

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**Erickson Air-Crane Incorporated:** Docket No. FAA-2010-0909; Directorate Identifier 2010-SW-026-AD.

##### Applicability

Model S-64F helicopters, with rotating swashplate assembly (swashplate), part number (P/N) 65104-11001-051, installed, certificated in any category.

##### Compliance

Required as indicated.

To prevent loss of a swashplate due to a fatigue crack, loss of control of the main rotor system, and subsequent loss of control of the helicopter, do the following:

(a) Within 15 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 15 hours TIS, clean and visually inspect the swashplate for a crack in areas A through F as depicted in Figure 1 of Erickson Air-Crane Incorporated Service Bulletin 64B10-10, Revision 2, dated April 1, 2008 (SB).

(b) Within 150 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 150 hours TIS, clean the swashplate and, using a 10-power or higher magnifying glass, visually inspect for a crack in areas A through F as depicted in Figure 1 of the SB.

(c) Within 1,000 hours TIS since the last fluorescent-penetrant inspection (FPI) and thereafter at intervals not to exceed 1,000 hours TIS, remove the swashplate from the rotor head, disassemble and remove the paint from the swashplate, and FPI the swashplate

for a crack in accordance with ATSM E1417, Type I, Methods A or C.

(d) If a crack is found in the swashplate, before further flight, replace the swashplate with an airworthy swashplate.

(e) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, ATTN: DOT/FAA Southwest Region, Michael Kohner, ASW-170, Aviation Safety Engineer, Fort Worth, Texas 76137, telephone (817) 222-5170, fax (817) 222-5783, for information about previously approved alternative methods of compliance.

(f) The Joint Aircraft System/Component (JASC) Code is 6230: Main Rotor Mast/Swashplate.

Issued in Fort Worth, Texas, on September 3, 2010.

**Kim Smith,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2010-23097 Filed 9-15-10; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF JUSTICE

#### Bureau of Alcohol, Tobacco, Firearms, and Explosives

#### 27 CFR Part 555

[Docket No. ATF 26A]

RIN 1140-AA27

#### Separation Distances of Ammonium Nitrate and Blasting Agents From Explosives or Blasting Agents (2002R-226P)

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Department of Justice (Department) intends to amend the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to replace the regulations' reference to an outdated guidance document. Based upon a petition ATF received, the Department wishes to gather information and comments from the public and industry about possible replacements for this guidance document.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before December 15, 2010. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** Send comments to any of the following addresses—

- Scott P. Armstrong-Cezar, Industry Operations Specialist, Room 6N-602, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 99 New York Avenue, NE., Washington, DC 20226; ATTN: ATF 26A. Written comments must appear in a minimum 12 point size of type (.17 inches), include the commenter's mailing address, be signed, and may be of any length.

- 202-648-9741 (facsimile).
- <http://www.regulations.gov>. Federal eRulemaking portal; follow the instructions for submitting comments.

You may also view an electronic version of this advance notice at <http://www.regulations.gov>.

See the Public Participation section at the end of the **SUPPLEMENTARY INFORMATION** section for instructions and requirements for submitting comments.

#### FOR FURTHER INFORMATION CONTACT:

Scott P. Armstrong-Cezar, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue, NE., Washington, DC 20226; telephone: (202) 648-7119.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

ATF is responsible for implementing title XI of the Organized Crime Control Act of 1970, 91 Public Law 452 ("Title XI"), which added chapter 40 ("Importation, Manufacture, Distribution and Storage of Explosive Materials") to title 18 of the United States Code. One of the stated purposes of title XI is to reduce the "hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials." Under section 847 of title 18, United States Code, the Attorney General "may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter." Regulations that implement the provisions of chapter 40 are contained in title 27, Code of Federal Regulations (CFR), part 555 ("Commerce in Explosives").

The regulations at 27 CFR 555.220 set forth a table of separation distances of ammonium nitrate and blasting agents from explosives or blasting agents followed by six explanatory notes. Note three (3) states that the distances specified in the table "apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer issued by the Fertilizer Institute" in its "Definition and Test Procedures for Ammonium Nitrate Fertilizer." The Fertilizer Institute (TFI)

is a voluntary, non-profit trade association of the fertilizer industry that currently has more than 175 members. See Member Companies, The Fertilizer Institute, <http://tfi.org/about/company.cfm> (last visited June 17, 2010). Members include importers, wholesalers, retailers, and others involved in the fertilizer industry. Id. Many of TFI's members handle and store ammonium nitrate fertilizer and may be affected by the regulations at section 555.220.

