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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 9 and 94**

[AMS-FRL-7627-4]

RIN 2060-AJ98

**Control of Emissions From New Marine Diesel Compression-Ignition Engines at or Above 30 Liters Per Cylinder****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; correction.**SUMMARY:** This correction renumbers a paragraph of 40 CFR 94.12 that was inadvertently misnumbered in the final rule published on February 28, 2003 (68 FR 9746).**DATES:** This final rule is effective on March 29, 2004.**ADDRESSES:** Materials relevant to this rulemaking are in Public Dockets A-2000-01 and A-2001-11 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 566-1742 and by facsimile at (202) 566-1741. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.**FOR FURTHER INFORMATION CONTACT:** Alan Stout, Assessment and Standards Division, e-mail [stout.alan@epa.gov](mailto:stout.alan@epa.gov), voice-mail (734) 214-4636.**SUPPLEMENTARY INFORMATION:** Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this rule final without prior proposal and opportunity for comment because we are amending 40 CFR part 94 by simply renumbering paragraph 40 CFR 94.12(f) that was subject to notice and comment and issued as part of the final rule establishing emission standards for Category 3 marine diesel engines (68 FR 9746, February 28, 2003). This paragraph was inadvertently labeled as

40 CFR 94.12(f) when a paragraph 94.12(f) already existed. A subsequent rulemaking renumbered the previously existing paragraph 94.12(f) as 94.12(h). This correction restores the numbering for the paragraph from the Category 3 marine diesel engine rule as 40 CFR 94.12(f). Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

The statutory authority for this action comes from sections 114, 213, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7547, and 7601(a)). This action is a rulemaking subject to the provisions of Clean Air Act section 307(d). See 42 U.S.C. 7606(d)(1).

**Statutory and Executive Order Reviews**Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore neither subject to review by the Office of Management and Budget nor subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy, Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as described above, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule does not have tribal implications, as specified in Executive Order 13175 (63 FR 67249, November 9, 2000). This rule will not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the September 19, 2003 **Federal Register** notice (68 FR 54956).The Congressional Review Act (5 U.S.C. 801 *et seq.*) 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 rule 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 rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).**List of Subjects in 40 CFR Part 94**

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

Dated: February 20, 2004.

**Michael O. Leavitt,**  
*Administrator.*

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below.

**PART 94—CONTROL OF EMISSIONS FROM MARINE COMPRESSION-IGNITION ENGINES**

■ 1. The authority citation for part 94 continues to read as follows:

**Authority:** 42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7545, 7547, 7549, 7550 and 7601(a).**Subpart A—[Amended]**

■ 2. Section 94.12 is amended by adding paragraph (f) to read as follows:

**§ 94.12 Interim provisions.**

\* \* \* \* \*

(f) Manufacturers may submit test data collected using the Annex VI test procedures to show compliance with Tier 1 standards for model years before 2007. Note: Starting in 2007, EPA may approve a manufacturer's request to continue using alternate procedures under § 94.102(c), as long as the manufacturer satisfies EPA that the differences in testing will not affect NO<sub>x</sub> emission rates.

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