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Part IV

Environmental Protection Agency

Control of Emissions From New Nonroad Spark-Ignition Engines Rated Above 19 Kilowatts and New Land-Based Recreational Spark-Ignition Engines; Notice

40 CFR Parts 86, et al.

Control of Emissions From Nonroad Large Spark Ignition Engines, Recreational Engines (Marine and Land-Based), and Highway Motorcycles; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6907–5]

RIN 2060–AI11

Control of Emissions From New Nonroad Spark-Ignition Engines Rated Above 19 Kilowatts and New Land-Based Recreational Spark-Ignition Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final finding.

SUMMARY: We find that land-based nonroad spark-ignition (SI) engines rated above 19 kilowatts (kW), as well as all land-based recreational nonroad spark-ignition engines, cause or contribute to air quality nonattainment in more than one ozone or carbon monoxide (CO) nonattainment area. We also find that particulate matter (PM) emissions from these engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. This finding does not address marine propulsion engines.

DATES: This finding becomes effective February 5, 2001.

ADDRESSES: Materials related to this action are contained in Public Docket A–98–01, located at room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Anyone may inspect the docket from 8:00 a.m. until 5:30 p.m., Monday through Friday. You can reach the Air Docket by telephone at (202) 260–7548, and by facsimile at (202) 260–4400. We may charge a reasonable fee for copying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT: John Mueller, U.S. EPA, National Vehicle and Fuels Emission Laboratory, 2000 Traverwood, Ann Arbor, MI 48105; Telephone (734) 214–4275; FAX: (734) 214–4050; E-mail: mueller.john@epa.gov.

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Introduction

We have established emission standards for several nonroad engine categories. The categories of nonroad engines for which standards currently exist cover a variety of applications, including farm and construction equipment, marine vessels, locomotives, and lawn and garden equipment. We have established standards for SI engines rated at or below 19 kW. These emission standards target lawn and garden engines and generally do not apply to engines used in recreational vehicles such as off-road motorcycles, ''all terrain'' vehicles (ATVs) and snowmobiles.

In contrast, nonroad spark-ignition engines (used in nonrecreational applications such as forklifts and airport ground service equipment) rated above 19 kW (25 hp) and all spark-ignition engines used in land-based recreational applications (off-road motorcycles, ''all terrain'' vehicles (ATVs) and snowmobiles) are not currently subject to federal emission standards.[1] With this finding, we are beginning the process leading to proposal of emission standards for these engines by finding that emissions of HC, NO_X, and CO from these engines and vehicles, as a group, cause or contribute to ozone or CO concentrations in more than one ozone or CO nonattainment area, and emissions of PM from these engines and vehicles cause or contribute to air pollution that we have previously determined may reasonably be anticipated to endanger public health or welfare. These findings are appropriate whether we include all large nonroad SI in one category or whether we examine emissions from nonrecreational nonroad spark-ignition engines above 19 kW and emissions from recreational vehicles separately.

[1] For the purposes of this document, all references to spark-ignition engines rated above 19 kW include marine auxiliary engines, but exclude marine propulsion engines. Most engines used in recreational applications were explicitly excluded from the rule promulgating emission standards for engines rated at or below 19 kW.

I. Statutory Authority

Section 213(a)(1) of the Clean Air Act, 42 U.S.C. 7547(a), requires that we study the emissions from all categories of nonroad engines and equipment (other than locomotives) to determine, among other things, whether these emissions ''cause or significantly contribute to air pollution which may reasonably be anticipated to endanger public health and welfare.'' Section 213(a)(2) further requires us to determine, through notice and comment, whether the emissions of carbon monoxide (CO), volatile organic compounds (VOCs), and oxides of nitrogen (NO_X) found in the above study significantly contributes to ozone or CO concentrations in more than one ozone or CO nonattainment area. With such a determination of significance, section 213(a)(3) requires us to establish emission standards for classes or categories of new nonroad engines and vehicles that cause or contribute to such air pollution. Thus, the finding is really a two step process. The first step, as required under section 213(a)(2), requires us to determine whether the emissions from all nonroad mobile sources contribute significantly to ozone or CO nonattainment. The second step, and the one with which this notice is concerned, requires us, under section 213(a)(3), to look at specific classes or categories of new nonroad vehicles and engines in order to identify those classes or categories that contribute to such air pollution. Moreover, if we determine that emissions from all new nonroad engines contribute significantly to any other type of air pollution, we may promulgate emission standards under section 213(a)(4) regulating emissions from classes or categories of new nonroad engines that we find contribute to such air pollution. This process, which in this final finding concerns PM emissions, is a separate process from that contained in sections 213(a)(2) and (3) regarding ozone and CO nonattainment.

