■ 2. Section 501.15 is amended by revising paragraph (i) to read as follows:

§ 501.15 Computerized Meter Resetting System.

* * * * *

(i) *Security and Revenue Protection.* To receive Postal Service approval to continue to operate systems in the CMRS environment, the RC must submit to a periodic examination of its CMRS system and any other applications and technology infrastructure that may have a material impact on Postal Service revenues, as determined by the Postal Service. The examination shall be performed by a qualified, independent audit firm and shall be conducted in accordance with the Statement on Auditing Standards (SAS) No. 70, Service Organizations, developed by the American Institute of Certified Public Accountants (AICPA), as amended or superseded. The examination shall include testing of the operating effectiveness of relevant RC internal controls (Type II SAS70 Report). If the service organization uses another service organization (sub-service provider), Postal Service Management should consider the nature and materiality of the transactions processed by the sub-service organization and the contribution of the sub-service organization's processes and controls in the achievement of the Postal Service's information processing objectives. The Postal Service should have access to the sub-service organization's SAS 70 report. The control objectives to be covered by the SAS 70 report are subject to Postal Service review and approval and are to be provided to the Postal Service 30 days prior to the initiation of each examination period. As a result of the examination, the auditor shall provide the RC and the Postal Service with an opinion on the design and operating effectiveness of the RC's internal controls related to the CMRS system and any other applications and technology infrastructure considered material to the services provided to the Postal Service by the RC. Such examinations are to be conducted on no less than an annual basis, and are to be as of and for the twelve months ended June 30 of each year (except for the period ending June 30, 2010, for which the period of coverage will be no less than six months, and except for new contracts for which the examination period will be no less than the period from the contract date to the following June 30, unless otherwise agreed to by the Postal Service). The examination reports are to be provided to the Postal Service by August 15 of each year. To the extent that internal control weaknesses are identified in a Type II SAS 70 report, the Postal Service may require the remediation of such weaknesses and review working papers and engage in discussions about the work performed with the auditor. Postal Service requires that all remediation efforts (if applicable) are completed and reported by the RC prior to the Postal Service's fiscal year end (September 30). The RC will be responsible for all costs to conduct these examinations.

* * * * *

■ 3. Section 501.16 is amended by revising paragraph (f) to read as follows:

§ 501.16 PC postage payment methodology.

* * * * *

(f) *Security and revenue protection.* To receive Postal Service approval to continue to operate PC Postage systems, the provider must submit to a periodic examination of its PC Postage system and any other applications and technology infrastructure that may have a material impact on Postal Service revenues, as determined by the Postal Service. The examination shall be performed by a qualified, independent audit firm and shall be conducted in accordance with the Statement on Auditing Standards (SAS) No. 70, Service Organizations, developed by the American Institute of Certified Public Accountants (AICPA), as amended or superseded. The examination shall include testing of the operating effectiveness of relevant provider internal controls (Type II SAS 70 Report). If the service organization uses another service organization (sub-service provider), Postal Service Management should consider the nature and materiality of the transactions processed by the sub-service organization and the contribution of the sub-service organization's processes and controls in the achievement of the Postal Service's information processing objectives. The Postal Service should have access to the sub-service organization's SAS 70 report. The control objectives to be covered by the SAS 70 report are subject to Postal Service review and approval and are to be provided to the Postal Service 30 days prior to the initiation of each examination period. As a result of the examination, the auditor shall provide the provider, and the Postal Service, with an opinion on the design and operating effectiveness of the internal controls related to the PC Postage system and any other applications and technology infrastructure considered material to the services provided to the Postal Service by the provider. Such examinations are to be conducted on no less than an annual basis, and are to be as of and for the twelve months ended June 30 of each year (except for the period ending June 30, 2010 for which the period of coverage will be no less than six months, and except for new contracts for which the examination period will be no less than the period from the contract date to the following June 30, unless otherwise agreed to by the Postal Service). The examination reports are to be provided to the Postal Service by August 15 of each year. To the extent that internal control weaknesses are identified in a Type II SAS 70 report, the Postal Service may require the remediation of such weaknesses and review working papers and engage in discussions about the work performed with the auditor. The provider will be responsible for all costs to conduct these examinations.

