(7) An explanation of why the event does not present a substantial threat to the safety of human life on navigable waters and what steps will be taken to ensure that result.

(8) The expected effect, if any, of the event on the following resources:

(i) A threatened or endangered species.

(ii) A critical habitat or other designated environmentally sensitive area.

(iii) The coastal zone of a State with a Federally-approved Coastal Zone Management plan under 16 U.S.C. 1451 *et seq.*

(iv) An area of historic, cultural, or archeological significance, including an area of significance to Native Americans.

(c) A sponsor of an event meeting the criteria of paragraph (a) of this section must submit notice to the Designated Officer at least 135 days before the event. However, a sponsor may submit the notice no later than 60 days before the event if—

(1) The sponsor submitted a notice of the event in the year immediately preceding;

(2) The nature, location, scheduling, and other relevant information contained in the prior notice is essentially the same; and

(3) The Coast Guard required no permit for the prior event.

(d) The Coast Guard will provide a copy of the notice to the appropriate Federal, State, and local authorities having jurisdiction over the affected waters and also to the appropriate Federal, State, or local authorities having jurisdiction over potentially affected critical habitat of a threatened or endangered species or other designated environmentally sensitive area or an area of historic, cultural, or archeological significance, including an area of significance to Native Americans.

(e) If, after reviewing the notice, the Designated Officer determines that the event is likely to present a substantial threat to the safety of human life on navigable waters, the Designated Officer will notify the sponsor that the event may not be held unless the sponsor first obtains a Coast Guard permit for the event.

§ 100.18 Permits.

(a) When a permit is required under § 100.17(e), the sponsor of the event shall submit the following additional information to the Designated Officer within 30 days after the date of notice of the decision that a permit will be required:

(1) A detailed plan of how the sponsor plans to conduct the event so as to minimize the risk to the safety of human life on the navigable waters.

(2) A statement that the event will be conducted in compliance with all requirements under the Clean Air Act (42 U.S.C. 1857 *et seq.*), the Clean Water Act (33 U.S.C. 1321), and the Noise Control Act (42 U.S.C. 4901 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), and other applicable Federal, State and local laws, regulations, and ordinances.

(3) If the event is subject to a State's Federally approved coastal zone management plan, a determination from the event sponsor that the event is consistent with the enforceable policies of that plan, as well as evidence showing when the State concurred, or was asked to concur, in that determination.

(4) The name of all Federal, State, or local authorities contacted about the event, the date of each contact, whether any agency indicated that the event will have an adverse impact on a resource, any steps an agency recommended to mitigate the impact, and the sponsor's plan to mitigate the impact.

(5) Any other information deemed necessary by the Designated Officer, such as information to assist the Coast Guard in preparing required environmental documents on the event, including, when appropriate, an agreement to implement any mitigation measures suggested by any Federal, State, or local authority.

(b) The Designated Officer will forward the information to the District Commander, who reviews the information submitted and issues a permit to the sponsor or notifies the sponsor that a permit has been denied and states the reasons for the denial. The sponsor may, within 15 days of the date of notice of the decision to deny a permit, request reconsideration and submit revised or additional information to show that the event has been modified. The District Commander reviews the information submitted for reconsideration and issues a permit or notifies the sponsor that a permit is denied.

§ 100.19 Appeals.

The sponsor of a marine event for which the District Commander has denied a permit may appeal that decision in writing to Chief, Operations, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, within 7 days of the date of the determination. After considering all material presented, the Chief, Office of Operations, notifies the petitioner of the decision. The decision by the Chief, Office of Operations, is final agency action.

§§ 100.25 and 100.30 [Removed]

7. Sections 100.25 and 100.30 are removed.

8. Section 100.35 is revised to read as follows:

§ 100.35 Special local regulations.

(a) The District Commander may issue regulations to promote safety of life on the navigable waters immediately before, during, and immediately after a marine event.

(b) The regulations may establish an area within which participating vessels, or other vessels are excluded, their entry is limited, or their movement is restricted.

(c) The District Commander will provide notice of the regulations to the State and local authorities having jurisdiction over the affected navigable waters and may provide notice of the regulations by means of local or broadcast notices to mariners.

9. Section 100.50 is revised to read as follows:

§ 100.50 Penalties.

