

Although the Annex has not yet entered into force and is not yet legally binding, it is widely recognized that the vast majority of marine diesel engines manufactured and installed after January 1, 2000 meet the requirements of the Annex. To facilitate implementation while the Annex is not yet in force and to allow engine manufacturers to certify their engines before the Annex goes into force, we have set up a process for manufacturers to obtain a Statement of Voluntary Compliance.²⁶ Once Annex VI goes into effect for the United States we will develop a process by which an EPA-issued Statement of Voluntary Compliance can be exchanged for an EIAPP. It should be noted that an engine certificate (EIAPP) or Statement of Voluntary Compliance for an engine installed on a U.S. vessel must be issued by the U.S. EPA. Marine classification or survey societies are not authorized to issue such certificates on behalf of the U.S. government for U.S. vessels.

The U.S. government has prepared the appropriate documents for the President to submit Annex VI to the Senate for its advice and consent to ratification. Besides setting standards for NO_x emissions, Annex VI regulates ozone-depleting emissions, sulfur oxides emissions and shipboard incineration, and contains other environmentally protective measures. In transmitting Annex VI to the Senate, the Administration will work with Congress on new legislation to implement the Annex. The United States government also supports a new effort to revise the Annex VI standards to include a second tier of NO_x standards taking into account the emission-reduction potential of new control technologies. Should the Senate provide its advice and consent to ratification of the Annex, the United States will continue its leadership in promoting environmentally responsible international emission standards at the IMO and recognize the role the IMO plays in protecting the world's marine environment from pollution. As described in Section IV.A.4, we have

replaced by a new engine, (ii) it is substantially modified, or (iii) its maximum continuous rating is increased by more than 10 percent. Any existing engine that undergoes a major conversion on or after January 1, 2000 would be required to comply with the Annex VI NO_x limits. Note that EPA's marine diesel engine emission control program does not have a similar provision for marine diesel engines.

²⁶ For more information about our voluntary certification program, see "Guidance for Certifying to MARPOL Annex VI," VPCD-99-02. This letter is available on our Web site: <http://www.epa.gov/otaq/regs/nonroad/marine/ci/imolettr.pdf> and in Docket A-2001-11, Document No. II-B-01.

already requested the Marine Environment Protection Committee to begin consideration of more stringent NO_x emission standards for marine diesel engines. In addition, once the Annex goes into force, amendment of NO_x standards to include a second tier of standards will be made easier through the tacit amendment process that would then apply.

F. Recent European Union Action

In November 2002, the European Union adopted a new strategy to address sulfur emissions from marine engines by reducing the sulfur content of marine fuels used in the European Union. The strategy consists of two documents: A Communication from the Commission to the European Parliament and the Council—A European Union strategy to reduce atmospheric emissions from seagoing ships; and a Proposal for a Directive of the European Parliament and of the Council—amending Directive 1999/32/EC as regards the sulphur content of marine fuel.²⁷ The strategy contains provisions to push the IMO for more stringent NO_x limits for marine diesel engines. It also encourages the development of a Clean Marine award scheme and market-based instruments to promote emission reductions.

The proposal has two main provisions. The first is a 15,000 ppm sulfur content limit that would apply to the fuel used by all oceangoing vessels in the North Sea, English Channel, and Baltic Sea, and to all regular passenger vessels operating in the EU by 2007. This provision is consistent with the SO_x Emission Control Areas designated under MARPOL Annex VI. The second provision would require ships to use fuel with a maximum sulfur content of 2,000 ppm (0.2%) while they are at berth in ports inside the European Union. This provision is intended to reduce sulfur and particulate matter emissions in populated areas. The analysis accompanying the fuel sulfur proposal estimates that the proposed standards will reduce SO₂ emissions by 507,000 metric tons and PM emissions by 8,000 metric tons, saving about 2,000 lives a year. These benefits are monetized at 2.7 billion Euros. The costs, which they note are likely to be born by shipowners through increased fuel prices, is estimated to be 1.07 billion euros per year.

The strategy was finalized on November 20, 2002. The strategy and communication documents will be sent to the European Parliament and

²⁷ More information on the European Union strategy can be found at <http://www.europa.eu.int/comm/environment/air/transport.htm#3>.

Council. The proposal will be discussed in these legislative bodies, and negotiations are anticipated to take about two years.

G. Statutory Authority

We conducted a study of emissions from nonroad engines, vehicles, and equipment in 1991, as directed by section 213(a) of the Clean Air Act (42 U.S.C. 7547(a)). Based on the results of that study, we determined that emissions of NO_x, volatile organic compounds (including 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, June 17, 1994). Given this determination, section 213(a)(3) of the Act requires us to establish (and from time to time revise) emission 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 have determined that marine diesel engines rated over 37 kW cause or contribute to such air pollution (*see also* the preamble to the proposed rule).

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) of the Act authorizes EPA to establish (and from time to time revise) emission standards from those classes or categories of new nonroad engines, vehicles, and equipment that cause or contribute to such air pollution. We have determined that marine diesel engines rated over 37 kW cause or contribute to such air pollution. That finding, which covers PM, was made in our 1999 rulemaking (December 29, 1999, 64 FR 73300; *see also* the preamble to that proposed rule, December 11, 1998, 63 FR 68508).

Clean Air Act section 307(d) applies to this final rule, as provided by section 307(d)(1)(V) (42 U.S.C. 7607(d)(1)(V)).

II. Which Engines Are Covered?

The standards we are adopting in this action will apply to new marine diesel engines installed on vessels flagged or registered in the United States. To clarify this scope of application, we are extending the definitions contained in 40 CFR 94.2 to apply to all sizes of marine diesel engines, no longer excluding those with per-cylinder displacement at or above 30 liters. According to those definitions, a marine diesel engine is subject to the standards if it is: