211 defines “significant energy actions” as “any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1) (i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.” The proposed rule is a significant regulatory action within the meaning of Executive Order 12866. We have, therefore, prepared a Statement of Energy Effects for this action as follows.

The increase in petroleum product output, which includes increases in fuel production, is estimated at 0.003 percent, or about 475 barrels per day based on 2000 U.S. fuel production nationwide. The reduction in coal production is estimated at 0.006 percent, or about 700,000 short tons per year based on 2000 U.S. coal production nationwide. The reduction in electricity output is estimated at 0.02 percent, or about 4.9 billion kilowatt-hours per year based on 2000 U.S. electricity production nationwide. Production of natural gas is expected to increase by 3.0 million cubic feet (ft<sup>3</sup>) per day. The maximum of all energy price increases, which include increases in natural gas prices as well as those for petroleum products, coal, and electricity, is estimated to be the 0.18 percent increase in peak-load electricity rates nationwide. Energy distribution costs may increase by roughly no more than the same amount as electricity rates. We expect that there will be no discernable impact on the import of foreign energy supplies, and no other adverse outcomes are expected to occur with regards to energy supplies. Also, the increase in cost of energy production should be minimal given the very small increase in fuel consumption resulting from back pressure related to operation of oxidation catalyst emission control devices. All of the estimates presented above account for some passthrough of costs to consumers as well as the direct cost impact to producers. For more information on these estimated energy effects, please refer to the economic impact analysis for the proposed rule.

This analysis is available in the public docket.

No new combustion turbines with a capacity of less than 1.0 MW will be affected. Also, the control level applied to affected new combustion turbines is the minimum that can be applied consistent with the provisions of the Clean Air Act.

Therefore, we conclude that the proposed rule when implemented will not have a significant adverse effect on the supply, distribution, or use of energy.

#### *F. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government agency plan under section 203 of the UMRA. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the proposed rule contains a Federal mandate that will not result in expenditures of \$100 million or more