As directed by the Clean Air Act, we conducted a study of emissions from nonroad engines, vehicles, and equipment in 1991.[2] Based on the results of that study, referred to as the Nonroad Engine and Vehicle Emission Study (NEVES), we determined that emissions of NO_X, HC, and CO from nonroad engines and equipment contribute significantly to ozone and CO concentrations in more than one nonattainment area (see 59 FR 31306,

[2] ''Nonroad Engine and Vehicle Emission Study—Report and Appendices,'' EPA–21A–201, November 1991 (available in Air docket A–96–40).

June 17, 1994).[3] Given this determination, section 213(a)(3) of the Act requires us to promulgate emissions standards for those classes or categories of new nonroad engines, vehicles, and equipment that in our judgment cause or contribute to such air pollution. We are finding in this document that nonroad SI engines rated above 19 kW and all land-based recreational nonroad SI vehicles ''cause or contribute'' to such air pollution.

Where we determine that other emissions from new nonroad engines, vehicles, or equipment significantly contribute to air pollution that may reasonably be anticipated to endanger public health or welfare, section 213(a)(4) authorizes us to establish (and from time to time revise) emission standards from those classes or categories of new nonroad engines, vehicles, and equipment that we determine cause or contribute to such air pollution, taking into account cost, noise, safety and energy factors associated with the application of technology used to meet the standards. We have made this determination for emissions of particulate matter (PM) and smoke from nonroad engines (see 59 FR 31306, June 17, 1994). In that rulemaking, we found that smoke emissions from nonroad engines significantly contribute to such air pollution based on smoke's relationship to the particulate matter that makes up smoke as well as smoke's effect on visibility and soiling of urban buildings and other property. Particulate matter can be inhaled into the lower lung cavity, posing a potential health threat. We cited recent studies associating PM with increased mortality.[4] We also promulgated standards for emissions of PM and smoke from land-based nonroad diesel engines in that rulemaking. With this document, we are finding that emissions of PM from nonroad SI engines rated above 19 kW and all land-based recreational nonroad SI engines ''cause or contribute'' to such air pollution.

II. Background

We previously published a Notice of Proposed Finding regarding emissions from nonroad spark-ignition (SI) engines (Large SI engines) rated above 19 kilowatts, as well as all land-based recreational nonroad spark-ignition engines.[5] In that notice we proposed to find that emissions from these engines cause or contribute to air quality nonattainment in more than one ozone or carbon monoxide nonattainment area. We also proposed to find that PM emissions from those engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. In today's notice we are finalizing those proposed findings.

As was previously discussed, the term ''nonroad'' encompasses a broad range of engines and equipment. In implementing the requirements of section 213(a) for nonroad engines and equipment we divided the nonroad realm into several major categories. These categories include land-based compression ignition (CI) engines (*e.g.*, farm and construction equipment), small land-based spark-ignition (SI) engines (*e.g.*, lawn and garden equipment, string trimmers), marine engines (including CI and SI, propulsion and auxiliary, commercial and recreational), locomotives, and large land-based SI engines, including engines used in nonrecreational equipment (*e.g.*, forklifts, airport ground service equipment) and engines used in recreational vehicles (off-road motorcycles, ''all terrain'' vehicles (ATVs) and snowmobiles).

The Clean Air Act itself does not provide a definition or specific guidance on how to define specific ''classes or categories of new nonroad engines, vehicles, and equipment'' for purposes of determining whether such classes or categories cause or contribute to pollution in nonattainment areas. Thus, as we divided the nonroad realm into separate categories for the purposes of regulation we had discretion to define the classes or categories as we believed appropriate, in a manner that reasonably furthers the purposes of section 213(a). The legislative history of the Act, however, provides some instruction that we should not subdivide categories into small subcategories. Information from the Senate Report indicates that Congress did not want us to subdivide source categories into such small divisions that no subcategory by itself would contribute significantly, despite the fact that nonroad engines as a whole contribute significantly to pollution.[6] The final version of the Act, in fact, does not require a finding of ''significant contribution,'' but merely ''contribution,'' for individual categories of nonroad engines. In general, we chose to group engines and equipment together based on common characteristics such as combustion cycle, fuel, usage patterns, power rating, and equipment type. By dividing nonroad engines and equipment into separate categories based on these characteristics we are able to devise the most appropriate regulatory programs for each category which take into account the specific characteristics of the engines and equipment, as well as the unique traits and needs of the affected vehicle and equipment manufacturing industries and the end users of the vehicles and equipment. In addition, it avoids the danger recognized in the legislative history of dividing nonroad engines into so many small categories that none would contribute meaningfully to air pollution.