Any person who violates a provision of this part or a regulation issued under this part shall be subject to a penalty assessed under 33 U.S.C. 1236.

10. Before § 100.101, add a new subpart B heading and § 100.100 to read as follows:

Subpart B—Special Local Regulations

§ 100.100 Purpose of subpart.

(a) This subpart prescribes regulations for particular recurring marine events.

(b) Geographical coordinates used in this subpart are not intended for plotting on maps and charts referenced to the North American Datum of 1983 (NAD 83), unless the coordinates are labeled NAD 83. Coordinates without an NAD 83 reference may be plotted on maps or charts with an NAD 83 reference only after application of the appropriate corrections published on the map or chart.

J.A. Creech,

Captain, U.S. Coast Guard, Director, Operations Policy.

[FR Doc. 96–16319 Filed 6–25–96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5522–3]

RIN 2060–AG43

Regulation of Fuels and Fuel Additives: Controls Applicable to Gasoline Retailers and Wholesale Purchaser-Consumers; 10 Gallon Per Minute Fuel Dispensing Limit Requirement Implementation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On January 20, 1993 EPA finalized a requirement limiting vehicle service station fuel dispensing rates to 10 gallons per minute (gpm) maximum, beginning January 1, 1996, for retailers and wholesale purchaser-consumers handling over 10,000 gallons of fuel per month (55 FR 16002, March 24, 1993). In 1995, various groups in the petroleum industry requested that EPA delay the January 1, 1996 deadline, due mainly to the lack of available retrofit parts needed for compliance with the 10gpm requirement. This direct final rule delays the implementation date of the 10gpm requirement from January 1, 1996 until July 1, 1996. In addition, this direct final rule clarifies that the hardware/software for controlling the fuel dispensing rate may be located anywhere in the pump/dispenser system and that refueling facilities are exempt from the 10gpm requirement if used exclusively to refuel heavy-duty vehicles, boats or airplanes.

Today's action is beneficial to affected parties which are not already in compliance with the 10gpm requirement. It provides additional time for manufacturers of fuel dispensing hardware to certify and produce the necessary equipment; and provides additional time for service station owners and fleet managers handling over 10,000 gallons of fuel per month to install the equipment where it is needed. It is not expected to result in any significant economic impact to any of the affected parties. Today's action has no impact on service station owners and fleet managers handling less than 10,000 gallons of fuel per month because they are not required to meet the 10gpm requirement until January 1, 1998.

Today's action does not result in any significant environmental impacts. The six-month delay will only increase fuel spillage during refueling events (on a fleet average basis) by approximately .03 grams per gallon (or less) of fuel dispensed. For comparison purposes, the onboard refueling vapor recovery refueling (ORVR) emission standard is .20 grams per gallon of fuel dispensed for 1998 light-duty vehicles.

DATES: This rule will be effective August 26, 1996, unless adverse comments are received by July 26, 1996. If such adverse comments are received, EPA will publish a timely notice in the Federal Register withdrawing this rule.

ADDRESSES: Materials relevant to the initial final rule, and today's action are available for inspection in Public Dockets A–89–18 and A–95–53 at Air Docket Section, U.S. Environmental Protection Agency, First Floor, Waterside Mall, Room M–1500, 401 M Street SW, Washington, DC 20460 (telephone 202–260–7548, fax 202–260–4400) between the hours of 8 a.m. and 5:30 p.m. A reasonable fee may be charged by EPA for copying docket material. Any such notice or comments per the requirements of this action should be submitted to this same address, with a complimentary copy, if possible, to Karl Simon or Dave Good at the address listed below.

FOR FURTHER INFORMATION CONTACT: Karl Simon at the U.S. EPA, 401 M Street SW (mail code 6405J), Washington DC, 20460, telephone (202) 233–9299; or Dave Good at the U. S. EPA, 2565 Plymouth Rd, Ann Arbor, Michigan, 48105, telephone (313) 668–4450.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are retailers and wholesale purchaser-consumers of gasoline and methanol which handle over 10,000 gallons of fuel per month, for the purpose of refueling passenger cars and light-duty trucks. Regulated entities would include the following:

Category	Examples of regulated entities
Industry	Service station owners, service station managers, fleet managers who operate a refueling facility to refuel motor vehicles.
Federal Government	Federal facilities, including military bases, who operate a refueling facility to refuel motor vehicles.
State, Local and Tribal Governments	State, local and tribal governments who operate a refueling facilities to refuel motor vehicles.

