

be received by the time specified in the **DATES** section of this notice.

The person making the request should briefly describe his or her interest in the proceedings and, if appropriate, state why that person is a proper representative of the group or class of persons that has such an interest. The person also should provide a phone number where they may be reached during the day. Each person selected to speak at a public hearing will be notified as to the approximate time that they will be speaking. They should bring ten copies of their statement to the hearing. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance with Andi Kasarsky, (202) 586-3012.

The DOE reserves the right to select persons to be heard at the hearings, to schedule their presentations, and to establish procedures governing the conduct of the hearing. The length of each presentation will be limited to ten minutes, or based on the number of persons requesting to speak.

A Department official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and Section 501 of the Department of Energy Organization Act. 42 U.S.C. 7191. At the conclusion of all initial oral statements, each person will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the Presiding Officer at the hearing.

If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. Hearing dates may be canceled in the event no public testimony has been scheduled in advance.

#### **IV. Review Under Executive Order 12612**

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effect on states, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are substantial effects, then the Executive Order requires a preparation of a federalism

assessment to be used in all decisions involved in promulgating and implementing policy action.

This proposed rule establishes an Alternative Fueled Vehicle Credit Program under which states may generate credits if they obtain alternative fueled vehicles in excess of their required quantity or if they obtain alternative fueled vehicles prior to the date when they are required and establishes a mandate for state fleets to acquire alternative fuel vehicles. The allocation of credits is based on the measurable actions of obtaining alternative fueled vehicles and is available to fleets, that meet the requirements, throughout the United States.

The granting of credits to states will be handled in the same manner as the granting of credits to any other fleet operator. The enforcement of the state fleet mandate will be handled in the same manner as other mandate programs. States can also apply for a hardship exemption which would exempt them from acquiring alternative fuel vehicles in any given year.

The Department has determined that since states are treated the same as any other fleet operator in the allocation of credits and in the administration and enforcement of the fleet mandate, the proposed rule will not have a substantial direct effect on the institutional interests or traditional functions of States. In addition, the provision for hardship exemptions included in the state fleet mandate precludes any possible violation in the authority that the Federal government has over States. Thus, preparation of a federalism assessment is therefore unnecessary.

#### **V. Review Under Executive Order 12778**

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations. These requirements, set forth in section 2 (a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation describes any administrative proceeding to be available prior to judicial review and any provisions for the exhaustion of administrative remedies. DOE certifies that the proposed rule meets the requirements of section 2 (a) and (b)(2) of Executive Order 12778.

#### **VI. Review Under Executive Order 12866**

This regulatory action has been determined to be a significant regulatory action under Executive order 12866, Regulatory Planning and Review, October 4, 1993. Accordingly, today's action was subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA). DOE concluded that the proposed rule would not result in (1) an annual effect on the economy of \$100 million or more or (2) have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete in domestic export markets. OIRA requested that DOE prepare a cost analysis. In this section of the Supplementary Information, DOE describes the assumptions and main conclusions of that cost analysis. A copy of that cost analysis is available for public inspection in the administrative record on file in DOE's Freedom of Information Reading Room. DOE has also placed in that file a copy of the notice of proposed rulemaking as transmitted to OIRA, as well as exchanges of correspondence between DOE and OIRA showing changes in the notice agreed to by the two agencies.

The cost analysis spans a 25-year time frame, from 1995 to 2020, which included the incremental vehicle purchase cost and the cost differential between alternative fuels and gasoline under five different scenarios. The analysis examines the effects the proposed rule will have on the acquisition of alternative fueled vehicles by fuel providers and State fleets, exclusive of the effects of non-mandated acquisition of vehicles by these and other fleets. In doing so it assumes that no alternative fueled vehicles will be acquired by these fleets prior to model year 1996. In actuality, these fleets currently are acquiring alternative fueled vehicles—either because of economics, State laws or business strategies—and will probably continue to do so in the future. This assumption focuses the analysis on the estimated costs to fuel providers and State fleets in complying with the proposed regulation without distorting it in any substantial way. Assumptions about the number of vehicles acquired, the operating characteristics of those vehicles, fleet vehicle replacement rates, current and future alternative fueled vehicle incremental costs, and current and future retail fuel costs were based on previous analyses undertaken by the Department.