The approach to categorizing nonroad engines and equipment just discussed has worked well from the perspective of regulatory program development. As can be seen from Tables 1 and 2, nonroad emissions inventories as a whole are significant. Currently, nonroad inventories of HC, CO and NO_X are from one-third to one-half of the total mobile source inventories. Nonroad inventories of PM are roughly two-thirds of the total mobile source PM inventory. In addition, each of the classes and categories of nonroad engines has been shown to contribute to ozone and CO pollution in more than one nonattainment area.

Manufacturers and users of snowmobiles provided comments in this rulemaking indicating that snowmobiles should not be regulated for ozone precursors because snowmobiles are used during cold weather, when ozone is less of a health concern. Snowmobiles are not a separate category of nonroad engines, but are part of a broader category that clearly contributes to ozone concentrations in more than one nonattainment area. Moreover, even reviewing snowmobile emissions by themselves, they emit substantial amounts of HC in several nonattainment areas, which would increase ozone levels in those areas. However, we recognize that contribution to ozone concentrations is less important if it occurs during portions of the year when exceedances of the ozone NAAQS are unlikely to occur. We will bear this issue in mind as we move forward with a proposed and final rule to address the larger category of large non-road SI engines.

In the Advance Notice of Proposed Rulemaking (ANPRM), published elsewhere in this issue of the **Federal Register**, which accompanies this Final Finding, we specifically request

[3] The terms HC (hydrocarbon) and VOC (volatile organic carbon) refer to similar sets of chemicals and are generally used interchangeably.

[4] The nonroad study (NEVES) found that nonroad sources are responsible for approximately 5.55% of the total anthropogenic inventory of PM emissions and over one percent of total PM emissions in six to ten of the thirteen nonattainment areas surveyed.

[5] 64 FR 6008, February 8, 1999.

[6] Senate Report 101–228, pp. 104–105.

comment on whether we should distinguish snowmobiles from other recreational vehicles in regulating ozone precursors. Based in part on the comments we receive on the ANPRM, we intend to evaluate further the extent to which emissions of ozone precursors (*e.g.,* HCs) from snowmobiles contribute to ozone non-attainment. However, CAA section 213 allows us to regulate emissions from nonroad engines that cause or contribute to other air pollution in addition to ozone. As discussed in the ANPRM, these engines emit high levels of HCs, which contain hazardous air pollutants and can increase indirect PM emissions. Unburned HCs are also emitted as direct particulate matter. We have requested comment in the ANPRM on personal exposure issues as well as nonattainment and plan to consider this further as we develop our proposed rule.

III. Emission Modeling

A. National Inventories

For this finding we used the latest version of our NONROAD emissions model, which computes nationwide, state and county emission levels for a wide variety of nonroad engines. The model incorporates information on emission rates, operating data, and population to determine annual emission levels of various pollutants. Population and operating data, including load factor and operating rate, are determined separately for dozens of different applications. Load factor refers to the degree to which an engine's rated power is, on average, utilized, with full-power operation indicated by a load factor of 1.0. In addition to gasoline, Large SI engines can operate on liquefied petroleum gas (LPG) or compressed natural gas (CNG). EPA memoranda describe the detailed inputs and methodology for this modeling.[7]

