



# Federal Register

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**Friday,  
September 19, 2003**

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**Part III**

## **Environmental Protection Agency**

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**40 CFR Part 94**

**Control of Emissions From New Marine  
Diesel Engines; Direct Final Rule and  
Proposed Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 94**

[AMS-FRL-7561-4]

**Control of Emissions From New Marine Diesel Engines**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule restores certain regulatory text that was adopted for recreational marine diesel engines on November 8, 2002 and corrects several typographical errors that do not affect the substance of the regulations. On February 28, 2003, we promulgated a final rule for Category 3 marine diesel engines. In doing so, we inadvertently supplanted some sections of the regulatory text that were adopted in the November 8, 2002 final rule for recreational marine diesel engines. This final rule restores that regulatory text.

**DATES:** This direct final rule is effective on November 3, 2003 without further notice, unless we receive adverse comments by October 20, 2003 or receive a request for a public hearing by October 6, 2003. If we receive any adverse comments on this direct final rule or receive a request for a hearing within the time frame described above, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Comments: All comments and materials relevant to this action should be submitted to Public Docket No. OAR-2003-00046.

**Docket:** 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:**

**I. General Information**

*A. Regulated Entities*

This action will affect companies and persons that manufacture, sell, or import into the United States new marine compression-ignition engines for use on vessels flagged or registered in the United States; companies and persons that make vessels that will be flagged or registered in the United States and that use such engines; and the owners or operators of such U.S. vessels. Affected categories and entities include the following:

Category	NAICS code <sup>a</sup>	Examples of potentially affected entities
Industry .....	333618	Manufacturers of new marine diesel engines.
Industry .....	336611	Manufacturers of marine vessels.

<sup>a</sup> North American Industry Classification System (NAICS).

This list is not intended to be exhaustive, but rather provides a guide regarding entities likely to be affected by this action. To determine whether particular activities may be affected by this action, you should carefully examine the regulations. You may direct questions regarding the applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Copies of This Document?*

1. **Docket.** EPA has established an official public docket for this action under Air Docket Number OAR-2003-0046. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., 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, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

2. **Electronic Access.** This direct final rule is available electronically from the EPA Internet Web site. This service is free of charge, except for any cost incurred for internet connectivity. The electronic version of this final rule is made available on the date of publication on the primary web site listed below. The EPA Office of Transportation and Air Quality also publishes **Federal Register** notices and related documents on the secondary web site listed below.

1. <http://www.epa.gov/docs/fedrgstr/EPA-AIR> (either select desired date or use Search features).
2. <http://www.epa.gov/otaq> (look in What's New or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the documents and the software into which the document may be downloaded, format changes may occur.

*C. How and to Whom Do I Submit Comments?*

You may submit comments on this direct final rule as described in this section. You should note that we are also publishing a notice of proposed rulemaking in the "Proposed Rules" section of today's **Federal Register**, which matches the substance of this direct final rule. Your comments on this direct final will be considered to also be applicable to that notice of proposed rulemaking. If we receive any adverse comments on this direct final rule or receive a request for a hearing within the time frame described above, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. We will then take final action to correct the regulatory text in a final rule based on the accompanying proposal. We will not institute a second comment period.

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period.

Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in Docket ID No. OAR-2003-0046. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov) Attention Air Docket ID No. OAR-2003-0046. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in **ADDRESSES** above. These electronic submissions will be accepted

in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send two copies of your comments to: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OAR-2003-0046.

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Air Docket ID No. OAR-2003-0046. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.

4. *By Facsimile.* Fax your comments to: (202) 566-1741, Attention Docket ID No. OAR-2001-0011.

## II. Summary of Rule

We proposed emission standards for Category 3 marine diesel engines in 40 CFR part 94 on May 29, 2002 (67 FR 37548). Before finalizing the Category 3 emission standards, we promulgated emission standards for recreational marine diesel engines in 40 CFR part 94 (67 FR 68242, November 8, 2002).

We adopted final emission standards for Category 3 marine diesel engines on February 28, 2003 (68 FR 9746). These changes to 40 CFR part 94 inadvertently supplanted some of the provisions we had recently established for recreational marine diesel engines in November 2002. This rule would correct those errors; these corrections are intended merely to restore the regulatory text we originally adopted under each program, as follows:

- 40 CFR 94.8(a): Restoring the text describing the emission standards for recreational marine diesel engines to Table A-1.
- 40 CFR 94.8(e): Restoring the text describing the not-to-exceed standards for recreational marine diesel engines.
- 40 CFR 94.9(a): Restoring the text describing the useful-life values for recreational marine diesel engines.
- 40 CFR 94.12(h): Renumbering the provisions regarding flexibility for small-volume boat builders.

In addition, this rule corrects several typographical errors that do not affect the substance of the regulations:

- 40 CFR 94.2: Renumbering the paragraph designations under the definition for "New vessel."
- 40 CFR 94.8(e): Removing the model year for Tier 2 standards for Category 3 engines, consistent with § 94.8(a)(2)(ii).
- 40 CFR 94.9(a)(1)(iv): Adding the word "engines" to complete the

sentence describing useful life values for Category 3 engines.

Because EPA views the provisions of the action as noncontroversial and does not expect adverse comment, it is appropriate to proceed by direct final rulemaking.

If we receive adverse comment on one or more distinct amendments, paragraphs, or sections of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn due to adverse comment. Any distinct amendment, paragraph, or section of today's rulemaking for which we do not receive adverse comment will become effective on the date set out above, notwithstanding any adverse comment on any other distinct amendment, paragraph, or section of today's rule.

## III. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 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 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.

