

recreational marine diesel engines as promulgated on November 8, 2002 (67 FR 68242) and we have no reason to believe that our analysis in the original rulemaking is inadequate. The relevant analysis is available in the docket for the November 8, 2002 rulemaking (A-2000-01) and at the following internet address: <http://www.epa.gov/otaq/marine.htm>. The original action was submitted to the Office of Management and Budget for review under Executive Order 12866.

B. Paperwork Reduction Act

This direct final rule does not include any new collection requirements, as it merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. The information collection requirements (ICR) for the original recreational marine diesel rulemaking (67 FR 68242, November 8, 2002) were approved on January 31, 2003 by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (EPA #1897.04; OMB control number 2060-0460). We published notice of OMB's approval on February 28, 2003 (68 FR 9778).

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this direct final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of this final rule on small entities, a small entity is defined as: (1) A small business that meet the definition for business based on SBA size standards; (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. This direct final rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations.

Prior to proposing the original recreational marine diesel rulemaking on November 8, 2002, EPA conducted outreach to small entities and convened a Small Business Advocacy Review (SBAR) Panel to obtain advice and recommendations of representatives of

the small entities that potentially would be subject to that rule's requirements (67 FR 68331). For a full description of the Panel process, the SBAR report, and the Initial Regulatory Flexibility Analysis (in Chapter 8 of the Draft Regulatory Support Document), refer to the docket for the original recreational marine diesel rulemaking (Public Docket A-2000-01) and the following internet address: <http://www.epa.gov/otaq/marine.htm>.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why such an alternative was adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no Federal mandates for State, local, or tribal governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the rule would significantly

or uniquely affect small governments. EPA has determined that this rule contains no federal mandates that may result in expenditures of more than \$100 million to the private sector in any single year. This direct final rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. The requirements of UMRA therefore do not apply to this action.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt State or local law, even if those rules do not have federalism implications (*i.e.*, the rules will not have substantial direct effects on the States, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government). Those requirements include providing all affected State and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, EPA also must consult, to the extent practicable, with appropriate State and local officials regarding the conflict between State law and