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 facility is regulated by this action, you should carefully examine the criteria contained in § 80.22(j) of title 40 of the Code of Federal Regulations, as modified by today's action. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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I. Need for Delayed Implementation

A. Introduction and Background

On March 24, 1993 the Environmental Protection Agency (EPA) published a final rule establishing the requirement to limit fuel pump dispensing rates to 10 gallons per minute (37.9 liters per minute) beginning January 1, 1996 for most facilities (58 FR 16002). This requirement applies to retailers and wholesale purchaser-consumers of gasoline and methanol. For businesses handling 10,000 gallons or less of fuel per month, implementation of the limit on dispensing rates was delayed until January 1, 1998.

The 10gpm requirement was originally proposed in the onboard refueling vapor recovery (ORVR) Notice of Proposed Rulemaking (NPRM) see 52 FR 31162, August 19, 1987. The final ORVR requirements for cars and light trucks were published in 59 FR 16262, April 6, 1994. However, to achieve earlier spillage emission reductions, the 10 gpm requirement was finalized in the enhanced evaporative emission final rule along with a spitback emissions test, and published on March 24, 1993.

The spitback test procedure was designed to ensure that no spillage

occurs when a vehicle is refueled at a rate of up to 10gpm. Fuel spitback can be a problem when the design of the fuel filler neck is inadequate to accommodate in-use fuel fill rates. The result can be fuel spillage, which is both an environmental and a safety hazard.

In the rulemaking process, it was determined that the service station pumping rates needed to be limited to assure compatibility with the new ORVR systems. Note that approximately 20 percent of 1996 model year vehicles are already subject to spitback emission standards. ORVR requirements are scheduled to begin phase-in with the 1998 model year, with the earliest models entering the marketplace as early as January 2, 1997.

During the summer of 1995, various groups in the petroleum industry requested that EPA delay the January 1, 1996 deadline.[1 2 3 4] Some of the reasons cited for this request were the lack of available parts for retrofitting gas pumps to meet this requirement, and the need for EPA enforcement guidance regarding procedures for determining compliance with the 10gpm limit. EPA has reviewed the need for and the potential impacts of delaying the January 1, 1996 deadline and concluded that the date of implementation should be delayed until July 1, 1996. This direct final rule extends the deadline from January 1, 1996 until July 1, 1996.

EPA concurs with the industry's belief that there was insufficient product availability of retrofit devices to ensure industry compliance with the January 1, 1996 deadline for that segment of the industry not already in compliance before January 1, 1996. While the Agency believes that a large percentage of nozzles do not dispense fuel in excess of 10 gallons per minute, this shortfall of retrofit devices prevented the affected companies from procuring and installing the necessary equipment in the required time limit. Manufacturers of fuel dispensing hardware, including nozzles, dispensers, pumps and other items, have developed several widely differing designs to meet the dispensing limit. However, most of these products were not available in sufficient quantity until after January 1, 1996 as product development and certification reached a conclusion. For example, the American Petroleum Institute indicated in a November 8, 1995 letter to EPA, that ''industry has already begun to respond with the introduction of devices, but many companies are just now gearing up for production.''[5] The attachment to that letter contains a table showing the types of 10gpm flow limiters which will be marketed by seven manufacturers, for both conventional and stage II nozzles. As shown in the table, several of those devices are scheduled to begin production in November/December, 1995 and several devices were awaiting approval by Underwriters Laboratory and the California Air Resources Board. Since manufacturers were just beginning production of these devices in the last quarter of 1996, the Agency believes that a substantial number of service stations were unable to comply with the 10gpm dispensing limit before the January 1, 1996 deadline. The Agency believes that six months additional lead time given to comply with the 10gpm dispensing limit will provide manufacturers of fuel dispensing hardware sufficient time to certify and produce any necessary equipment; and will allow affected facilities to determine if they are in compliance with the 10gpm limit and if necessary, select the most appropriate control technology and safely install the equipment where it is needed. The Agency believes that delaying the implementation of the 10gpm requirement for more than six months is unnecessary because flow limiting devices are currently widely available, and a longer delay would tend to penalize the facilities which were in compliance prior to January 1, 1996 or shortly thereafter. As will be discussed later, EPA believes that the environmental impact of today's action will be minimal.

