

IX. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of this Executive Order. The Executive Order defines a "significant regulatory action" as one 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.

EPA has determined that this rule is a "significant regulatory action" under the terms of Executive Order 12866 because it raises novel legal or policy issues due to the international nature of the use of Category 3 marine diesel engines and is therefore subject to OMB review. The Agency believes this regulation will result in none of the economic effects set forth in Section 1 of the Order. A Final Regulatory Support Document has been prepared and is available in the docket for this rulemaking and at the Internet address listed under **ADDRESSES** above. Written comments from OMB and responses from EPA to OMB are in the public docket for this rulemaking.

B. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, requires agencies to submit for OMB review and approval any federal requirements and activities that result in the collection of information from ten or more persons. Information-collection requirements may include reporting, labeling, and recordkeeping requirements. Federal

agencies may not impose penalties on persons who fail to comply with collections of information that do not display a currently valid OMB control number.

The information collection requirements in this final rule have been approved by OMB under the Paperwork Reduction Act. The OMB control number for this information collection is 2060-0460, which we sent to OMB under the EPA ICR number 1897.04. The information being collected will be used by EPA to ensure that new marine vessels and fuel systems comply with emission standards through certification requirements and various subsequent compliance provisions.

In addition, this notice announces OMB's approval of the information collection requirements for commercial marine diesel engine for which we adopted emission standards on December 29, 1999 (64 FR 73300) and for recreational marine diesel engines for which we adopted emission standards on November 8, 2002 (67 FR 68242). The estimated annual public reporting and recordkeeping burden for collecting information from these engines is shown in Table IX.B-1.

TABLE IX.B-1.—BURDEN COLLECTING INFORMATION FOR MARINE DIESEL EMISSION-CONTROL PROGRAMS

Engine type	Respondents	Hours per respondent	Hours for all respondents	Capital costs for all respondents	Operating and maintenance costs for all respondents	Total costs for all respondents
Category 3	6	302	1,812	\$0	\$67,104	\$144,022
Commercial—Category 1 and 2	232	93	21,520	0	40,000	2,494,272
Recreational	12	606	7,273	0	870,238	1,178,061

The Information Collection Requests (ICR) were subject to public notice and comment prior to OMB approval and, as a result, EPA finds that there is "good cause" under section 553(b) of the Administrative Procedures Act (5 U.S.C. 553(b)) to include these information-collection requirements in 40 CFR part 9 without additional notice and comment. EPA received various comments on the rulemaking provisions covered by the ICRs, but no comments on the paperwork burden or other information in the ICRs. All comments that were submitted to EPA are considered in the relevant Summary and Analysis of Comments, which can

be found in the docket. A copy of any of the submitted ICR documents may be obtained from Susan Auby, Collection Strategies Division, U.S. Environmental Protection Agency (2822-T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by e-mail at auby.susan@epamail.epa.gov.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this 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

rulemaking, "small entity" is defined as any one of the following: (1) A small business that meets the definition for businesses based on size standards adopted by the Small Business Administration; (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; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. The following Table X.B-1 provides an overview of the primary SBA small business categories that may be affected by this regulation.

TABLE X.B-1.—PRIMARY SBA SMALL BUSINESS CATEGORIES POTENTIALLY AFFECTED BY THIS REGULATION

Industry	NAICS ^a	Defined by SBA as a small business if: ^b
Internal Combustion Engines	333618	< 1000 employees
Ship Building	336611	< 1000 employees