The "Definition and Test Procedures for Ammonium Nitrate Fertilizer" guidance document was originally developed by the Agricultural Nitrogen Institute, a predecessor organization of TFI. See The Fertilizer Institute, Definition and Test Procedures for Ammonium Nitrate Fertilizer i (Aug. 1984), available at <http://www.atf.gov/publications/download/hist/definition-and-test-procedures-for-ammonium-nitrate.pdf>. As stated in the guidance document, in May of 1984 TFI assembled a task force of industry and government representatives and experts on the physical and chemical characteristics of ammonium nitrate fertilizer to review this publication and make any necessary changes. Id. Based on that review and the technical expertise and experience of the task force members, TFI published a revised edition of the guidance document, dated August 1984. Id. In the guidance document, ammonium nitrate fertilizer is defined as "solid ammonium nitrate containing a minimum of 33.0% nitrogen, having a minimum pH of 4.0 in a 10% aqueous solution, 0.20% maximum carbon, 0.010% maximum elemental sulfur, 0.150% maximum chloride as Cl, or particulated elemental metals sufficient to release 4.60 ml, maximum, of hydrogen from 50.0 gram sample and which will pass the detonation resistance test in Section 2.0 and the burning test in Section 4.0." Id. at 1.

## II. The Fertilizer Institute Petition

On March 19, 2002, TFI filed a petition with ATF requesting that the Federal explosives regulations at section 555.220 be amended to remove the reference to the "Definition and Test Procedures for Ammonium Nitrate Fertilizer." TFI explained that the "Definition and Test Procedures for Ammonium Nitrate Fertilizer" is outdated because TFI last published the guidance document in 1984, TFI will not review or update it, and TFI cannot ensure that the procedures outlined in the guidance document are still valid. TFI recognizes that ATF may require an alternate method of determining the

insensitivity of ammonium nitrate fertilizer and has suggested that ATF reference certain Department of Transportation (DOT) regulations.

The DOT regulations include several definitions and two hazardous classifications (Class 5.1 and Class 9) for ammonium nitrate based fertilizers based on the amount of combustible material included in the fertilizer. (See 49 CFR 172.101, 172.102, 173.127 and 173.140). Class 5.1 ammonium nitrate fertilizer is defined as a uniform mixture with ammonium nitrate as the main ingredient within the following composition limits: (1) Not less than 90 percent ammonium nitrate with not more than 0.2 percent combustible, organic material calculated as carbon, and with added matter, if any, that is inorganic and inert when in contact with ammonium nitrate, or (2) more than 70 percent but less than 90 percent ammonium nitrate with other inorganic materials, or more than 80 percent but less than 90 percent ammonium nitrate mixed with calcium carbonate and/or dolomite and/or mineral calcium sulphate, and not more than 0.4 percent total combustible, organic material calculated as carbon, or (3) ammonium nitrate-based fertilizers containing mixtures of ammonium nitrate and ammonium sulphate with more than 45 percent but less than 70 percent ammonium nitrate, and not more than 0.4 percent total combustible, organic material calculated as carbon such that the sum of the percentage of compositions of ammonium nitrate and ammonium sulphate exceeds 70 percent. Class 9 ammonium nitrate fertilizer is defined as a uniform, ammonium nitrate based fertilizer mixture containing nitrogen, phosphate, or potash with not more than 70 percent ammonium nitrate and not more than 0.4 percent total combustible, organic material calculated as carbon or with not more than 45 percent ammonium nitrate and unrestricted combustibles. See 49 CFR 172.101 and 172.102(c)(1) special provisions 150, 132 for more information. To determine whether a material falls within Class 5, Division 5.1, DOT requires regulated parties to conduct tests in accordance with the United Nations (UN) Manual of Tests and Criteria. See 49 CFR 173.127(a) for additional information.

## III. Discussion

ATF is requesting information from explosives industry members, trade associations, consumers, and all other interested parties to determine whether a replacement reference for TFI's ammonium nitrate guidance document is necessary and, if so, whether there are

alternate methods available to determine the insensitivity of ammonium nitrate fertilizer.

Although ATF is soliciting comments on the following specific questions, it is also requesting any relevant information on the subject.

1. Should ATF adopt the Department of Transportation (DOT) regulations for classifying ammonium nitrate fertilizer in accordance with the UN Manual of Tests and Criteria? If not, are there existing reduced-sensitivity tests that could be used to replace TFI's definition and reduced-sensitivity test procedures? If so, have these test procedures demonstrated consistent, reproducible, and accurate results?

2. What are manufacturers currently using to establish the sensitivity or reduced sensitivity of ammonium nitrate fertilizer or other oxidizing materials?

3. If no current test procedures are found suitable, should ATF convene an explosives study group to create a viable reduced-sensitivity test standard?

4. Assuming ATF initiates a study, which organizations or individuals should be included in the study group or consulted prior to implementing a new test procedure?

5. What criteria should be established to accurately characterize insensitive ammonium nitrate fertilizer or other oxidizing materials? Should testing results for each material be quantified in a specific unit of measure for evaluation against other materials?