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–23031 Filed 9–15–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 790

[EPA–HQ–OPPT–2009–0894; FRL–8832–8]

RIN 2070–AJ59

Amendments to Enforceable Consent Agreement Procedural Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revising the procedures for developing Enforceable Consent Agreements (ECAs) to generate test data under the Toxic Substances Control Act (TSCA). The main features of the ECA process that EPA is changing include when and how to initiate negotiations and inserting a firm deadline at which negotiations will terminate. EPA is also deleting, modifying, or consolidating several sections of 40 CFR part 790 to place the ECA provisions in one section and the Interagency Testing Committee (ITC) provisions in a separate section, to make it clearer that there is one ECA negotiation procedure applicable to all circumstances when an ECA would be appropriate, and to make conforming changes in other sections that reference the ECA procedures.

DATES: This final rule is effective October 18, 2010.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2009–0894. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact*: Jessica Barkas, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 250–8880; e-mail address: *barkas.jessica@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture (defined by statute to include import) or process chemical substances or mixtures (defined as "chemical" in 40 CFR part 790). Potentially affected entities may include, but are not limited to:

- Manufacturers (defined by statute to include importers) of chemical substances (NAIC codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.
- Processors of chemical substances (NAIC codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What is the Agency's Authority for Taking this Action?

Section 4 of TSCA authorizes EPA to require manufacturers and processors of chemical substances and mixtures to test these chemical substances to generate data that is relevant to determining whether the chemical substances present an unreasonable risk. Section 4(a) of TSCA empowers the Agency to promulgate rules which require such testing. Section 4 of TSCA provides implied authority to enter into ECAs requiring testing where such agreements provide procedural safeguards equivalent to those that apply where testing is conducted by rule.

B. What Action is the Agency Taking?

EPA is finalizing a rule revising the procedures for initiating and negotiating an ECA. ECAs are enforceable agreements between EPA and one or more chemical manufacturers or processors to conduct specific testing on a particular chemical substance. These agreements are designed to provide EPA with data identified as necessary to evaluate a particular chemical substance without the need for EPA to first make the risk- or exposure-based findings for, or promulgate, a TSCA section 4 test rule, and without introducing delays inherent in the rulemaking process. ECAs were intended to permit EPA to obtain test data more quickly than test rules, while preserving opportunity for input from the public and the affected manufacturer(s).

The main features of the ECA process that EPA is changing include when and how to initiate negotiations and inserting a firm deadline at which negotiations will terminate. EPA is also deleting, modifying, or consolidating several parts of 40 CFR part 790 to place the ECA provisions in one section and the ITC provisions in a separate section, to make it clearer that there is one ECA negotiation procedure applicable to all circumstances when an ECA would be appropriate, and to make conforming changes in other sections that reference the ECA procedures.

The proposed rule was published in the **Federal Register** of February 19, 2010 (75 FR 7428) (FRL–8802–6). Additional detail about ECAs, the specific changes, and the rationale for those changes can be found in that **Federal Register** document. One comment was received on the proposed rule. No changes have been made to the rule since it was proposed.

C. What Was EPA's Response to Comment?

The comment period for the proposed rule ended on March 22, 2010. One comment was received, from the American Chemistry Council (ACC). The ACC comments indicated support for the ECA procedural changes, and had a few specific suggestions:

Comment 1: EPA should include in the ECA rule what "office or program and level of management within EPA will have the organizational authority to officially speak on behalf of the Agency on such perceived [testing] needs, and how EPA will communicate this request to industry and through what vehicle."

EPA response: Under the current delegation, the EPA Assistant Administrator for the Office of Chemical Safety and Pollution Prevention (OCSPP) (formerly the Office of Prevention, Pesticides and Toxic Substances (OPPTS)) has the authority to make the final decision on whether testing is necessary under TSCA section 4. As explained in the preamble to the proposed rule, EPA will invite testing proposals through **Federal Register** documents, EPA's website, and other forms of public communication. Depending on the circumstances (e.g., the size and geographical distribution of the group potentially required to conduct testing), EPA may use more than one of these methods, as necessary to reach the affected companies. For instance, one of the public forms of communication that EPA may use is speeches or presentations by Agency officials at industry conferences, where representatives from individual companies and trade associations will be present, and able to pass the word along to their companies and members. Of course, individual companies, trade associations and other organizations, and their representatives can always

contact EPA, using the contact information provided in the **Federal Register** document, EPA website, or other public communication of testing needs, with questions about specific testing requirements and other details for individual chemical substances.

Comment 2: EPA should describe in greater detail what EPA believes should be contained in the proposed consent agreement.