We made changes from the proposed finding in the national inventories for nonrecreational Large SI engines and all engines used in land-based recreational vehicles. For the Large SI engines we revised our HC and CO emission factors (per-engine emission rates) to include an adjustment for transient operation which is common in the equipment using these engines. This has resulted in an increase in our projected inventories for these engines. The load factors, annual usage rates and vehicle populations for recreational vehicles were revised in response to new information provided to us in the public comments, as well as additional information we gathered. We also updated our emission factors for 4-stroke off-road motorcycles based on available emission testing data. These recreational vehicle changes, and the reasons for them, are documented in an EPA memorandum in the docket for this finding.[8] These modeling input changes have resulted in lower inventory estimates for snowmobiles and higher inventory estimates for off-road motorcycles and ATVs than those in our proposed finding. In another change to the land-based recreational vehicle modeling, for the purposes of emissions modeling for this finding we have limited the category to just off-road motorcycles, ATVs and snowmobiles, eliminating such sources as mopeds and go-carts, as well as golf carts and other specialty vehicles. This is because the vehicles we eliminated from the recreational category are already either currently covered under existing regulations or would be more appropriately categorized as nonrecreational large SI engines. For example, engines typically used in go-carts and golf carts are currently regulated under our provisions for small land-based SI engines. Mopeds are on-highway vehicles and, while not generally regulated under our on-highway provisions due to their small engine size, are typically licensed for operation on roads and not used in the same manner as off-road motorcycles. Therefore, mopeds are not properly considered nonroad emission sources. Finally, ''specialty vehicles,'' which includes such sources as ice resurfacing machines and industrial carts, are more appropriately considered a subset of nonrecreational large SI engines and have been placed there for purposes of emissions inventory estimation. Removing these vehicles from the recreational group also resulted in a reduction in the recreational vehicle inventories compared to those in the proposed finding. Despite these changes to the emissions inventories, the inventory data support our finding that these vehicles and engines contribute to air pollution.

Emission inventory estimates for the years 2000 and 2007 are summarized in Tables 1 and 2.[9] These tables show relative contributions of the different mobile source categories to the overall emissions mobile source inventory. Of the total emissions from mobile sources, nonroad SI engines rated above 19 kW contribute 2 percent, 2 percent, 3 percent, and 0.2 percent of HC, NO_X, CO, and PM emissions in the year 2000. The results for land-based recreational engines reflect the impact of the significantly different emissions characteristics of two-stroke engines. These engines are estimated to contribute 8 percent of mobile source HC emissions, 5 percent of CO emissions, and 0.2 percent of NO_X emissions. PM emissions from land-based recreational engines amount to 0.8 percent of total mobile source emissions. Since highway engines account for a large fraction of mobile source emissions, as shown in Tables 1 and 2, the contribution of these engines as a percentage of total nonroad emissions will be significantly higher than that from total mobile sources emissions.

These emission figures are projected to change somewhat by 2007. Population growth and the effects of other regulatory control programs are factored into these later emissions estimates. Table 2 shows that the relative importance of uncontrolled engines grows over time as other engines reduce their emission levels. The effectiveness of all control programs is offset by the anticipated growth in engine populations. Further information regarding these emissions estimates, including modeling assumptions, can be found in the docket memo referenced in footnote 9.

[7] ''Emission Modeling for Recreational Vehicles,'' EPA memorandum from Linc Wehrly to docket A–98–01, November 14, 2000, and ''Updated Emission Modeling for Large SI Engines,'' EPA memorandum from Alan Stout to docket A–98–01, November 10, 2000.

[8] ''Emission Modeling for Recreational Vehicles,'' EPA memorandum from Linc Wehrly to docket A–98–01, November 14, 2000.

[9] Further information is provided in ''Emission Modeling for Recreational Vehicles,'' EPA memorandum from Linc Wehrly to docket A–98–01, November 14, 2000.

TABLE 1.—MODELED ANNUAL EMISSION LEVELS FOR MOBILE SOURCE CATEGORIES IN 2000

[Thousand short tons]

Category	NO_X		HC		CO		PM	
	Tons	Percent of mobile source	Tons	Percent of mobile source	Tons	Percent of mobile source	Tons	Percent of mobile source
Total for sources in finding	327	2	712	10	6,525	8	7.2	1.0
Nonrecreational nonroad SI > 19 kW[a]	306	2	125	2	2,294	3	1.6	0.2
Recreational SI[a]	21.3	0.16	587	8	4,231	5	5.6	0.8
Nonroad SI < 19 kW	106	0.8	1,460	20	18,359	23	50	7
Marine SI	32	0.2	928	12	2,144	3	38	5
Nonroad CI	2,625	20	316	4	1,217	2	253	36
Marine CI	1,001	7	31	0	133	0.2	42	6
Locomotive	1,192	9	47	1	119	0.2	30	4
Aircraft	178	1	183	2	1,017	1	39	6
Total Nonroad	5,461	41	3,677	49	29,514	37	459	66
Total Highway	7,988	59	3,772	51	49,701	63	240	34
Total Mobile Sources	13,449	100	7,449	100	79,215	100	699	100
Total Man-Made Sources	24,553	.....	18,395	.....	101,294	.....	3,095	.....
Mobile Source percent of Total Man-Made Sources	55	.....	40	.....	78	.....	23	.....

[a] Sources covered by finding.

