

The Executive Order defines a "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

- Have an annual effect on the economy of \$100 million or more or 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;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A draft Regulatory Impact Analysis has been prepared and is available in the docket for this rulemaking and at the internet address listed under "How Can I Get Copies of This Document and Other Related Information?" above. This action was submitted to the Office of Management and Budget for review under Executive Order 12866. Estimated

annual costs of this rulemaking are estimated to be \$1.2 billion per year, thus this proposed rule is considered economically significant. Written comments from OMB and responses from EPA to OMB comments are in the public docket for this rulemaking.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Agency proposes to collect information to ensure compliance with the provisions in this rule. This includes a variety of requirements, both for engine manufacturers and for fuel producers. Information-collection requirements related to engine manufacturers are in EPA ICR #1897.05; requirements related to fuel producers are in EPA ICR #1718.05. Section 208(a) of the Clean Air Act requires that manufacturers provide information the Administrator may reasonably require to determine compliance with the regulations; submission of the information is therefore mandatory. We will consider confidential all information meeting the

requirements of section 208(c) of the Clean Air Act.

As shown in Table X-1, the total annual burden associated with this proposal is about 215,000 hours and \$16 million, based on a projection of 470 respondents. The estimated burden for engine manufacturers is a total estimate for both new and existing reporting requirements. The fuel-related requirements represent our first regulation of nonroad diesel fuel, so those burden estimates reflect only new reporting requirements. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

TABLE X-1.—ESTIMATED BURDEN FOR REPORTING AND RECORDKEEPING REQUIREMENTS

Industry sector	Number of respondents	Annual burden hours	Annual costs (in millions)
Engines	95	160,000	\$12.5
Fuels	375	55,000	3.7
Total	470	215,000	16.2

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any

correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after May 23, 2003, a comment to OMB is best ensured of having its full effect if OMB receives it by July 23, 2003. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*

1. Overview

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant

economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business that meets the definitions based on the Small Business Administration's (SBA) size standards (see table below); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The following table provides an overview of the primary SBA small business categories potentially affected by this regulation: