

*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

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. This proposed action represents the results of that work and 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. In the "Rules and Regulations" section of this **Federal Register**, we are making these technical amendments as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

**DATES:** Written comments must be received by October 18, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2010-0270, by mail to Environmental Protection Agency, Air Docket, Mail-code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Comments may also be submitted electronically or through

hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**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; email address: *samulski.michael@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Why is EPA issuing this proposed rule?**

This document proposes to take action on Technical Amendments for Marine Spark-Ignition Engines and Vessels. We have published a direct final rule to modify existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse

comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

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

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

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

<sup>a</sup> North American Industry Classification System (NAICS).

<sup>b</sup> Standard Industrial Classification (SIC) system code.

**III. Summary of Rule**

In the final rulemaking for new exhaust and evaporative emissions standards for nonroad spark-ignition engines, vessels, and equipment (73 FR 59034, October 8, 2008), EPA established first-ever evaporative emissions standards for marine vessels. These requirements included portable marine fuel tanks specifically designed for and commonly used in recreational boating, which are normally used to power gasoline outboard engines. During their efforts to certify portable fuel tanks to these new requirements, manufacturers working together on systems integration identified several technical issues with the performance of the tanks/fuel systems in use that were not fully apparent to them before these standards were developed. Systems integration work conducted by the fuel tank, boat and engine manufacturers highlighted that under some circumstances there was the potential for fuel spillage to occur. Work

conducted by these parties indicated that this issue applies to existing fuel systems and tanks as well as those built to comply with EPA's evaporative emission design standard. We have engaged the industry to identify a simple, safe, and emissions neutral solution to this concern. This action is emissions neutral with respect to the diurnal emissions standard; however, to the extent that it helps reduce fuel spillage, incorporating safe recommended practices will result in a net benefit to the environment and lead to fuel savings.

EPA is proposing to make technical amendments to the design standard for portable tanks that will allow for this solution. Specifically, we are proposing to revise the text in § 1060.105(c)(1) to allow for an integrated or external manually activated device to be included in the fuel tank design to temporarily relieve pressure prior to fuel filling or connection to the engine.

In addition, we are proposing to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. Specifically, we are proposing to reference the ABYC H25 pressure relief method system testing and informational (e.g. labeling) provisions into our regulations.<sup>1</sup>

EPA does not expect that this action would have an adverse cost impact to the manufacturers beyond that envisioned in the original rule. This proposed rule would merely modify existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. Adopting these amendments would lead to environmental, cost, and safety benefits through reduced fuel spillage.

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

For additional discussion of the proposed rule changes, see the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register**. This proposal incorporates by reference all the reasoning, explanation, and regulatory text from the direct final rule.

#### IV. Statutory and Executive Order Reviews

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

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

##### B. Paperwork Reduction Act

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

##### C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit

enterprise which is independently owned and operated and is not dominant in its field.

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

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

##### D. Unfunded Mandates Reform Act

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

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

##### E. Executive Order 13132: Federalism

This proposed rule does not have federalism implications. It would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132. This proposed rule would merely modify existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. Thus, Executive Order 13132 does not apply to this action.

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

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

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

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

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

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

##### I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide

Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking involves technical standards. This proposed rule would modify existing design-based certification requirements to incorporate safe recommended practices, developed through industry consensus, for portable marine fuel tanks. Specifically, it incorporates by reference ABYC H-25, "Portable Marine Gasoline Fuel Systems," July, 2010. Anyone may purchase copies of these materials from the American Boat and Yacht Council, 613 Third Street, Suite 10 Annapolis, MD 21403 or <http://www.abycinc.org/>.

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

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

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

*K. Statutory Authority*

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

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

Environmental protection, Air pollution control, Incorporation by reference, Marine spark-ignition engines and vessels.

Dated: September 9, 2010.

**Lisa P. Jackson**,  
Administrator.

[FR Doc. 2010-23127 Filed 9-15-10; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 54**

[WC Docket No. 05-337, CC Docket No. 96-45; FCC 10-155]

**High-Cost Universal Service Support and Federal-State Joint Board on Universal Service**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) undertakes important steps for fiscally responsible universal service fund reform. The Commission seeks comment on permanently amending our rules to facilitate efficient use of reclaimed excess high-cost support. In addition, the Commission seeks comment on a proposal to modify our rules to reclaim legacy support surrendered by a competitive ETC when it relinquishes ETC status in a particular state.

**DATES:** Comments on the proposed rules are due on or before October 7, 2010 and reply comments are due on or before October 21, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 05-337 and CC Docket No. 96-45, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: (202) 418-0530 or TTY: (202) 418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Ted Burmeister, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7389 or TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rulemaking in WC Docket No. 05-337, CC Docket No. 96-45, FCC 10-155, adopted August 31, 2010, and released September 3, 2010. This NPRM was also released with a companion Final Rule document that is published elsewhere in this **Federal Register** issue. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via the Internet at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.