B. Impact on the Automobile Industry

Automobile manufacturers have indicated that they would not be opposed to a six month delay of the 10gpm requirement.[6] They are primarily concerned about the compatibility of in-use fuel dispensing rates with vehicle ORVR systems (which are required on some 1998 model year vehicles). These systems are designed and developed on the presumption of a 10gpm maximum dispensing rate. Automobile manufacturers also indicated that fuel dispensing rates greater than 10gpm ''may cause system problems that manufacturers have had little or no time to evaluate.''[7] EPA has determined that a six month delay in the 10gpm requirement would not be detrimental to the automobile manufacturers' design and development of ORVR systems. These systems could be introduced as early as January 2, 1997. Therefore, a six month delay in the 10gpm requirement effective date will not be detrimental.

C. Impact on State and Local Government Programs

This direct final rule is not expected to adversely impact state and local programs, with respect to State Implementation Plans (SIPs) or with respect to any fuel dispensing requirements which are imposed separately by state or local governments.

The Agency believes that this direct final rule will have no effect (or a minimal effect) on SIPs since the environmental impact is very minimal.

The limitation on in-use dispensing rates in section 80.22(j) of the regulations was issued under section 211(c) of the Act. As such, non-identical state fuel controls are generally preempted under section 211(c)(4)(A) of the Act. This does not apply to state controls in California, as California is not subject to this preemption provision.[8] In addition, non-identical state controls in other states are not preempted where they have been submitted and approved as a revision to the State Implementation Plan, based on a showing that the state control is necessary to achieve the National Ambient Air Quality Standard that the Plan implements.[9]

Today's direct final rule is not expected to have any impact on the fuel dispensing requirements which are already in place for the State of California. Currently, the California Air

[1] Letter from Michael A. McCord, Esq. on behalf of the Gasoline Pump Manufacturers Association; to Ms. Mary D. Nichols, Assistant Administrator, Office of Air and Radiation, EPA; July 10, 1995; Docket A–95–53, document no. II–D–06.

[2] Letter from C. J. Krambuhl, Director of Manufacturing, Distribution and Marketing, American Petroleum Institute; to Ms. Mary D. Nichols, Assistant Administrator, Office of Air and Radiation, EPA; August 15, 1995; Docket A–95–53, document no. II–D–10.

[3] Letter from Gene Mittermaier, President, Data Action Company; on behalf of the Petroleum Marketers Association of America; to Ms. Mary D. Nichols, Assistant Administrator, Office of Air and Radiation, EPA; July 1, 1995; Docket A–95–53, document no. II–D–12.

[4] Letter from S.D. Dermott, Manager of Marketing Department, Legislative & Regulatory Affairs, Exxon Company, U.S.A.; to Ms. Mary D. Nichols, Assistant Administrator, Office of Air and Radiation, EPA; July 28, 1995; Docket A–95–53, document no. II–D–03.

[5] Letter from C.J. Krambuhl, Director, Manufacturing, Distribution and Marketing, American Petroleum Institute; to Ms. Margo Oge, Director of the Office of Mobile Sources, EPA; November 8, 1995; Docket A–95–53, document no. II–D–11, page 3 of Attachment.

[6] Letter from Gerald A. Esper, Director of Vehicle Environment Department, American Automobile Manufacturers Association, and Gregory J. Dana, Vice President and Technical Director, Association of International Automobile Manufacturers; to Alan Stout, EPA, dated October 12, 1995; Docket A–95–53, document no. II–D–05.

[7] Esper and Dana. See reference 6.

[8] Section 211(c)(4)(B) of the Clean Air Act, 42 U.S.C. 7545.

[9] Section 211(c)(4)(C) of the Clean Air Act, 42 U.S.C. 7545.

Resources Board requires certification of stage II vapor recovery systems, including a requirement that the dispensing rate of the system not exceed 10gpm when only one nozzle associated with the product supply pump is operating. Today's direct final rule does not affect this requirement, either before or after the federal 10gpm requirements are implemented.