EPA response: The testing needs, timeline, and other details will necessarily vary for each individual chemical substance, so it is impossible for EPA to generalize about what will form an adequate proposal in each circumstance. The standard provisions that must be included in all consent agreements are listed in 40 CFR 790.60, "Contents of consent agreements," which this action will not change. Again, individual companies, trade associations, and other organizations, and their representatives can always contact EPA, using the contact information provided in the **Federal Register** document, EPA website, or other public communication of testing needs, with questions about specific testing requirements and other details for individual chemicals. In addition, as stated in the rule, "EPA may request additional clarifications of or revisions to the proposal(s)." This statement in the rule makes it explicit that submitters will have an opportunity to clarify, correct, and otherwise revise their proposal(s), if EPA decides that clarification is needed, or the proposal needs expansion or elaboration to adequately meet testing needs.

Comment 3: The ECA procedures should include a provision that would permit the Agency to agree to an ECA where some or most, but not all, data needs might be filled.

EPA response: There is nothing in the original or revised ECA procedural rules that would prohibit EPA from agreeing to an ECA that covers some, but not all, needed testing, then pursuing a test rule or follow-up ECA, to fill remaining data needs—if no other interested parties submit a timely written objection, and if EPA concludes that such a multi-part process is likely to be an efficient and successful means of obtaining the needed test data.

III. Statutory and Executive Order Reviews

A. Regulatory Review

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that this final rule is not a "significant regulatory action" subject to review under Executive Order 12866, because it does not meet the criteria in section 3(f)(4) of the Executive Order. Accordingly, EPA did not submit this final rule to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

This action does not impose any new information collection burden, because the development of the ECA regulations does not involve information collection activities as defined by the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*. However, the information collection requirements contained in an ECA are already approved by OMB pursuant to PRA under OMB control number 2070–0033 (EPA ICR No. 1139). Under PRA, an agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid control number assigned by OMB. The OMB control numbers for EPA's regulations in title 40 of the CFR are listed in 40 CFR part 9, and will be included in the individual ECAs.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.), after considering the potential economic impacts of this final rule on small entities, the Agency hereby certifies that this final rule would not have a significant adverse 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 this final rule on small entities, small entity is defined as:

1. A small business 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.

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 action will not have a significant economic impact on a substantial number of small entities. In determining whether a final 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 regulatory flexibility analysis 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 final rule will not have a significant economic impact on a substantial number of small entities if the final rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the final rule.

The changes discussed in this document are expected to streamline and improve the ECA procedures in a way that will benefit all participants. EPA has therefore concluded that this final rule will not have any adverse impacts on affected small entities. EPA did not receive any comments on the proposed rule regarding the impact on small entities.

D. Unfunded Mandates Reform Act

This action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (2 U.S.C. 1531–1538). Therefore, this action is not subject to the requirements of UMRA.

E. Federalism

Pursuant to Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), EPA has determined that this final rule does not have "federalism implications," because 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. Thus, Executive Order 13132 does not apply to this final rule.

F. Tribal Implications

Under Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), EPA has determined that this final rule does not have tribal implications because it will not have any effect on tribal governments, 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, as specified in the Order. Thus, Executive Order 13175 does not apply to this action.

G. Children's Health Protection

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), does not apply to this action because this is not designated as an

"economically significant'' regulatory action as defined by Executive Order 12866 (see Unit III.A.), nor does this action establish an environmental standard that is intended to have a disproportionate effect on children. To the contrary, this action will revise procedures which will facilitate the development of data and information that EPA and others can use to assess the risks of chemical substances, including potential risks to children.

H. Energy Effects

This action is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

I. Technology Standards

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), section 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. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Environmental Justice

This action does not involve special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

IV. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 790

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 8, 2010.

Stephen A. Owens,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 790—[AMENDED]

■ 1. The authority citation for part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 790.1 [Amended]

■ 2. Section 790.1 is amended by removing the last sentence of paragraph (c) and by removing paragraph (d).

■ 3. Section 790.20 is revised to read as follows:

§790.20 Recommendation, recommendation with an intent to designate, and designation of testing candidates by the ITC.

