

**Appendix A to subpart E of part 790**  
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## ■ 7. Remove Appendix A to subpart E of part 790.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 1060**

[EPA-HQ-OAR-2010-0270; FRL-9202-4]

RIN 2060-AQ18

**Technical Amendments for Marine Spark-Ignition Engines and Vessels****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** In the final rulemaking for new exhaust and evaporative emissions standards for nonroad spark-ignition engines, vessels, and equipment (73 FR 59034, October 8, 2008), EPA established first-ever evaporative emissions standards for marine vessels. These requirements included portable marine fuel tanks commonly used in recreational boating. During their efforts to certify portable fuel tanks to these new requirements, manufacturers working together on systems integration identified several technical issues with the performance of the tanks/fuel systems in use that were not fully apparent to them before these standards were developed. Systems integration work conducted by the fuel tank, boat and engine manufacturers highlighted that under some circumstances there was the potential for fuel spillage to occur. Work conducted by these parties indicated that this issue applies to existing systems and tanks as well as those built to comply with EPA's evaporative emission design standard. We have engaged the industry to identify a simple, safe, and emissions neutral solution to this concern. EPA is taking direct final action to make technical amendments to the design standard for portable tanks that will allow for this solution. In addition, we are incorporating safe recommended practices, developed through industry consensus, for portable marine fuel tanks. This action is emissions neutral with respect to the diurnal emissions standard; however, to the extent that it helps reduce fuel spillage, incorporating safe recommended practices will result in a net benefit to the environment and lead to fuel savings.

**DATES:** This rule is effective on November 15, 2010 without further

notice, unless EPA receives adverse comment by October 18, 2010. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. Similarly, the incorporation by reference of the published standard listed in this regulation is approved by the Director of the Federal Register as of November 15, 2010 without further notice, unless EPA receives adverse comment.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2010-0270, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).

- *Fax:* (202) 566-9744.

- *Mail:* Environmental Protection Agency, Air Docket, Mail-Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

- *Hand Delivery:* EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, Attention Docket No. EPA-HQ-OAR-2010-0270. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2010-0270. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public

docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to Unit III of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the "Technical Amendments for Marine Spark-Ignition Engines and Vessels" Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The 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 "Technical Amendments for Marine Spark-Ignition Engines and Vessels" Docket is (202) 566-2426.

**FOR FURTHER INFORMATION CONTACT:** Michael Samulski, Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: 734-214-4532; fax number: 734-214-4050; e-mail address: [samulski.michael@epa.gov](mailto:samulski.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Why is EPA using a Direct Final Rule?**

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to adopt

the provisions in this Direct Final Rule if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the ADDRESSES section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

**II. Does this action apply to me?**

This action will affect companies that manufacture and certify portable marine

fuel tanks for sale in the United States. The following table gives some examples of entities that may have to follow the regulations; however, since these are only examples, you should carefully examine the proposed regulations. You may direct questions regarding the applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

| Category       | NAICS codes <sup>a</sup> | SIC codes <sup>b</sup> | Examples of potentially regulated entities |
|----------------|--------------------------|------------------------|--------------------------------------------|
| Industry ..... | 333618                   | 3519                   | Manufacturers of new engines.              |
| Industry ..... | 336612                   | 3731, 3732             | Manufacturers of marine vessels.           |

<sup>a</sup>North American Industry Classification System (NAICS).  
<sup>b</sup>Standard Industrial Classification (SIC) system code.