The California Bay Area Air Quality Management District (BAAQMD) expressed concern that the petroleum industry's request for a two-year delay ''should not apply to any area mandated to install Stage II vapor recovery systems,'' [10] based on their belief that a two year delay would result in increased fuel spillage emissions. Although the BAAQMD letter supplied supporting fuel spillage data on one vehicle which was refueled at 12.8 gpm, the Agency believes that the vast majority of stage II nozzles are already in compliance with the 10gpm maximum flow rate requirement, and that a separate phase-in schedule is not justified for stage II nozzles. For the few possible cases of noncompliance (only two stage II systems have been certified above 10gpm) the Agency believes that the incremental regulatory and enforcement complexity to set up a separate compliance schedule for stage II nozzles is not beneficial, especially since the delay period is only six months. For these reasons, and because the State of California is not preempted from regulating fuel dispensing rates, the Agency believes that this direct final rule will have no impact on California programs.

D. Implementation Issues

A ''Question and Answer'' (Q&A) document has been prepared by the EPA Mobile Source Enforcement Branch of the Office of Enforcement and Compliance Assurance, Office of Regulatory Enforcement, Air Enforcement Division to provide implementation guidance on the 10gpm requirements. The most recent version of this document (as of today's publication date) is available in Docket A–95–53 and also on the EPA electronic bulletin board (TTN BBS) and the internet (http://www.epa.gov/omswww).

This direct final rule revises the regulations to incorporate certain elements of this Agency guidance document. The changes clarify that the hardware/software for controlling the fuel dispensing rate may be located anywhere in the pump/dispenser system and that refueling facilities are exempt from the 10gpm requirement if used exclusively to refuel heavy-duty vehicles, boats or airplanes. [The provisions of 40 CFR 80.22(j) previously exempted facilities used exclusively to refuel heavy-duty vehicles; this direct final rule and the Q & A document clarify that facilities used to refuel boats and airplanes are also exempt.]

Additionally, the Q&A document provides a description of the test procedure that EPA intends to use to determine compliance with 10gpm requirements. This guidance makes clear that the 10gpm requirement is a maximum amount that must be met under all circumstances, including ''worst case'' conditions such as having no other nozzles in operation.

E. Outreach Efforts

The Agency and petroleum industry personnel are committed to (and have already begun) communication outreach efforts to implement the 10gpm requirements, including today's action. For example, the American Petroleum Institute (API) states in a November 8, 1995 letter to EPA, that the ''Gasoline Pump Manufacturers Association, the American Petroleum Institute and the Petroleum Marketers Association are committed to helping the EPA ensure that all stakeholders are notified of the pending requirements. This process has already begun through communications with our memberships, conferences such as the Petroleum Equipment Institute conference in Denver, Colorado in October, 1995 and interviews with the trade press.'' [11]

The API letter also describes how information about the 10gpm requirements will be disseminated to large volume and small volume retailers and wholesale purchaser-consumers through various trade associations and trade magazines. The EPA intends to provide supporting information to these trade associations and magazines.

F. Environmental Impact

The Agency believes that the environmental impact of this direct final rule will be minimal. The Agency estimates that this direct final rule will result in a slight increase in the spitback emissions. Spitback emission reductions were originally estimated to be ''a fleet average value of .15 grams per gallon (0.04 g/liter)'' [12] of dispensed fuel. Using this estimate, spitback spillage was originally estimated (in 1987) to be 3.7 million gallons of gasoline spilled in 1995. The Agency estimates the environmental impact of this direct final rule to be approximately 20 percent or less of the .15 grams per gallon and the 3.7 million gallon estimates, for the following reasons:

First, while EPA data ''indicate that higher flow rates are associated with a more frequent occurrence of spitback,[13] the Agency has no data quantifying only the effect of limiting in-use dispensing rates to 10 gpm. The previously quoted spitback benefits assume that vehicles are designed to meet applicable spitback emission standards and the in-use dispensing rates are less than the 10gpm used in the spitback compliance testing. Based on the types of vehicles and the refueling rates in the field today, the effect of limiting in-use dispensing rates to 10 gpm (by itself) is expected to be a small portion of the original estimates. However, to be conservative and also consistent with the original estimate [14], today's environmental impact estimate assumed that a 10gpm dispensing rate limit would have eliminated spitback from approximately one-half of the vehicles in the field during the delayed time period.

