

**Executive Order 12988 (Civil Justice Reform)**

This proposed action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Executive Order 13045 (Protection of Children)**

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (April 23, 1997, 62 FR 19885), requires that agencies issuing "economically significant" rules that concern an environmental health or safety risk that an agency has reason to believe may disproportionately affect children must include an evaluation of the environmental health and safety effects of the regulation on children. Section 5 of Executive Order 13045 directs an agency to submit for a "covered regulatory action" an evaluation of its environmental health or safety effects on children.

The agency has determined that this proposed rule is not a "covered regulatory action" as defined under Executive Order 13045. First, this NPRM is not economically significant under Executive Order 12866. Second, the agency has no reason to believe that the proposed rule would result in an environmental health risk or safety risk that would disproportionately affect children. The vehicles that are the subject of this rulemaking are required to comply with both NHTSA and EPA standards concerning fuel system integrity and fuel tank fill rate. The agency has preliminarily determined that the proposed rule would have no significant environmental impacts.

**Executive Order 12630 (Taking of Private Property)**

This proposed rule would revise the FMCSRs concerning fuel system integrity and fuel tank fill rate, as they apply to gasoline-fueled CMVs, to bring them into conformance with current NHTSA and EPA regulations. It would also make permanent the exemptions previously granted at the request of Ford and GM.

No new action is required on the part of those motor carriers that currently operate or plan to operate on U.S. highways, because these vehicles are already required to comply with the NHTSA and EPA requirements referenced in this proposal. If the FMCSA issues a final rule, motor carriers operating vehicles on or after that rule's effective date, in compliance with the NHTSA and EPA requirements,

would not need to apply for an exemption.

The FMCSA therefore has preliminarily determined that this proposed rule has no taking implications under the Fifth Amendment or Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**Executive Order 13132 (Federalism)**

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. The FMCSA has preliminarily determined this proposed rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States.

These proposed changes to the FMCSRs would not directly preempt any State law or regulation. They would not impose additional costs or burdens on the States. Although the States are required to adopt part 393 as a condition for receiving Motor Carrier Safety Assistance Program grants, the additional training and orientation that would be required for roadside enforcement officials would be minimal, and it would be covered under the existing grant program. Also, this action would not have a significant effect on the States' ability to execute traditional State governmental functions.

**Executive Order 12372 (Intergovernmental Review)**

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

**Paperwork Reduction Act**

This proposed action would not involve an information collection that is subject to the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

**National Environmental Policy Act**

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has preliminarily determined in an environmental assessment (EA) that this proposed action would not have an adverse effect on the quality of the environment. A copy of the EA is contained in the public docket.

This notice of proposed rulemaking involves: (1) A revision of the FMCSRs'

CMV fuel fill rate requirements to align them with those of the EPA for gasoline and methanol-fueled vehicles up to 14,000 lbs GVWR; (2) making permanent the terms of the exemptions previously granted to motor carriers operating certain gasoline-fueled commercial motor vehicles manufactured by Ford and by GM; and (3) incorporating into the FMCSRs previously issued regulatory guidance concerning the applicability of the agency's fuel tank rules to vehicles subject to the NHTSA fuel system integrity standard at the time of manufacture.

The agency's proposed revision to the FMCSRs would not cause a change in the EPA's regulations, nor would it require a change in the design, operation, or fueling of these vehicles. It would simply acknowledge the existence of a different set of fuel fill-rate regulations for gasoline- and methanol-fueled vehicles, promulgated by the EPA to improve air quality by reducing vapor emissions from refueling, which were not considered at the time the fuel tank fill rate provision was added to the FMCSRs in 1952. The proposal would also make permanent the exemptions previously granted to motor carriers operating certain gasoline-fueled CMVs manufactured by Ford and GM which comply with the EPA regulations applicable to them. Finally, the proposal would also explicitly acknowledge these vehicles' compliance with FMVSS 301, thus eliminating redundancy with NHTSA regulations. The FMCSA has preliminarily determined that these proposals would have no significant impact on the environment. Thus, the proposed action does not require an environmental impact statement. FMCSA invites comments from the public to assess any potential environmental impacts associated with this proposal.

**Energy Effects**

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have preliminarily determined that it is not a "significant energy action" under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It would revise the regulations concerning fuel system integrity and fuel tank fill rate, as they apply to gasoline-fueled CMVs, to bring them into conformance with current NHTSA and EPA regulations. It has no direct relation to energy consumption. The Administrator of the