**III. What should I consider as I prepare my comments for EPA?**

*A. Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

*B. Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

**IV. Summary of Rule**

*A. Overview*

In the final rulemaking for new exhaust and evaporative emissions standards for nonroad spark-ignition engines, vessels, and equipment (73 FR 59034, October 8, 2008), EPA established first-ever evaporative emissions standards for marine vessels. These requirements included portable marine fuel tanks specifically designed for and commonly used in recreational boating. These are normally used to power gasoline outboard engines. During their efforts to certify portable fuel tanks to these new requirements, manufacturers working together on systems integration identified several technical issues with the performance of the tanks/fuel systems in use that were not fully apparent to them before these standards were developed. Systems integration work conducted by the fuel tank, boat and engine manufacturers highlighted that under some circumstances there was the potential for fuel spillage to occur. Work conducted by these parties indicated that this issue applies to existing fuel systems and tanks as well as those built to comply with EPA’s evaporative emission design standard. We have engaged the industry to identify a simple, safe, and emissions neutral solution to this concern. This action is emissions neutral with respect to the diurnal emissions standard; however, to the extent that it helps reduce fuel spillage, incorporating safe recommended practices will result in a net benefit to the environment and lead to fuel savings.

*B. Background*

Often, gasoline-powered outboard marine engines are used on boats that do not have installed fuel tanks. This is most common for smaller engines and vessels. In these instances, portable marine fuel tanks are used as a fuel supply. In many ways, portable marine fuel tanks resemble portable gasoline containers, like those used to carry gasoline for use in lawnmowers and other equipment. The primary difference from portable gasoline containers is that portable marine fuel tanks are designed to be connected directly to the outboard engine during operation. These portable marine fuel tanks can be easily disconnected from the engine and removed from the boat for purposes of refueling and storage.

Because outboard engines draw fuel directly from portable marine fuel tanks when operating, there are three design elements unique to these fuel tanks. The first (and most obvious) is that there is a fuel line connecting the fuel tank to the engine. Second, these fuel tanks are typically equipped with an indicator for fuel fill level. Third, portable marine fuel tanks have traditionally been equipped with a manually actuated vent on the fuel cap. In this design, the manual valve was intended to be left open during engine operation to prevent a vacuum from forming in the fuel tank as the engine draws the fuel level down. Such a vacuum in the fuel tank could prevent fuel from being drawn into the engine, thereby resulting in a stalled engine.

During storage and transport, this same manual valve could be closed to prevent fuel spillage and loss of fuel due to evaporation. By closing the valve, the user can prevent fuel vapor from escaping through the vent. However, because the vapor cannot escape, pressure builds in the fuel tank during heating events. For this reason, portable

marine fuel tanks are designed to withstand pressures caused by fuel heating. Because this valve is manually actuated, any emission control associated with sealing the tank would be dependent on user behavior.

In our recent rulemaking, we adopted a design standard requiring portable marine fuel tanks to remain sealed up to a pressure of 5.0 psi, starting on January 1, 2010 (*see* § 1060.105). This can be achieved by replacing the user-controlled manual valve with a simple one-way automatic valve in the fuel cap. For instance, a diaphragm valve that is common in many automotive applications seals when under positive pressure (up to a set pressure limit) but opens under low-vacuum conditions. The 5.0 psi pressure relief provision is not mandatory, but rather is intended to provide the option to limit the amount of pressure that a fuel tank must hold. It should be noted that portable fuel tank manufacturers are expected to add an additional manual valve that will allow the user to override the pressure relief valve so that the fuel tanks can be completely sealed during transportation and storage.

Under the requirements finalized in 2008, portable fuel tanks must continue to be self-sealing when disconnected from an engine. Typically, the hose connections have spring loaded mechanisms that close off fuel flow when the connection is broken. As such, this provision is consistent with current industry practice.

### C. Technical Issues and Solutions

After the final rule was published in 2008, marine engine and fuel tank manufacturers became aware of fuel spillage issues that may occur, under certain circumstances, if a portable marine fuel tank is stored in the sealed condition (either on or outside the vessel). These issues were identified during the manufacturers' efforts to develop and certify portable marine fuel tanks to the diurnal emission requirements. Testing conducted by the manufacturers indicates that these fuel spillage issues apply to existing fuel tanks as well as those designed to the diurnal requirements finalized in 2008. Existing tanks have a manual valve that is intended to be closed when the vessel is not in use and when the tank is stored. When the user closes this manual valve, the tank is in a similar configuration as a tank that is compliant with the design requirements for diurnal emission control.

Diurnal evaporative emissions are released from a fuel tank when the fuel temperature increases due to daily temperature changes. This increase in

fuel temperature increases the vapor pressure of the fuel and therefore the vapor mixture expands in volume. This expansion forces some of the fuel-air mixture to be vented out of the tank. When the vent is in the closed position, the expanded volume cannot escape the tank, resulting in increased pressure in the fuel tank. This increased pressure is a function of the fuel temperature, the amount of fuel in the tank, and the volatility of the fuel.

Three potential fuel spillage mechanisms have been identified for a tank under pressure: (1) Through the engine, (2) when connecting/disconnecting the fuel line from the engine and (3) when opening the fuel cap. These three potential fuel spillage issues are discussed below along with the associated technical solutions to these issues. Further information is provided in the docket.

#### 1. Through Engine

When an engine is operating, vacuum generated by the action of the piston(s) draws fuel from the tank to the engine. When the engine is shut down, it no longer draws fuel from the fuel tank. It is common to disconnect the fuel tank from the engine during periods of inactivity. However, if this does not occur, and if the fuel tank is sealed and sufficient pressure develops in the fuel tank, this pressure can push fuel to the engine. This can occur in existing fuel tanks when the manual valve is sealed or in a self-sealing fuel tank meeting the design standard finalized in 2008. In most cases, the needle valve in the engine's fuel system would prevent the fuel from reaching the engine intake.

However, if the pressure in the fuel tank is high enough, this pressure may force fuel through the engine, which would then spill out of the engine intake. Based on test data supplied by outboard marine engine manufacturers, many engine designs can withstand 5.0 psi of fuel pressure from the fuel tank without leaking. However, some engine designs will see fuel leakage at pressures as low as 1.0 psi. This testing was performed on engines in a static position, either upright or tilted. Based on this testing, fuel leakage was shown to occur in either position, but was more likely when the engine is stored in the tilted position.

Dynamic testing was also performed, wherein the engine was fitted on a trailer boat and towed of various surfaces. This testing suggested fuel leakage was much more likely under dynamic conditions (such as towing) than static conditions, when the portable marine fuel tank was sealed, pressurized, and left connected to the

engine. It was thought that the vibration caused the needle valve in the engine to vibrate and lift from its seat. The test data referenced here is included in the docket.

The simplest solution to this fuel spillage issue is for the user to disconnect the fuel tank from the engine when storing the fuel tank, especially when towing the boat. At a minimum, portable marine fuel tank manufacturers should provide the user with information on proper storage practices, such as disconnecting the fuel tank from the engine when not in use. As discussed in IV.D.3 below, this is included in the safe recommended practices for portable marine fuel tanks recently developed by the boating industry.

A more sophisticated technical solution would be to include a valve in the fuel line that would prevent transfer of fuel under pressure from the fuel tank to the engine. One example would be a vacuum-actuated valve which would remain closed unless a vacuum was drawn from the engine. Because new portable marine fuel tanks may be used with old engines for many years to come, it is important that the near-term solution to this issue be independent of the engine design.

#### 2. During Connection/Disconnection of Fuel Line

Portable marine fuel tanks are typically equipped with "quick-connect" fittings for easy connection and disconnection of the fuel line from either the engine or fuel tank. Under this design, the connector remains closed until it is pressed on to the mating fitting. When the fuel is under pressure, it is possible that some fuel will spray as the connector begins to open, but is not yet completely seated on the fitting. For example, this could occur when the fuel line is connected to the fuel tank and the tank is under a positive pressure. Similar to the other spillage mechanisms described here, this can occur in existing fuel tanks when the manual valve is sealed or in a self-sealing fuel tank meeting the design standard finalized in 2008.

Two solutions may be used to address this fuel spillage issue. The first is to simply relieve the pressure in the fuel system prior to connecting or disconnecting the fuel line from the engine. This could be accomplished by simply opening the fuel cap or through the use of the "pressure relief method" described below (*see* section IV.C.3).

Alternatively, the fittings could be modified to prevent fuel spray under pressure. One approach would be to improve the fittings such that, when the

connector and fitting are mated, the seal is seated sufficiently to withstand 5 psi of pressure, before the connecting valve opens. Another modification could be the use of an integrated or manual valve that would close to shut off fuel pressure to the fitting prior to connecting or disconnecting the fuel line from the engine.

### 3. When Opening Fuel Cap

In rare circumstances, the fuel in the tank can reach an unstable condition where opening the fuel cap can result in significant fuel spray from the tank opening. This would occur when the fuel tank is filled with a high volatility gasoline, sealed, and subjected to high ambient temperatures. This can occur in existing fuel tanks when the manual valve is sealed or in a self-sealing fuel tank meeting the design standard finalized in 2008. An example of a high volatility gasoline would be 13 RVP wintertime fuel. Under certain circumstances, this fuel may be sold in the spring for use in boats. If a fuel tank containing this fuel were left in the sun on a hot day, the fuel could reach a "boiling" condition where butane bubbles are formed in the fuel. In many ways, gasoline under this condition could be likened to soda pop in a bottle that has been shaken.

Manufacturers performed testing on a fuel tank filled to the top with 13 RVP gasoline that was sealed and heated from 16°C (60°F) to 40°C (104°F). When the fuel cap was opened, a significant amount of fuel sprayed from the fuel tank. This fuel spray was less, but still significant when the fuel tank was filled to the recommended fill line rather than filled all the way up to the top. Fuel spillage under these circumstances is not only an adverse environmental outcome, but could result in a safety hazard as well.

One solution to this issue is to relieve pressure slowly prior opening the fuel cap. For example, when opening a soda pop bottle that has been shaken, we commonly crack the cap slightly, to slowly relieve pressure and prevent spray. Similarly, spraying of fuel from a fuel tank can be addressed through the addition of a small valve that can be opened to slowly relieve pressure before opening the fuel cap. The marine industry refers to this approach as the "pressure relief method," which is defined as "an integrated or external manually activated device designed to temporarily relieve pressure prior to fuel filling or connection to the engine." The intent is that the valve would only remain open for a short period of time, when needed, and the default condition

of the valve would be in the closed position.

The simplest design under the "pressure relief method" may be a button on the fuel cap that can be pressed to allow pressure to slowly escape. Once the pressure equalizes, the button would be released and the vent would return to the closed position. The fuel cap would then be opened without any risk of fuel spray.

### D. Regulatory Action

EPA is taking direct final action to address the potential spillage problems discussed above which exist for current tank designs as well as for tanks meeting the diurnal design standard finalized in 2008. First, we are making technical amendments to the design standard for portable tanks that will allow for the use of the "pressure relief method" described above. In addition, to incorporate the other solutions described above, we are incorporating safe recommended practices, developed through industry consensus, for portable marine fuel tanks. EPA does not expect that this action will have an adverse cost impact to the manufacturers beyond that envisioned in the original rule. This direct final rule merely modifies existing design-based certification provisions to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. Adopting these amendments, which are discussed below, is expected to lead to environmental, cost, and safety benefits through reduced fuel spillage.

#### 1. Pressure Relief Method

The current regulatory text in § 1060.105(c)(1) states that portable fuel tanks "must be self-sealing (without any manual vents) when not attached to the engines. The tanks may not vent to the atmosphere when attached to an engine." Based on this text, the pressure relief method described above (*see* section IV.C.3) is not permitted under the current regulations.

When this regulation was drafted, the concept of the pressure relief method was not envisioned. The intent for this regulatory text was simply to ensure that any vent on the fuel tank could not be left in the open position. The concern was that a manual vent could be left in the open position, and it was not envisioned that a manual vent would be added that would default to the closed position when released. There is no environmental harm for a vent that can be temporarily opened prior to opening the fuel cap, but that returns to the closed position when not activated. The reason is that any vapor that is released

through this vent just prior to opening the fuel tank would be released from fuel tank anyway when the cap is removed. As such, this action is emissions neutral with respect to diurnal emissions. To the extent that it helps prevent fuel spillage, allowing such a valve actually results in a net benefit to the environment and leads to fuel savings.

To address this issue, we are revising the text in § 1060.105(c)(1) to allow for an integrated or external manually activated device to be included in the fuel tank design to temporarily relieve pressure prior to fuel filling or connection to the engine. In this way, there will be no prohibition on using the "pressure relief method" in new fuel tank designs.

#### 2. Timing

Although the diurnal requirements for portable marine fuel tanks began on January 1, 2010, each portable marine fuel tank manufacturer selling product into the U.S. has requested and received a 12 month extension for compliance with this regulation. EPA granted these requests under § 1068.40, to allow development of the industry consensus methods and practices to address these concerns. Beginning on January 1, 2011 each manufacturer will be required to comply with the diurnal emissions standards contained in § 1060.105. Taking action through a direct final rule will allow for the technical amendments to enter into force prior to this date.

#### 3. Safe Recommended Practices

Under the auspices of the American Boat and Yacht Council (ABYC), the recreational marine industry has developed safe recommended practices for portable marine fuel tanks. These practices, which are housed in ABYC H25,<sup>1</sup> include recent modifications to address the fuel spillage issues described above for existing fuel tanks and fuel tanks meeting the diurnal design standard finalized in 2008. These modifications include the creation of design requirements and system testing that must be performed to ensure that fuel spillage will not occur under pressure relief method and to ensure that fuel spray will not occur when quick connect fittings are connected or disconnected. In addition, ABYC H25 now includes labeling requirements to inform boaters of potential hazards associated with fuel under pressure and what steps to take. These steps may include disconnecting the fuel line from

<sup>1</sup> American Boat and Yacht Council (ABYC), "ABYC H-25: Portable Marine Gasoline Fuel Systems," July, 2010.

the engine when not in use and activating the pressure relief method prior to opening the fuel cap.

To help ensure that the potential fuel spillage issues described above are addressed properly, we are incorporating, by reference, the ABYC H25 pressure relief method system testing and informational (e.g. labeling) provisions into our regulations.

## V. Statutory and Executive Order Reviews

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

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO. This direct final rule merely modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. There are no costs with this rule beyond those envisioned in the original rule.

### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This direct final rule does not include any new collection requirements, as it simply modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. There are no new paperwork requirements associated with this rule.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today’s rule on small entities, small entity is defined as: (1) A small as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (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.

After considering the economic impacts of today’s final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives “which minimize any significant economic impact of the rule on small entities.” 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This direct final rule merely modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. We have therefore concluded that today’s final rule will not increase regulatory burden for affected small entities.

### D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This direct final rule merely modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks.

### E. Executive Order 13132: Federalism

This action 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 modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This direct final rule merely modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This direct final rule merely modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

### I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do 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 rulemaking involves technical standards. This direct final rule modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. Specifically, it incorporates by reference ABYC H–25, “Portable Marine Gasoline Fuel Systems,” July 2010. Anyone may purchase copies of these materials from the American Boat and Yacht Council, 613 Third Street, Suite 10 Annapolis, MD 21403 or <http://www.abycinc.org/>.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This direct final rule merely modifies existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks.

*K. 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 prior to 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 rule will be effective on November 15, 2010.

*L. Statutory Authority*

The statutory authority for this action comes from section 213 of the Clean Air Act as amended (42 U.S.C. 7547). This action is a rulemaking subject to the provisions of Clean Air Act section 307(d). *See* 42 U.S.C. 7607(d).

**List of Subjects in 40 CFR Part 1060**

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

Dated: September 9, 2010.

**Lisa P. Jackson,**  
*Administrator.*

■ For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

**PART 1060—CONTROL OF EVAPORATIVE EMISSIONS FROM NEW AND INUSE NONROAD AND STATIONARY EQUIPMENT**

■ 1. The authority citation for part 1060 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

■ 2. Section 1060.105 is amended by revising paragraphs (c)(1) and (d) and

adding a new paragraph (f)(3) to read as follows:

**§ 1060.105 What diurnal requirements apply for equipment?**

\* \* \* \* \*

(c) \* \* \*

(1) They must be self-sealing when detached from the engines. The tanks may not vent to the atmosphere when attached to an engine. An integrated or external manually activated device may be included in the fuel tank design to temporarily relieve pressure before refueling or connecting the fuel tank to the engine. However, the default setting for such a vent must be consistent with the requirement in paragraph (c)(2) of this section.

\* \* \* \* \*

(d) Detachable fuel lines that are intended for use with portable marine fuel tanks must have connection points that are self-sealing when not attached to the engine or fuel tank.

\* \* \* \* \*

(f) \* \* \*

(3) You must meet the following provisions from ABYC H–25, July 2010 (incorporated by reference in § 1060.810) with respect to portable marine fuel tanks:

(i) Provide information related to the pressure relief method (25.8.2.1 and 25.8.2.1.1).

(ii) Perform system testing (25.10 through 25.10.5).

■ 3. Section 1060.810 is amended by adding a new paragraph (d) to read as follows:

**§ 1060.810 What materials does this part reference?**

\* \* \* \* \*

(d) American Boat and Yacht Council Material. Table 4 to this section lists material from the American Boat and Yacht Council that we have incorporated by reference. The first column lists the number and name of the material. The second column lists the sections of this part where we reference it. Anyone may purchase copies of these materials from the American Boat and Yacht Council, 613 Third Street, Suite 10, Annapolis, MD 21403 or <http://www.abycinc.org/>. Table 4 follows:

TABLE 4 TO § 1060.810—AMERICAN BOAT AND YACHT COUNCIL MATERIALS

| Document No. and name                                             | Part 1060 reference |
|-------------------------------------------------------------------|---------------------|
| ABYC H–25, Portable Marine Gasoline Fuel Systems, July 2010 ..... | 1060.105            |

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 0910131363-0087-02]

RIN 0648-XZ08

**Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Crab and Halibut Prohibited Species Catch Allowances in the Bering Sea and Aleutian Islands Management Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is reallocating the projected unused amounts of the 2010 crab and halibut prohibited species catch (PSC) allowances assigned to the Bering Sea and Aleutian Islands trawl limited access sector to the Amendment 80 cooperative in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow

the Amendment 80 cooperative to fully harvest their 2010 groundfish allocations.

**DATES:** Effective September 13, 2010, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907-586-7269.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2010 halibut PSC assigned to the Bering Sea and Aleutian Islands trawl limited access sector is 875 metric tons (mt) and to the Amendment 80 cooperative is 1,754 mt in the BSAI as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010).

The Administrator, Alaska Region, NMFS, has determined that 358 mt of the halibut PSC assigned to the BSAI

trawl limited access sector will not be needed to support BSAI trawl limited access fisheries. Therefore, in accordance with § 679.91(f)(4), NMFS is reallocating 340 mt of halibut PSC assigned to the BSAI trawl limited access sector to the Amendment 80 cooperative in the BSAI.

The Administrator, Alaska Region, NMFS, has also determined that 290,000 crabs of Zone 1 *C. bairdi* tanner crab PSC, 880,000 crabs of Zone 2 *C. bairdi* tanner crab PSC, and 48,000 crabs of Zone 1 red king crab PSC assigned to the BSAI trawl limited access sector will not be needed to support BSAI trawl limited access fisheries. Therefore, in accordance with § 679.91(f)(5), NMFS is reallocating these crab PSC amounts assigned to BSAI trawl limited access sector to the Amendment 80 cooperative in the BSAI.

