

the Regulatory Flexibility Act's (5 U.S.C. 601(3)). The Regulatory Flexibility Act's definition incorporates the definition of "small business concern" in the Small Business Act, which the Small Business Administration (SBA) has developed through size standards in 13 CFR part 121. The DOE contractors subject to the proposed rule exceed the SBA's size standards for small businesses. In addition, DOE expects that any potential economic impact of this proposed rule on small businesses would be minimal because DOE sites perform work under contracts to DOE or the prime contractor at the site. DOE contractors are reimbursed through their contracts with DOE for the costs of complying with DOE safety and health program requirements. They would not, therefore, be adversely impacted by the requirements in this proposed rule. For these reasons, DOE certifies that today's proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities, and therefore, no regulatory flexibility analysis has been prepared. See 68 FR 7990 at III.1. and III.1.c. (February 19, 2003).

F. Review Under the Paperwork Reduction Act

The information collection provisions of this proposed rule are not substantially different from those contained in DOE contracts with DOE prime contractors covered by this rule and were previously approved by the Office of Management and Budget (OMB) and assigned OMB Control No. 1910-5103. That approval covered submission of a description of an integrated safety management system required by the *Integration of Environment, Health and Safety into Work Planning and Execution* clause set forth in the DOE procurement regulations. 48 CFR 952.223-71 and 970.5223-1, 62 FR 34842, 34859-60 (June 17, 1997). If contractors at a DOE site fulfill their contractual responsibilities for integrated safety management properly, the worker safety and health program required by the proposed regulations should require little if any new analysis or new documents to the extent that existing analysis and documents are sufficient for purposes of the proposed regulations. Accordingly, no additional Office of Management and Budget clearance is required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and the procedures implementing that Act, 5 CFR 1320.1 *et seq.*

G. Review Under the National Environmental Policy Act

DOE currently implements its broad authority to regulate worker safety and health through internal DOE directives incorporated into contracts to manage and operate DOE facilities, contract clauses and DOE regulations. This proposed rule would implement the statutory mandate to promulgate worker safety and health regulations for DOE facilities that would provide a level of protection for workers at DOE facilities that is substantially equivalent to the level of protection currently provided to such workers and to provide procedures to ensure compliance with the rule. DOE anticipates that the contractor's work and safety programs required by this regulation would be based on existing programs and that this rule would generally not require the development of a new program. DOE has therefore concluded that promulgation of these regulations would fall into the class of actions that would not individually or cumulatively have a significant impact on the human environment as set forth in the DOE regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, the rule would be covered under the categorical exclusion in paragraph A6 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to the establishment of procedural rulemakings. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

H. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency regulation that may result in the expenditure by states, tribal, or local governments, on the aggregate, or by the private sector, of \$100 million in any one year. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officials of state, tribal, or local governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity to provide timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. DOE has determined that the proposed rule published today does not contain any Federal mandates affecting small

governments, so these requirements do not apply.

I. 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. DOE has determined that the proposed rule published today would not have a significant adverse effect on the supply, distribution, or use of energy and thus the requirement to prepare a Statement of Energy Effects does not apply.

J. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a "Family Policymaking Assessment" for any proposed rule that may affect family well-being. The proposed rule has no 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.

K. Review Under the 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 dissemination 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 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's notice of proposed rulemaking under the OMB and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

IV. Public Comment Procedures

A. Written Comments

Interested individuals are invited to participate in this proceeding by submitting data, views, or arguments with respect to this proposed rule. Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice. To help the DOE review the submitted comments, commenters are