TABLE 2.—MODELED ANNUAL EMISSION LEVELS FOR MOBILE SOURCE CATEGORIES IN 2007

[Thousand short tons]

Category	NO_X		HC		CO		PM	
	Tons	Percent of mobile source	Tons	Percent of mobile source	Tons	Percent of mobile source	Tons	Percent of mobile source
Total for sources in finding	391	4	757	14	6,962	9	7.8	1.3
Nonrecreational nonroad SI > 19 kW[a]	369	4	141	3	2,517	3	1.9	0.3
Recreational SI[a]	22.4	0.22	616	12	4,445	6	5.9	0.9
Nonroad SI < 19 kW	96	0.9	933	18	21,406	28	58	9
Marine SI	42	0.4	733	14	2,056	3	33	5
Nonroad CI	2,253	22	214	4	1,128	1	226	36
Marine CI	1,018	10	33	1	142	0.2	44	7
Locomotive	773	8	43	1	119	0.2	27	4
Aircraft	200	2	205	4	1,200	2	41	7
Total Nonroad	4,773	46	2,918	56	33,013	43	437	70
Total Highway	5,529	54	2,317	44	44,276	57	186	30
Total Mobile Sources	10,302	100	5,235	100	77,289	100	623	100
Total Man-Made Sources	20,290	.....	15,359	.....	100,805	.....	2,971	.....
Mobile Source percent of Total Man-Made Sources	51	.....	34	.....	77	.....	21	.....

[a] Sources covered by finding.

B. Nonattainment Areas

We used our NONROAD model to show that nonrecreational nonroad spark-ignition engines over 19 kW and recreational SI engines contribute to air pollution in nonattainment areas. There are currently 31 ozone nonattainment areas, 17 CO nonattainment areas, and 76 PM nonattainment areas. Table 3 lists eight areas for which we present emission modeling estimates for the year 2000. While we believe these sources contribute to air pollution in all nonattainment areas, we chose these eight areas to explore how land-based Large SI and recreational vehicles and engines contribute to pollution in a cross section of nonattainment areas. (1) Phoenix, Arizona is a nonattainment area for both ozone (serious) and CO (serious). The nonattainment area consists only of Maricopa County. (2) El Paso, Texas is a nonattainment area for both ozone (serious) and CO (moderate). The nonattainment area consists only of El Paso County. (3) All eight counties in Connecticut constitute a single nonattainment area for ozone (serious). The modeling estimates show statewide emission levels in Connecticut. (4) In New Jersey, 18 of 21 counties are part of the nonattainment areas for New York City (severe for ozone, moderate for CO) or Philadelphia (severe for ozone). The modeling estimates show statewide emission levels in New Jersey. (5) Fairbanks, Alaska is a nonattainment area for CO (serious). (6) Spokane, Washington is a nonattainment area for CO (serious). (7) The Denver, Colorado area is a nonattainment area for CO (serious). (8) The six county Milwaukee, Wisconsin area is a nonattainment area for ozone (severe).

TABLE 3.—EMISSION LEVELS OF NONROAD NONRECREATIONAL SI ENGINES >19KW AND RECREATIONAL SI ENGINES IN SELECTED NONATTAINMENT AREAS (SHORT TONS) IN 2000

Area and application	CO	NO_X	HC	PM
Maricopa County, Arizona:				
Large SI	25,244	2,637	1,267	14
Recreational	13,304	72	1,426	3
Total	38,548	2,708	2,693	17
El Paso County, Texas:				
Large SI	4,229	664	240	3
Recreational	4,309	23	418	1
Total	8,538	688	659	4
Connecticut:				
Large SI	31,465	4,483	1,726	23
Recreational	24,031	129	2,394	5
Total	55,496	4,612	4,120	27
New Jersey:				
Large SI	65,601	8,964	3,563	46
Recreational	56,251	304	5,886	11
Total	121,852	9,267	9,450	57
Fairbanks, AK:				
Large SI	116	12	6	0
Recreational	2,511	13	329	3
Total	2,626	25	335	3
Spokane County, WA:				
Large SI	2,736	357	148	2
Recreational	5,012	25	706	6
Total	7,749	382	854	8
Denver County, CO:				
Large SI	4,988	649	267	3
Recreational	1,060	5	168	2
Total	6,047	654	435	5
Milwaukee, WI:				
Large SI	21,816	3,295	1,218	16
Recreational	12,802	53	3,168	55
Total	34,618	3,348	4,386	71

Additionally, the California Air Resources Board has published emission modeling estimates for nonroad spark-ignition engines. They specifically project that nonroad spark-ignition engines over 19 kW (25 hp) preempted from state regulation will contribute four tons of $HC + NO_X$ emissions per day in the South Coast Air Basin in 2010 (relative to two tons per day with federal emission regulations anticipated by California).[10] This includes farm and construction equipment such as chippers, balers, industrial saws, and welders. California's State Implementation Plan for the South Coast, Sacramento, Ventura, and Southeast Desert areas assumes federal regulation of these engines as part of their strategy to attain the ozone air quality standards. This four tons $HC + NO_X$ per day projection is relative to California's projection of 14 tons $HC + NO_X$ per day for non-preempted equipment in the South Coast Air Basin in 2010.

IV. Conclusion

Based on the national and local inventory numbers described in this document, and the information contained in the docket for this finding, we find that emissions of HC, NO_X, and CO from nonroad spark-ignition engines rated above 19 kW and from nonroad land-based spark-ignition recreational engines contribute to ozone or carbon monoxide concentrations in more than one ozone or CO nonattainment area, and emissions of PM from such engines cause or contribute to air pollution that we have previously determined may reasonably be anticipated to endanger public health or welfare. This finding is appropriate whether we include all large nonroad SI engines in one category or whether we look at engines used in nonrecreational applications separately from engines used in recreational vehicles.

V. Public Participation

Several parties commented on our February 8, 1999 Notice of Proposed Finding. We fully considered these comments in developing today's final finding. A full analysis of the comments and our response to them is contained in the docket for this finding.[11] The majority of the comments received concerned the inputs used for modeling the emissions from engines used in land-based recreational vehicles. The revised modeling inputs that we used were based on the comments we received and additional information we

[10] California Air Resources Board, Staff report for Large SI proposed rulemaking, Table 12, p. 42, September 3, 1998.

[11] ''Summary and Analysis of Comments for Notice of Proposed Finding: Control of Emissions from New Nonroad Spark-Ignition Engines Rated above 19 Kilowatts and New Land-Based Recreational Spark-Ignition Engines,'' EPA memorandum from John Mueller to docket A–98–01, November 17, 2000.

gathered. We also received several comments concerning the appropriateness of our conclusions in our proposed finding. These comments are also addressed in the response to comments document contained in the docket for this finding.

VI. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866, we must determine whether this regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order (58 FR 51735, Oct. 4, 1993). The order defines ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may:

(1) 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;

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

We have submitted this finding to the Office of Management and Budget.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment requirements, 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 not-for-profit enterprises, and small governmental jurisdictions.

We have determined that this action will not have a significant adverse impact on a substantial number of small entities. This finding involves no requirements that would impose any burden on industry or other segments of society. It is therefore not necessary to prepare a regulatory flexibility analysis in connection with this finding. A finding that these engines cause or contribute to air pollution in at least two nonattainment areas, however, will lead us to initiate a rulemaking to set emission standards for these engines. In that separate rulemaking, we will review whether the proposed regulations would have a significant economic impact on a substantial number of small entities. The subsequent rulemaking will provide ample opportunity for notice and comment.

C. Paperwork Reduction Act

This finding contains no requirements for collecting, storing, or reporting information.

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, we 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 us 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 us 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 that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we 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 our regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this finding does not contain federal mandates that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The finding does not impose any enforceable duties on State, local, or tribal governments. This finding also contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, there will be no economic effects resulting from this finding. Thus, this finding is not subject to the requirements of sections 202 and 205 of the UMRA.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This finding involves no technical standards.

F. Protection of Children

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to a rule that is determined to be ''economically significant,'' as defined under Executive Order 12866, if the environmental health or safety risk addressed by the rule has a disproportionate effect on children. For these rules, we must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives we considered.

This finding is not subject to Executive Order 13045, because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

G. 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'' is 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 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 proposed 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 proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This finding 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, as specified in Executive Order 13132. This finding creates no mandate on state, local or tribal governments. It imposes no enforceable duties on these or other entities. Thus, the requirements of section 6 of the Executive Order do not apply to this finding.

H. Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, we may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or we consult with those governments. If we comply by consulting, Executive Order 13084 requires us to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of our prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires us to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This finding would not significantly or uniquely affect the communities of Indian tribal governments. This finding is to be implemented at the federal level and will impose no compliance obligations on any party. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this finding.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this finding and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the finding in the **Federal Register**. This finding is not a ''major rule'' as defined by 5 U.S.C. 804 (2).

Dated: November 20, 2000.

Carol M. Browner,

Administrator.

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