This direct final rule is not a significant regulatory action 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. There are no new costs associated with this rule. A Final Regulatory Support Document was prepared in connection with the original regulations for

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

Federally protected interests within the agency's area of regulatory responsibility.

This rule does not have federalism implications. It 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 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. Although section 6 of Executive Order 13132 did not apply to the original recreational marine diesel rule (67 FR 68242, November 8, 2002), EPA did consult with representatives of various State and local governments in developing that rule. EPA has also consulted representatives from STAPPA/ALAPCO, which represents state and local air pollution officials.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (59 FR 22951, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This rule does not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of this rule. 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. Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, section 5-501 of the Order directs the Agency to 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 considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant, and does not involve decisions on environmental health or safety risks that may disproportionately affect children.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. 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.

#### *I. 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 EPA 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 (such as materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA

directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This direct final rule does not involve technical standards. 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. Thus, we have determined that the requirements of the NTTAA do not apply.

#### *J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended 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 Congress and the Comptroller General of the United States. We 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 before publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This direct final rule is effective on November 3, 2003.

#### *K. Statutory Authority*

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).

#### **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: September 12, 2003.

**Marianne Lamont Horinko,**  
*Acting 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 94.2 is amended by redesignating paragraphs (1)(iii)(A)(2) and (3) of the definition of “New vessel” as paragraphs (1)(iii)(B) and (C).

■ 3. Section 94.8 is amended by revising Table A–1 in paragraph (a)(2)(i) and paragraph (e) to read as follows:

**§ 94.8 Exhaust emission standards.**

- (a) \* \* \*
- (2) (i) \* \* \*

TABLE A–1.—PRIMARY TIER 2 EXHAUST EMISSION STANDARDS (G/KW-HR)

Engine Size liters/cylinder, rated power	Category	Model year <sup>a</sup>	THC+NO <sub>x</sub> g/kW-hr	CO g/kW-hr	PM g/kW-hr
disp. <0.9 and power ≥37 kW .....	Category 1, Commercial .....	2005	7.5	5.0	0.40
	Category 1, Recreational .....	2007	7.5	5.0	0.40
0.9 ≤ disp. <1.2 all power levels .....	Category 1, Commercial .....	2004	7.2	5.0	0.30
	Category 1, Recreational .....	2006	7.2	5.0	0.30
1.2 ≤ disp. <2.5 all power levels .....	Category 1, Commercial .....	2004	7.2	5.0	0.20
	Category 1, Recreational .....	2006	7.2	5.0	0.20
2.5 ≤ disp. <5.0 all power levels .....	Category 1, Commercial .....	2007	7.2	5.0	0.20
	Category 1, Recreational .....	2009	7.2	5.0	0.20
5.0 ≤ disp. <15.0 all power levels .....	Category 2 .....	2007	7.8	5.0	0.27
15.0 ≤ disp. <20.0 power <3300 kW .....	Category 2 .....	2007	8.7	5.0	0.50
15.0 ≤ disp. <20.0 power ≥3300 kW .....	Category 2 .....	2007	9.8	5.0	0.50
20.0 ≤ disp. <25.0 all power levels .....	Category 2 .....	2007	9.8	5.0	0.50
25.0 ≤ disp. <30.0 all power levels .....	Category 2 .....	2007	11.0	5.0	0.50
disp. ≥30.0 all power levels .....	Category 3 .....	See paragraph (a)(2)(ii) of this section			

<sup>a</sup> The model years listed indicate the model years for which the specified standards start.

\* \* \* \* \*

(e) Exhaust emissions from Category 1 and Category 2 propulsion engines subject to the standards (or FELs) in paragraph (a), (c), or (f) of this section shall not exceed:

(1) *Commercial marine engines.* (i) 1.20 times the applicable standards (or FELs) when tested in accordance with the supplemental test procedures specified in § 94.106 at loads greater than or equal to 45 percent of the maximum power at rated speed or 1.50 times the applicable standards (or FELs) at loads less than 45 percent of the maximum power at rated speed.

(ii) As an option, the manufacturer may choose to comply with limits of 1.25 times the applicable standards (or FELs) when tested over the whole power range in accordance with the supplemental test procedures specified in § 94.106, instead of the limits in paragraph (e)(1)(i) of this section.

(2) *Recreational marine engines.* (i) 1.20 times the applicable standards (or

FELs) when tested in accordance with the supplemental test procedures specified in § 94.106 at loads greater than or equal to 45 percent of the maximum power at rated speed and speeds less than 95 percent of maximum test speed, or 1.50 times the applicable standards (or FELs) at loads less than 45 percent of the maximum power at rated speed, or 1.50 times the applicable standards (or FELs) at any loads for speeds greater than or equal to 95 percent of the maximum test speed.

(ii) As an option, the manufacturer may choose to comply with limits of 1.25 times the applicable standards (or FELs) when tested over the whole power range in accordance with the supplemental test procedures specified in § 94.106, instead of the limits in paragraph (e)(2)(i) of this section.

\* \* \* \* \*

■ 4. Section 94.9 is amended by revising paragraph (a)(1) to read as follows:

**§ 94.9 Compliance with emission standards.**

(a) \* \* \*

(1) The minimum useful life is:

(i) 10 years or 1,000 hours of operation for recreational Category 1 engines.

(ii) 10 years or 10,000 hours of operation for commercial Category 1 engines.

(iii) 10 years or 20,000 hours of operation for Category 2 engines.

(iv) 3 years or 10,000 hours of operation for Category 3 engines.

\* \* \* \* \*

**§ 94.12 [Amended]**

■ 5. Section 94.12 is amended by redesignating paragraph (f) as paragraph (h) and reserving paragraph (f).

[FR Doc. 03–23848 Filed 9–18–03; 8:45 am]

BILLING CODE 6560–50–P