Second, the Agency believes that the majority of in-use facilities are now in compliance with the 10gpm requirement. EPA's original 1987 data indicate that ''most in-use dispensing rates fall in the range of 8 to 10 gpm with evidence of a trend toward higher rates in new stations using higher horsepower pumps.'' [15] Since 1987, the trend in non-stage II areas seems to have continued toward higher rates, however the trend in stage II areas is toward dispensing rates which are already in compliance with the 10gpm dispensing rate. All states subject to Stage II mandates require Stage II systems which have been certified by the California Air Resources Board (CARB). Except for two systems which were CARB certified at 12 and 13 gpm, all CARB-certified systems are limited to 10gpm or less. Today's environmental impact estimate assumed that there has been no significant change from the original estimate in the total number of nozzles

[10] Letter from Milton Feldstein, Air Pollution Control Officer, California Bay Area Air Quality Management District; to Ms. Mary D. Nichols, Assistant Administrator, Office of Air and Radiation, EPA; August 31, 1995; Docket A–95–53, document no. II–D–04.

[11] C. J. Krambuhl; p. 3 of Attachment. See reference 5.

[12] ''Final Regulatory Impact Analysis and Summary and Analysis of Comments'' February, 1993; for the enhanced evaporative final rule, 58 FR 16002, March 24, 1993; Docket No. A–89–18, document no. V–B–1, p. 40, 41.

[13] ''Final Regulatory Impact Analysis and Summary and Analysis of Comments;'' p. 42. See reference 10.

[14] Technical Report ''Investigation of the Need for In-Use Dispensing Rate Limits and Fuel Nozzle Geometry Standardization;'' May, 1987; Docket No. A–89–18, document no. IV–A–2, p. 13.

[15] Technical Report, p. 6. See reference 12.

in the field which are already in compliance with the 10gpm requirements.

Third, data supplied by API[16] indicate that ''since 1987 940,000 new nozzle positions have been shipped and installed that exceed the 10 gallon per minute restriction under normal conditions with clean fuel filters and no other nozzles in use at the site.'' Based on the station count supplied in the April, 1995 issue of ''National Petroleum News'' (of approximately 195,455 total stations in the U.S. in 1995) and assuming a conservative average of 10 nozzles per station, this would equate to approximately 48 percent of the nozzles in the field today. The actual figure would be less than 48 percent, because some of these nozzles would replace non-complying nozzles. Additionally, the Agency believes many of these nozzles may actually be in compliance during normal use, for the following reasons:

* In-use filters tend to clog up with residue which reduces the actual flow rate.

* Nozzles located farthest from the pump tend to have a reduced flow rate than nozzles which are located near the pump.

* Operating several nozzles at the same time tends to reduce the flow rate.

While the Agency is not contesting API's data that up to 940,000 nozzles may need retrofitting to assure compliance, the Agency still believes that the majority of nozzles in the field today are operated at or below the 10gpm limit. This rationale supports the assumption that there has been no significant change from the original estimate in the total number of nozzles in the field which are already in compliance with the 10gpm requirements.

Fourth, since May, 1992, one nozzle manufacturer representing approximately one-third of the U.S. market, has been marketing nozzles which are meeting the 10gpm requirement.[17] The fact that this manufacturer's nozzles continue to be in compliance also supports the assumption that there has been no significant change from the original estimate in the total number of nozzles in the field which are already in compliance with the 10gpm requirements.

Fifth, today's action has no impact on retailers and wholesale purchaser-consumers handling 10,000 gallons per month or less, since they are not required to meet the 10gpm requirement until January 1, 1998. However, to be conservative, today's environmental impact estimate assumed that the effect of delaying 10gpm dispensing rate requirements would apply to all nozzles in the field.

Sixth, it seems unlikely that service station owners will wait until July 1, 1996 to comply with the 10gpm requirement. The Agency believes that some service station owners will install retrofit hardware several months prior to the delayed implementation date of this direct final rule, as more and more hardware becomes available in late 1995 and early 1996. Today's environmental impact estimate assumed that on the average, all nozzles will be in compliance by May 15, 1995. For this reason, the environmental impact of this direct final rule is estimated to be a factor of nine-twenty-fourths of the estimate contained in the 1993 rulemaking; based on an assumed delay in compliance of 4½ months for today's action as compared to a one year basis for the 1993 estimate.