(a) *ITC recommendations and recommendations with intent to designate.* The ITC has advised EPA that it will discharge its responsibilities under section 4(e) of TSCA in the following manner:

(1) When the ITC identifies a chemical substance or mixture that it believes should receive expedited consideration by EPA for testing, the ITC may add the substance or mixture to its list of chemicals recommended for testing and include a statement that the ITC intends to designate the substance or mixture for action by EPA in accordance with section 4(e)(1)(B) of TSCA.

(2) Chemical substances or mixtures selected for expedited review under paragraph (a)(1) of this section may, at a later time, be designated for EPA action within 12 months of such designation. The ITC's subsequent decision would be based on the ITC's review of TSCA sections 8(a) and 8(d) data and other relevant information.

(3) Where the ITC concludes that a chemical substance or mixture warrants testing consideration but that expedited EPA review of testing needs is not justified, the ITC will add the substance or mixture to its list of testing recommendations without expressing an intent to designate the substance or mixture for EPA action in accordance with section 4(e)(1)(B) of TSCA.

(4) The ITC reserves its right to designate any chemical substance or mixture that it determines the Agency should, within 12 months of the date first designated, initiate a proceeding under section 4(a) of TSCA.

(b) *Preliminary EPA evaluation of ITC recommendations with intent to designate.* Following receipt of an ITC report containing a recommendation with an intent to designate, EPA will use the following procedure for completing a preliminary evaluation of testing needs on those chemical substances that the ITC has recommended with intent to designate:

(1) EPA will publish the ITC report in the **Federal Register** and announce that interested persons have 30 days to submit comments on the ITC's testing recommendations.

(2) EPA will publish a **Federal Register** document adding all ITC-recommended chemicals to the automatic reporting provisions of its rules under sections 8(a) and 8(d) of TSCA (40 CFR parts 712 and 716).

(3) EPA will hold a public ''focus meeting'' to discuss the ITC's testing recommendations and obtain comments and information from interested parties.

(4) EPA will evaluate submissions received under TSCA sections 8(a) and 8(d) reporting requirements, comments filed on the ITC's recommendations, and other information and data compiled by the Agency.

(5) EPA will make a preliminary staff determination of the need for testing and, where testing appears warranted, will tentatively select the studies to be performed.

(6) EPA will hold a public meeting to announce its preliminary testing determinations.

(c) *EPA response to ITC designations and recommendations*—(1) Where a chemical substance or mixture is designated for EPA action under section 4(e)(1)(B) of TSCA, the Agency will take either one of the following actions within 12 months after receiving the ITC designation:

(i) Initiate rulemaking proceedings under section 4(a) of TSCA. Where the testing recommendations of the ITC raise unusually complex and novel issues that require additional Agency review and opportunity for public comment, the Agency may initiate rulemaking by publishing an Advance Notice of Proposed Rulemaking (ANPRM).

(ii) Publish a **Federal Register** notice explaining the Agency's reasons for not initiating such rulemaking proceedings. EPA may conclude that rulemaking

proceedings under section 4(a) of TSCA are unnecessary if it determines that the findings specified in section 4(a) of TSCA cannot be made or if the Agency entered into a consent agreement requiring the testing identified by the ITC.

(2) Where a chemical substance or mixture has been recommended for testing by the ITC, whether with or without an intent to designate, EPA will use its best efforts to act on the ITC's recommendations as rapidly as possible consistent with its other priorities and responsibilities. EPA may respond to the ITC's recommendations with action such as:

(i) Initiating rulemaking proceedings under section 4(a) of TSCA,

(ii) Publishing a **Federal Register** notice explaining the Agency's reasons for concluding that testing is unnecessary, or

(iii) Entering into a consent agreement in accordance with this subpart.

■ 4. Section 790.22 is revised to read as follows:

§ 790.22 Procedures for developing consent agreements.

(a) *Preliminary EPA evaluation of proposed consent agreement.* Where EPA believes that testing of a chemical substance or mixture may be needed, and wishes to explore whether a consent agreement may satisfy the identified testing needs, EPA will invite manufacturers and/or processors of the affected chemical substance or mixture to submit a proposed consent agreement to EPA. EPA will evaluate the proposal(s) and may request additional clarifications of or revisions to the proposal(s).

(b) *Negotiation procedures for consent agreements.* If, after evaluating the proposed consent agreement(s), EPA believes it is likely that proceeding with negotiation of a consent agreement would be an efficient means of developing the data, EPA will use the following procedures to conduct such negotiations:

(1) In the **Federal Register**, EPA will give notice of the availability of the proposal(s) that is the basis for negotiation, invite persons interested in participating in or monitoring negotiations to contact the Agency in writing, set a deadline for interested parties to contact the Agency in writing, and set a date for the negotiation meeting(s).

