

ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.”

This rule does not have tribal implications as specified in Executive Order 13175. This rule will be implemented at the Federal level and impose compliance costs only on engine manufacturers and shipbuilders. Tribal governments will be affected only to the extent they purchase and use vessels having regulated engines. Executive Order 13175 therefore 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 Executive Order 13045 because it is not economically significant under the terms of Executive Order 12866.

*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. The aim to reduce emissions from certain nonroad engines and have no effect on fuel formulation, distribution, or use.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Pub. L. 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 (*e.g.*, 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 rule involves technical standards for testing emissions from marine diesel engines. EPA is adopting test procedures contained in the MARPOL NO<sub>x</sub> Technical Code, with the certain modifications as described in this document. The MARPOL NO<sub>x</sub> Technical Code includes the International Standards Organization (ISO) duty cycle for marine diesel engines (E2, E3, D2, C1) and the American Society for Testing and Materials (ASTM) fuel standards.<sup>37</sup> These procedures are currently used by virtually all Category 3 engine manufacturers to demonstrate compliance with the Annex VI NO<sub>x</sub> limits and to obtain Statements of Voluntary Compliance to those standards.

*J. Congressional Review Act*

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 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 the rule is published in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects**

*40 CFR Part 9*

Reporting and recordkeeping requirements.

*40 CFR Part 94*

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports,

<sup>37</sup> The Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines in the Annex VI of MARPOL 73/78 Regulations for the Prevention of Air Pollution from Ships and NO<sub>x</sub> Technical Code, International Maritime Organization. See footnote 1 regarding how to obtain copies of these documents.

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

Dated: January 31, 2003.

**Christine Todd Whitman,**  
*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 9—[AMENDED]**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended in the table by adding the center heading and the entries under that center heading in numerical order to read as follows:

**§ 9.1 OMB approvals under the Paperwork Reduction Act.**

*	*	*	*	*
40 CFR citation	OMB control No.			
*	*	*	*	*
Control of Emissions From New and In-Use Marine Compression-Ignition Engines				
94.7–94.12 .....	2060–0460.			
94.101–94.109 .....	2060–0460			
94.203–94.222 .....	2060–0460			
94.303–94.310 .....	2060–0460			
94.403–94.408 .....	2060–0460			
94.508–94.509 .....	2060–0460			
94.804 .....	2060–0460			
94.904–94.911 .....	2060–0460			
*	*	*	*	*

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

1. The authority 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 94.1 is amended by revising paragraph (b) to read as follows:

**§ 94.1 Applicability.**

\* \* \* \* \*