Therefore, the total impact of this direct final rule is estimated to be approximately 20 percent (or less) of the original estimate for spitback savings contained in the March 24, 1993 final rule, or approximately .03 grams per gallon of fuel dispensed (or less) on a fleet average basis. The 20 percent is the product of the (1/2) factor and the (9/24) factor previously discussed in the first and sixth points of this section. The total impact =.15 g/gal x 1/2 x 9/24=.03 g/gal or less.

G. Economic Impact

This direct final rule is expected to have a slight economic impact on consumers, due to fuel spillage. As stated previously, this direct final rule is expected to delay fuel spillage benefits to consumers, estimated to be a small percentage (approximately 20 percent or less) of approximately 3.7 million gallons of gasoline spilled per year. Thus, the environmental impact of this direct final rule could conceivably increase consumer costs by the cost of approximately 740,000 gallons of gasoline, i.e. approximately $1 million (or less) due to reduced fuel spillage benefits.

H. Conclusion

The Agency believes that a six month delay in the original January 1, 1996 effective date of the 10gpm requirement is appropriate given the logistical limits on the feasibility of achieving compliance by January 1, 1996, and the limited environmental impacts of the delay. The Agency believes that a six month delay (combined with increased EPA and industry outreach efforts to make service station owners aware of the 10gpm requirement) will have very little (if any) effect on the environment. Therefore, for the reasons discussed previously, the Agency intends to delay the implementation of the 10gpm requirements for six months. EPA expects no negative impact for any of the affected parties.

II. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views the changes contained herein as non-controversial and based on outreach efforts with all affected parties, EPA anticipates no adverse or critical comments. Representatives of automobile and petroleum industry associations have indicated that their constituents will not be adversely affected by this direct final rule and therefore the Agency expects no adverse comments from the members of those associations. Similarly, the Agency does not expect adverse comments from the environmental community or state and local governments, since the environmental impact is very minimal.

This action will become effective August 26, 1996. If the Agency receives adverse comments by July 26, 1996, EPA will publish a subsequent Federal Register document withdrawing this rule. In the event that adverse or critical comments are received, EPA is also publishing a Notice of Proposed Rulemaking (NPRM) in a separate action today, which proposes the same rule changes contained in this direct final rule. Any adverse comments received by the date listed above will be addressed in a subsequent final rule. That final rule will be based on the relevant portion of the rule revision that is noticed as a proposed rule in the Proposed Rule Section of this Federal Register and that is identical to this direct final rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 26, 1996.

III. Administrative Requirements

A. Administrative Designation

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the

[16] C. J. Krambuhl, p. 2 of Attachment. See reference 5.

[17] Telephone contact between Alan Stout, EPA and Arthur Fink, Husky Corporation, May 29, 1992. Docket No. A–89–18, document no. IV-E–27.

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.

Pursuant to the terms of Executive Order 12866, the Agency has determined that this direct final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. This direct final rule will not have an adverse effect on either the refueling facilities or the manufacturers of fuel dispensing equipment.

B. Reporting and Recordkeeping Requirements

This direct final rule does not change the information collection requirements submitted to and approved by OMB in association with the Evaporative Emissions Final Rule (58 FR 16002, March 24, 1993) which was approved by the Office of Management and Budget on May 9, 1994.

C. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires federal agencies to examine the impact of federal regulations on small entities. The Small Business Regulatory Enforcement Fairness Act of 1996 amended these requirements.

Today's action to delay the implementation of the 10gpm fuel dispensing requirements until July 1, 1996 will not result in any additional economic burden on any of the affected parties, including small entities involved in the oil industry, the automobile industry and the automobile service industry. EPA is not imposing any new requirements on regulated entities, but instead is revising a current requirement to make it less restrictive.

Today's action is applicable to, and beneficial to retailers and wholesale purchaser-consumers handling over 10,000 gallons of fuel per month. It provides these affected parties with six months additional lead time, allowing affected parties to determine if they are in compliance with the 10gpm limit and if necessary, select the most appropriate control technology and safely install the equipment where needed. As previously discussed in section I.F., EPA believes that a substantial number of these facilities are already in compliance and thus are unaffected by today's action. Retailers and wholesale purchaser-consumers handling 10,000 gallons of fuel per month or less are also unaffected by today's action, because they are not required to meet the 10gpm fuel dispensing requirements until January 1, 1998.