(2) The Agency will meet with interested parties at the negotiation meeting(s) for the purpose of attempting to negotiate a consent agreement. Only the submitter(s) of the proposal(s) that is the basis for negotiation and those persons who submit written requests to participate in or monitor negotiations by the deadline established under paragraph (b)(1) of this section will be deemed "interested parties" for purposes of this section.

(3) All negotiation meetings will be open to members of the public, but only interested parties will be permitted to participate in negotiations. The minutes of each meeting will be prepared by EPA. Meeting minutes, the proposed consent agreement(s), background documents, and other materials distributed at negotiation meetings will be placed in an Internet-accessible public docket established by EPA.

(4) If EPA concludes at any time that negotiations are unlikely to produce a final agreement, EPA will terminate negotiations and may proceed with rulemaking. If EPA terminates negotiations, no further opportunity for negotiations will be provided. EPA will notify all interested parties of the termination.

(5) The period between the first negotiation meeting and final agreement, if any ("the negotiation period"), will be no longer than 6 months, unless extended prior to its expiration in accordance with paragraph (b)(7) of this section. This period will include all negotiation meetings, and the processes discussed in paragraphs (b)(6) and (b)(9) of this section. If the negotiation period passes without the production of a final agreement, negotiations and development of the subject ECA will terminate automatically.

(6) EPA will circulate a draft of the consent agreement to all interested parties if EPA concludes that such draft is likely to achieve final agreement. A period of 30 days will be provided for submitting comments or written objections under paragraph (b)(8)(i)(B) of this section.

(7) If, prior to the expiration of the negotiation period, final agreement has not been reached, EPA may at its discretion provide one or more extensions, each of which may be up to 60 days, if it seems likely to EPA that a final agreement will be reached during that time. EPA will notify all interested parties of any extension(s).

(8) (i) EPA will enter into consent agreements only where there is a consensus among the Agency, one or more manufacturers and/or processors who agree to conduct or sponsor the testing, and all other interested parties who identify themselves in accordance with paragraph (b)(2) of this section. EPA will not enter into a consent agreement in either of the following circumstances:

(A) EPA and affected manufacturers and/or processors cannot reach a consensus in the timeframe described in paragraph (b)(5) of this section.

(B) A draft consent agreement is considered inadequate by other interested parties who have submitted timely written objections to the draft consent agreement, which provide a specific explanation of the grounds on which the draft agreement is objectionable.

(ii) EPA may reject objections described in paragraph (b)(8)(i)(B) of this section only where the Agency concludes the objections:

(A) Are not made in good faith;

(B) Are untimely;

(C) Do not involve the adequacy of the proposed testing program or other features of the agreement that may affect EPA's ability to fulfill the goals and purposes of TSCA; or

(D) Are not accompanied by a specific explanation of the grounds on which the draft agreement is considered objectionable.

(iii) The unwillingness of some manufacturers and/or processors to sign the draft consent agreement does not, in itself, establish a lack of consensus if EPA concludes that those manufacturers and/or processors who are prepared to sign the agreement are capable of accomplishing the testing to be required and that the draft agreement will achieve the purposes of TSCA in all other respects.

(9) Where a consensus exists, as described in paragraph (b)(8) of this section, concerning the contents of a draft consent agreement, the draft consent agreement will be circulated to EPA management and the parties that are to conduct or sponsor testing under the agreement, for final approval and signature.

(10) Upon final approval and signature of a consent agreement, EPA will publish a **Federal Register** document announcing the availability of the consent agreement and codifying (in subpart C of 40 CFR part 799) the name of the chemical substance(s) and/or mixture(s) to be tested and the citation to the **Federal Register** document.

§§ 790.24, 790.26, and 790.28 [Removed]

■ 5. Remove §§ 790.24, 790.26, and 790.28.

§ 790.68 [Amended]

■ 6. Remove the cross-reference "§ 790.24" in "§ 790.68(a)(2)" and add in its place "§ 790.22(b)(8)."

Appendix A to subpart E of part 790 [Removed]

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

[FR Doc. 2010–23131 Filed 9–15–10 8:45 am]

BILLING CODE 6560–50–S

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.*
- *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,* 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* or e-mail. The *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 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* 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* 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.*

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