In accordance with § 679.91(f)(1), NMFS will reissue cooperative quota permits for the reallocated crab and halibut PSC following the procedures set forth in § 679.91(f)(4) and § 679.91(f)(5).

The harvest specifications for crab and halibut PSC included in the final harvest specifications for crab and halibut PSC in the BSAI (75 FR 11778, March 12, 2010) are revised as follows in Tables 8a, 8c, and 8d:

**TABLE 8A—FINAL 2010 AND 2011 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS**

| PSC species                                               | Total non-trawl PSC | Non-trawl PSC remaining after CDQ PSQ <sup>1</sup> | Total trawl PSC | Trawl PSC remaining after CDQ PSQ <sup>1</sup> | CDQ PSQ reserve <sup>1</sup> | Amendment 80 sector |           | BSAI trawl limited access fishery |
|-----------------------------------------------------------|---------------------|----------------------------------------------------|-----------------|------------------------------------------------|------------------------------|---------------------|-----------|-----------------------------------|
|                                                           |                     |                                                    |                 |                                                |                              | 2010                | 2011      |                                   |
| Halibut mortality (mt) BSAI .....                         | 900                 | 832                                                | 3,675           | 3,349                                          | 393                          | 2,765               | 2,375     | 517                               |
| Herring (mt) BSAI .....                                   | n/a                 | n/a                                                | 1,974           | n/a                                            | n/a                          | n/a                 | n/a       | n/a                               |
| Red king crab (animals) Zone 1 <sup>1</sup> .....         | n/a                 | n/a                                                | 197,000         | 175,921                                        | 21,079                       | 146,920             | 93,432    | 5,797                             |
| <i>C. opilio</i> (animals) COBLZ <sup>2</sup> .....       | n/a                 | n/a                                                | 4,350,000       | 3,884,550                                      | 465,450                      | 2,148,156           | 2,028,512 | 1,248,494                         |
| <i>C. bairdi</i> crab (animals) Zone 1 <sup>2</sup> ..... | n/a                 | n/a                                                | 830,000         | 741,190                                        | 88,810                       | 641,176             | 331,608   | 58,285                            |
| <i>C. bairdi</i> crab (animals) Zone 2 .....              | n/a                 | n/a                                                | 2,520,000       | 2,250,360                                      | 269,640                      | 1,479,271           | 565,966   | 173,394                           |

<sup>1</sup> Section 679.21(e)(3)(j)(A)(2) allocates 326 mt of the trawl halibut mortality limit and § 679.21(e)(4)(j)(A) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.

<sup>2</sup> Refer to § 679.2 for definitions of zones.

**TABLE 8C—FINAL 2010 AND 2011 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES**

| BSAI trawl limited access fisheries                       | Prohibited species and area <sup>1</sup> |                                |                                  |                            |         |
|-----------------------------------------------------------|------------------------------------------|--------------------------------|----------------------------------|----------------------------|---------|
|                                                           | Halibut mortality (mt) BSAI              | Red king crab (animals) Zone 1 | <i>C. opilio</i> (animals) COBLZ | <i>C. bairdi</i> (animals) |         |
|                                                           |                                          |                                |                                  | Zone 1                     | Zone 2  |
| Yellowfin sole .....                                      | 47                                       | 4,000                          | 1,176,494                        | 27,285                     | 160,304 |
| Rock sole/flathead sole/other flatfish <sup>2</sup> ..... | 0                                        | 0                              | 0                                | 0                          | 0       |
| Turbot/arrowtooth/sablefish <sup>3</sup> .....            | 0                                        | 0                              | 0                                | 0                          | 0       |
| Rockfish April 15–December 31 .....                       | 5                                        | 0                              | 2,000                            | 0                          | 848     |
| Pacific cod .....                                         | 275                                      | 1,700                          | 50,000                           | 20,000                     | 8,000   |