

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 91

[FRL-5805-7]

Control of Air Pollution; Amendment to Emission Requirements Applicable to New Gasoline Spark-Ignition Marine Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rulemaking amends the regulations applicable to new gasoline spark-ignition marine engines to address an oversight regarding the production line testing program in the final regulations published on October 4, 1996, (61 FR 52087). No air quality impact is expected from these amendments. This amendment will allow spark-ignition marine engine manufacturers to delay the implementation of the production line testing program until MY 1999 for outboard engines and until MY 2000 for personal watercraft engines.

DATES: This final rule takes effect on April 2, 1997.

ADDRESSES: For information or compliance assistance, manufacturers who must comply with this regulation may contact the Office of Mobile Sources, Engine Programs and Compliance Division, Engine Compliance Programs Group (6403J), 401 M Street S.W., Washington, D.C. 20460.

Materials relevant to this rulemaking are contained in Docket Number A-92-28 and may be reviewed at that location from 8:00 am until 5:30 pm Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged by EPA for photocopying.

FOR FURTHER INFORMATION CONTACT: James Blubaugh, Office of Mobile Sources, Engine Programs and Compliance Division (6403J), 401 M Street S.W., Washington, D.C. 20460, 202-233-9244.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Entities potentially regulated by this action are those which manufacture spark-ignition marine engines. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Manufacturers of spark ignition marine engines.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your product is regulated by this action, you should carefully examine the applicability criteria in § 91.1 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular product, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Obtaining Copies of the Regulatory Language

Electronic Copies of Rulemaking Documents: Electronic copies of the preamble and the regulatory text of this rulemaking are available via the Internet on the Office of Mobile Sources (OMS) Home Page (<http://www.epa.gov/OMSWWW/>).

Users can find Marine Engine information and documents through the following path once they have accessed the OMS Home Page: "Marine Engines." Electronic copies of the preamble and the regulatory text of this rulemaking are also available on the Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTN BBS). Users are able to access and download TTN BBS files on their first call. After logging onto TTN BBS, to navigate through the BBS to the files of interest, the user must enter the appropriate command at each of a series of menus. The steps required to access information on this rulemaking are listed below. The service is free, except for the cost of the phone call.

TTN BBS: 919-541-5742 (1,200-14,400 bps, no parity, eight data bits, one stop bit). Voice help: 919-541-5384. Internet address: TELNET ttnbbs.rtpnc.epa.gov Off-line: Mondays from 8:00-12:00 Noon ET.

1. Technology Transfer Network Top Menu: GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
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5. Nonroad Rulemaking Area: File Area #2 . . . Nonroad Engines
6. Nonroad marine engines

At this stage, the system will list all available nonroad marine engine files. To download a file, select a transfer protocol which will match the terminal software on your computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (i.e., ZIP'd) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit TTN BBS with the <G>oodbye command.

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IV. Statutory Authority and Background

A. Statutory Authority

Authority for the action in this notice is granted to EPA by sections 206, 208, 213, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7525, 7542, 7547, and 7601(a)).

B. Background

EPA promulgated final regulations applicable to gasoline spark-ignition marine engines (marine SI engines) on July 31, 1996 (61 FR 52087, October 4, 1996).

In the Supplemental Notice of Proposed Rulemaking for the marine SI rule (61 FR 4600, February 7, 1996), EPA proposed that the compliance date for the production line testing program be delayed one year. The program would become effective in model year 1999 for outboard engines and in model year 2000 for personal watercraft engines. This would allow marine SI engine manufacturers time to prepare their production facilities with all of the necessary equipment and resources to comply with the production line testing

requirements. Comments received from industry during the comment period indicated their support for such a delay, and there were no adverse comments regarding the delay. In the Summary and Analysis of Comments Document supporting the final rule, EPA stated that the production line testing program becomes effective in model year 1999 for outboard engines and in model year 2000 for personal watercraft engines. (Summary and Analysis of Comments, Emission Standards for New Gasoline Spark-Ignition Marine Engines, June 1996). Inadvertently, this decision was not reflected in the regulatory text.

V. Implementation Dates for the Production Line Testing Program

A. Discussion

Today's notice finalizes the provision, as intended by EPA, to implement the production line testing program in model year 1999 for outboard engines and in model year 2000 for personal watercraft engines.

As indicated above, in the Supplemental Notice of Proposed Rulemaking for the marine SI rule (61 FR 4600, February 7, 1996), EPA proposed that the requirements for the production line testing program become effective in model year 1999 for outboard engines and in model year 2000 for personal watercraft engines. Comments received from industry during the comment period indicated their support for such a delay. There were no adverse comments regarding the delay. Today's notice corrects an oversight and finalizes a provision, as proposed in the SNPRM, that implements the production line testing program in model year 1999 for outboard engines and in model year 2000 for personal watercraft engines.

B. Regulatory approach

The Agency is implementing the desired changes by amending the existing Manufacturer Production Line Testing Program applicability provision at 40 CFR 91.501. The amendment adds language regarding the applicable date of the manufacturer production line testing program.

VII. Final Action

The Clean Air Act and Administrative Procedure Act generally require EPA to provide prior notice and opportunity for public comment before issuing a final rule. 42 U.S.C. 7607(d), 5 U.S.C. 553 (b), (c). Rules are exempt from this requirement if EPA finds for good cause that notice and comment are unnecessary. 42 U.S.C. 7607(d)(1), 5 U.S.C. 553(b)(3)(B).

EPA has determined that providing prior notice and opportunity for public comment on the amendment of the applicability date for the marine SI engine production line testing program is unnecessary. As discussed above, this notice corrects an oversight by the Agency in preparing the final regulations for marine SI engines. In 1995, the Agency proposed a delay in the implementation date of the production line testing program and offered an opportunity for comment on that proposal. A repetition of that notice and opportunity for public comment is unnecessary given that EPA is merely correcting an oversight in the preparation of the final regulations.

For the same reasons, EPA believes there is good cause for making the amendment contained in this notice effective immediately. See 5 U.S.C. 553(d).

VIII. Cost Effectiveness

This rulemaking alters an existing provision by allowing marine SI engine manufacturers to have greater flexibility in implementing the production line testing program. Therefore, because this rulemaking alters an existing provision, and that alteration provides regulatory relief, there are no additional costs to marine SI engine manufacturers associated with this specific final action.

The costs and emission reductions associated with the Marine SI rule were developed for the October 4, 1996, final rulemaking. The change being implemented today does not affect the costs and emission reductions published as part of that rulemaking, because the change implemented today was factored into the development of those costs and emission reductions.

IX. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one 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.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Reporting and Recordkeeping Requirements

This final rulemaking does not change the information collection requirements submitted to and approved by OMB in association with the Marine SI final rulemaking (61 FR 52087, October 4, 1996).

C. Impact on Small Entities

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant adverse economic impact on a substantial number of small businesses. Instead, this rulemaking will provide regulatory relief to both large and small volume engine manufacturers by permitting greater flexibility in implementing the production line testing program.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), Public Law 104-4, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. Under Section 205, EPA must select the least costly, most cost effective or least burdensome alternative that achieves the objectives of the rule and is

consistent with statutory requirements. Section 203 requires EPA to take certain steps before finalizing a rule that may significantly or uniquely affect small governments.

EPA has determined that the action finalized today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, and tribal governments in the aggregate, or to the private sector, and does not significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 91

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

Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

Dated: March 27, 1997.

Carol M. Browner,
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 91—CONTROL OF EMISSIONS FROM MARINE SPARK-IGNITION ENGINES

1. The authority citation for part 91 continues to read as follows:

Authority: Sections 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of

the Clean Air Act, as amended (42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)).

2. Section 91.501 is amended by adding paragraphs (a)(1) and (a)(2) to read as follows:

§ 91.501 Applicability.

(a) * * *

(1) This subpart F applies to marine spark-ignition outboard engines beginning with model year 1999.

(2) This subpart F applies to marine spark-ignition personal watercraft engines beginning with model year 2000.

* * * * *

[FR Doc. 97-8380 Filed 4-1-97; 8:45 am]

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