adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities:

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, since this action could result in a rule that would have substantial impact, this notice is a "significant regulatory action" because the estimated range of annual costs of the OTC LEV program is between \$xx and \$xx. As such, this action submitted to the Office of Management and Budget (OMB) for review. Changes made in response to OMB suggestions or recommendations will be documented in the public docket for this rulemaking.

EPA has prepared an economic analysis for this rule under E.O. 12866. A copy of this analysis has been placed in the docket. A draft version of the Regulatory Impact Analysis was submitted to OMB for review as required by E.O. 12866. Any written comments from OMB and EPA responses to those comments will be placed in the public docket for this rulemaking. A final version of the analysis is available in the docket.

X. Impact on Small Entities

The Regulatory Flexibility Act, 5 U.S.C. 601(a), provides that, whenever an agency is required to publish a general notice of rulemaking, it must prepare and make available a regulatory flexibility analysis (RFA). While EPA has followed rulemaking procedures under 307(d) of the Clean Air Act, EPA believes it is not legally required to publish a general notice of rulemaking here, and hence that it need not prepare an RFA. But even if EPA is required to publish a general notice of rulemaking here, an RFA is required only for small entities that are directly regulated by the rule. See Mid-Tex Electric Cooperative, Inc. v. FERC, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on regulated entities and not indirect impact on small entities not regulated). The OTC LEV program will directly regulate auto manufacturers. Since these auto manufacturers generally do not qualify as small businesses within the meaning

of the Regulatory Flexibility Act, EPA does not believe an RFA is needed for either the proposed or final rules, even if a rulemaking is required. Accordingly, pursuant to 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Nevertheless, the Agency has considered the effect of an OTC LEV program on new and used car dealerships as part of its regulatory impact analysis, even though such analysis is not required because these businesses would not be directly regulated under the rule. The results of this analysis, set forth in the RIA, indicate that the OTC LEV would not have a significant economic impact on automobile dealerships.

XI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

Attachment A to the Preamble

Revised Draft Discussion Paper on ATV Component of 49-State Alternative December 7, 1994.

I. Principles and Definition

The Advanced Technology Vehicle (ATV) component of a 49-State alternative to the OTC petition will be based on the following principles:

fl Parties publicly commit to work in cooperation with each other to establish and maintain a sustainable, viable market for ATV's at the retail level.

fl ATV program will be designed to achieve shared responsibility among states, EPA, DOE, fuel providers, fleet operators and auto manufacturers for achieving increases in ATV's.

fl Phased program from infrastructure and vehicle development to fleet sales to retail sales will be pursued. Timeframes will be assigned to components of any alternative that will involve incremental steps toward accomplishing increases in ATV's.

fl Vehicle yield from federal and State programs, municipal and private fleets, as well as approaches to provide vehicles to private consumers will be included.

fl Parties will, at the initiation of the MOU and throughout the program, jointly develop sales estimates of fleet and consumer vehicles that all parties anticipate should be on the road at specific milestones.

fl All parties commit that specific actions will be identified and

undertaken as necessary if estimates are not realized.

fl Parties will develop a fuel neutral strategy based on achieving market longevity and environmental benefits. Infrastructure must be constructed under a joint strategy, but it is understood that states will make infrastructure choices according to regional needs.

fl The definition of ATV for the purposes of this agreement will be (PARTIES WILL INSERT DEFINITION LATER).

II. Memorandum of Understanding

The Memorandum of Understanding is based on the agreement that all parties will contribute to a joint effort to create a sustainable, viable ATV market. All parties agree that the best strategy for achieving this market is to first utilize the federal fleet markets in order to establish a full range of viable vehicle technology, maximize the number of vehicles purchased through municipal and state fleet programs, create incentives to encourage private fleet purchases, establish infrastructure requirements, assess customer preference, and to systematically evaluate progress for the purposes of introducing vehicles to the private consumer as soon as possible.

Components of a joint strategy will

include the following areas:
(1) Fleet Estimates—The foundation for introduction of ATV's will be the federal requirements under EPAct. Parties will develop projections or estimates for anticipated number of vehicles resulting from the programs that will be used as objectives for gaining a number and types of vehicles on the road on a specific timeline. Parties will develop agreements for joining in the programs, including harmonizing EPAct and the CAA of 1990, and maximizing federal fleet purchases. Parties will work jointly to develop programs and maximize municipal and private fleet purchases in the Northeast states. Parties will assume expanded municipal and private fleet vehicle sales for the purposes of

(2) Development of Objectives Based on Fleet and Consumer Sales Estimates—At the initiation of the MOU, parties will agree on assumptions for and will establish initial overall fleet and consumer vehicle sales estimates that can be reasonably expected in the OTR by 2004. Parties will jointly state that this estimated number of vehicles should be sold if initial assumptions prove to be correct and if all aspects of the strategy are successfully implemented. Annual sales estimates