Today's action is also expected to have a beneficial effect on gas pump equipment manufacturers, who are the main beneficiaries of the change in the fuel dispensing limit's effective date. While these entities had, before the original effective date of January 1, 1996, produced equipment that would limit fuel dispensing rates, they had not produced such equipment in sufficient quantities that would allow all affected fuel dispensing facilities time to purchase and safely install it. Today's action provides these manufacturers with six months additional lead time to produce and certify equipment necessary for compliance with the 10gpm dispensing limit. The introduction of this equipment into the marketplace has already begun and EPA does not expect the gas pump manufacturers to experience any significant difficulty in meeting market demand for their products. Today's action has given these entities sufficient time to produce the necessary equipment.

Therefore, pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, the Administrator certifies that this direct final rule will not have a significant impact on a substantial number of small entities.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 544 U.S.C. 3501 et seq., and implementing regulations, 5 CFR Part 1320, do not apply to this direct final rule as it does not involve the collection of information as defined therein.

E. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 section 804(2) of the APA as amended.

F. Electronic Copies of Rulemaking Documents

A copy of this document is also available electronically from the EPA internet site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer per the following information. Any one of the following Internet addresses may be used:

World Wide Web:
http://www.epa.gov/OMSWWW/
Gopher:
gopher://gopher.epa.gov/ Follow menus for: Offices/Air/OMS
FTP:
ftp://ftp.epa.gov/ Change Directory to pub/gopher/OMS

The steps required to access information on this rulemaking on the TTN bulletin board system are listed below.

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: <T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards) (Command: T)
2. TTN TECHNICAL INFORMATION AREAS: <M> OMS—Mobile Sources Information (Command: M)
3. *OMS BBS === MAIN MENU FILE TRANSFERS: <O> Other OMS Documents (Command: O)*

At this stage, the system will list all available files in this area. To download a file, select a transfer protocol that 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 (that is, 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.

IV. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate with estimated costs to the private sector of $100 million or more, or to state, local, or tribal governments of $100 million or more in the aggregate. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this direct final rule imposes no new federal requirements and does not include any federal mandate with costs to the private sector or to state, local, or tribal governments. Therefore, the Administrator certifies that this direct final rule does not require a budgetary impact statement.

V. Judicial Review

Under section 307(b) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Act, the requirements that are the subject of this document may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Gasoline, Motor vehicle pollution.

Dated: June 12, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 80 of the *Code of Federal Regulations*, is amended as set forth below.

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a), Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.22 is amended by revising paragraph (j) to read as follows:

§ 80.22 Controls and prohibitions.

* * * * *

(j) After July 1, 1996 every retailer and wholesale purchaser-consumer handling over 10,000 gallons (37,854 liters) of fuel per month shall limit each nozzle from which gasoline or methanol is introduced into motor vehicles to a maximum fuel flow rate not to exceed 10 gallons per minute (37.9 liters per minute). The flow rate may be controlled through any means in the pump/dispenser system, provided the nozzle flow rate does not exceed 10 gallons per minute (37.9 liters per minute). After January 1, 1998 this requirement applies to every retailer and wholesale purchaser-consumer. Any dispensing pump that is dedicated exclusively to heavy-duty vehicles, boats, or airplanes is exempt from this requirement.

[FR Doc. 96–16205 Filed 6–25–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 152

[OPP–300110; FRL–5372–8]

RIN 2070–AC98

Notification Procedures for Pesticide Registration Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends EPA's notification and non-notification procedures for certain registration modifications. The rule no longer specifies the types of modifications that may be accomplished by notification or without notification to EPA. The rule provides that EPA will issue procedures for notification and non-notification. EPA will thereafter designate modifications that may be accomplished through the notification and non-notification procedures by notice to registrants. This revision will streamline the regulations by eliminating listings of very specific modifications, and provide greater flexibility to expand the scope of the notification/non-notification process.

DATES: This action is effective on August 26, 1996 unless adverse comments are received by July 26, 1996. If the final rule is withdrawn, timely notice will be published in the Federal Register.

ADDRESSES: The Agency invites any interested person to submit written comments to: By mail: Program Resources Section, Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number ''OPP–30110.'' No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VI. of this preamble.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 713, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, Telephone: 703–305-5448, e-mail: kempter.carlton@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated entities. Entities potentially regulated by this action are pesticide producers who register pesticides.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether you are subject to regulation by this action, you should carefully examine 40 CFR 152.44.