6. What test procedures should be included in a possible reduced-sensitivity test of ammonium nitrate fertilizer and other oxidizing materials?

7. Should a new reduced-sensitivity test be applied to test previously evaluated ammonium nitrate products?

8. Who should be responsible for the reduced-sensitivity certification of ammonium nitrate fertilizer and other oxidizing materials? Should each company conduct self-certified testing or should the testing be overseen by government regulators or independent scientific laboratories applying mutually accepted standards and procedures under the guidance of government oversight and regulation?

9. What would be the cost burden imposed on manufacturers required to implement their own testing program? What would be the industry cost burden associated with a government testing program?

10. Should materials found to demonstrate reduced sensitivity have their own storage requirements? If so, what requirements would be sufficient to protect them?

*How This Document Complies With the Federal Administrative Requirements for Rulemaking*

This action is an Advance Notice of Proposed Rulemaking (ANPRM). Because it is not a "significant regulatory action" within the meaning of Executive Order 12866, the Executive Order's requirement of cost-benefit assessment does not apply. ATF is publishing this ANPRM to seek information from the public about a replacement document for the "Definition and Test Procedures for Ammonium Nitrate Fertilizer."

Similarly, the requirements of section 603 of the Regulatory Flexibility Act do not apply to this action because, at this stage, it is an ANPRM and not a "rule" as defined in section 601 of the Regulatory Flexibility Act. Following review of the comments received in response to this ANPRM, if ATF promulgates a notice or notices of proposed rulemaking regarding this matter, ATF will conduct all analyses required by the Regulatory Flexibility Act, Executive Order 12866, and any other statutes or Executive Orders relevant to those rules and in effect at the time of promulgation.

*Public Participation*

**A. Comments Sought**

ATF is requesting comments on this advance notice of proposed rulemaking from all interested persons. ATF is also specifically requesting comments on the clarity of this advance notice and how it may be made easier to understand.

All comments must reference this document docket number (ATF 26A), be legible, and include the commenter's name and mailing address. ATF will treat all comments as originals and it will not acknowledge receipt of comments.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

**B. Confidentiality**

Comments, whether submitted electronically or in paper format, will be made available for public viewing at ATF, and on the Internet as part of the eRulemaking initiative, and are subject to the Freedom of Information Act. Commenters who do not want their name or other personal identifying information posted on the Internet should submit their comment by mail or facsimile, along with a separate cover

sheet that contains their personal identifying information. Both the cover sheet and comment must reference this docket number. Information contained in the cover sheet will not be posted on the Internet. Any personal identifying information that appears within the comment will be posted on the Internet and will not be redacted by ATF.

Any material that the commenter considers to be inappropriate for disclosure to the public should not be included in the comment. Any person submitting a comment shall specifically designate that portion (if any) of his comment that contains material that is confidential under law (e.g., trade secrets, processes, etc.). Any portion of a comment that is confidential under law shall be set forth on pages separate from the balance of the comment and shall be prominently marked "confidential" at the top of each page. Confidential information will be included in the rulemaking record but will not be disclosed to the public. Any comments containing material that is not confidential under law may be disclosed to the public. In any event, the name of the person submitting a comment is not exempt from disclosure.

**C. Submitting Comments**

Comments may be submitted in any of three ways:

- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in a minimum 12 point size of type (.17 inches), include the commenter's mailing address, be signed, and may be of any length.

- *Facsimile:* Submit comments by facsimile transmission to (202) 648-9741. Faxed comments must:

- (1) Be legible and appear in a minimum 12 point size of type (.17 inches);

- (2) Be on 8½" x 11" paper;

- (3) Contain a legible, written signature; and

- (4) Be no more than five pages long. ATF will not accept faxed comments that exceed five pages.

- *Federal eRulemaking Portal:* Submit comments to ATF via the Federal eRulemaking portal by visiting <http://www.regulations.gov> and following the instructions for submitting comments.

*Disclosure*

Copies of the petition, this advance notice, and the comments received will be available for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E-063, 99 New York Avenue, NE.,

Washington, DC 20226; telephone (202) 648-7080.

*Drafting Information*

The author of this document is Scott P. Armstrong-Cezar; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives.

**List of Subjects in 27 CFR Part 555**

Administrative practice and procedure, Authority delegations, Customs duties and inspection, Explosives, Hazardous materials, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, and Warehouses.

**Authority and Issuance**

This notice is issued under the authority of 18 U.S.C. 847.

Approved: September 3, 2010.

**Kenneth E. Melson,**  
*Deputy Director.*

[FR Doc. 2010-23042 Filed 9-15-10; 8:45 am]

**BILLING CODE 4410-FY-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 1060**

[EPA-HQ-OAR-2010-0270; FRL-9202-3]

**RIN 2060-AQ18**

**Technical Amendments for Marine Spark-Ignition Engines and Vessels**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed 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