

DEPARTMENT OF JUSTICE**Bureau of Alcohol, Tobacco, Firearms and Explosives****27 CFR Part 555****[ATF No. 1; Docket No. 2002R-341P]****RIN 1140-AA00****Implementation of the Safe Explosives Act, Title XI, Subtitle C of Public Law 107-296**

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

ACTION: Interim final rule with request for comments.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is amending the regulations to implement the provisions of the Safe Explosives Act, Title XI, Subtitle C of Pub. L. 107-296, the Homeland Security Act of 2002 (enacted November 25, 2002). This interim rule implements the law which: requires that all persons receiving explosives on and after May 24, 2003, obtain a Federal license or permit, and creates a new type of permit, the "limited permit;" requires applicants for licenses and permits to provide as part of their application the names and appropriate identifying information regarding employees authorized to possess explosive materials as well as fingerprints and photographs of "responsible persons;" extends the time for ATF to act on an application for a license or permit from 45 days to 90 days; authorizes warrantless inspections of places of storage maintained by applicants for limited permits and holders of limited permits; provides that only licensees and holders of user permits must post their licenses and permits and make them available for inspection; requires that ATF conduct background checks on responsible persons and employees authorized to possess explosive materials; specifies additional categories of persons who may not lawfully receive or possess explosive materials, *i.e.*, aliens (other than permanent resident aliens and other excepted aliens), persons dishonorably discharged from the military, and persons who have renounced their U.S. citizenship; broadens the interstate commerce element of the prohibited persons section of the law to specify that a violation is committed if possession of explosive materials affects interstate or foreign commerce; provides ATF the authority to require licensed manufacturers and licensed importers

and persons who manufacture or import explosive materials or ammonium nitrate to provide samples, information on chemical composition, and other information relevant to the identification of the product; broadens the scope of a criminal violation of the law to include any institution or organization receiving Federal financial assistance within the categories of property covered by the violation; expands ATF's authority to grant relief from disabilities to all categories of prohibited persons; and adds a new theft-reporting violation, providing felony penalties for a licensee or permittee who fails to report thefts of explosives within 24 hours of discovery. This interim rule also incorporates the provisions of ATF Ruling 76-10, which will become obsolete as of May 24, 2003.

The interim rule will remain in effect until superseded by final regulations.

DATES: *Effective date:* This interim rule is effective March 20, 2003.

Comment date: Comments must be submitted on or before June 18, 2003.

ADDRESSES: Send written comments to: James P. Ficaretta, Program Manager; Room 5150; Bureau of Alcohol, Tobacco, Firearms and Explosives; PO Box 50221; Washington, DC 20091-0221; *Attn:* ATF No. 1. Written comments must be signed, and may be of any length.

E-mail comments may be submitted to: nprm@atf.gov. E-mail comments must contain your name, mailing address, and e-mail address. They must also reference this document number, as noted above, and be legible when printed on 8½" × 11" paper. ATF will treat e-mail as originals and ATF will not acknowledge receipt of e-mail. See the Public Participation section at the end of the **SUPPLEMENTARY INFORMATION** section for requirements for submitting written comments by facsimile.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta; Firearms, Explosives and Arson; Bureau of Alcohol, Tobacco, Firearms and Explosives; U.S. Department of Justice; 650 Massachusetts Avenue, NW., Washington, DC 20226, telephone (202) 927-8203.

SUPPLEMENTARY INFORMATION:**Background**

Public Law 107-296 (116 Stat. 2135), the Homeland Security Act of 2002, was enacted on November 25, 2002. In general, the provisions of the Homeland Security Act became effective 60 days after the date of enactment, January 24, 2003. Under Title XI, Subtitle B of the Homeland Security Act, the law

enforcement responsibilities of the Bureau of Alcohol, Tobacco and Firearms, including its authority over explosives, were transferred to the new Bureau of Alcohol, Tobacco, Firearms and Explosives of the Department of Justice.

Section 1512(a) of the Homeland Security Act provides in pertinent part that the completed administrative actions of an agency shall not be affected by either the enactment of the Act or the transfer of the agency to the Department of Homeland Security. In the regulations in Title 28, CFR, the Attorney General has delegated to the new Bureau of Alcohol, Tobacco, Firearms and Explosives (which will also be known as "ATF") the statutory authorities that were transferred to the Attorney General by the Homeland Security Act, including authority over Chapter 40 of Title 18, United States Code. That regulation also provided that the regulations previously issued by ATF in 27 CFR part 55, will continue in effect as if adopted by the Attorney General until recodified, superseded, repealed or amended.

In a separate document published in the **Federal Register** on January 24, 2003 (68 FR 3744), the regulations in 27 CFR part 55 were transferred from Chapter 1 to Chapter 2 of Title 27, and were redesignated as part 555.

Title XI, Subtitle C of Public Law 107-296, the Safe Explosives Act (hereafter, "the Act"), amended the Federal explosives laws in 18 U.S.C. Chapter 40. As stated in House Report No. 107-658, 107th Congress, 2d Session, September 17, 2002, accompanying H.R. 4864, the "Anti-terrorism Explosives Act of 2002" (the House version of the Act), the primary purpose of the Act is to provide tighter security for explosive materials and increased security measures for purchasers and possessors of explosives by requiring all persons who wish to obtain explosives, even for limited use, to obtain a Federal license or permit. The House Report notes that since September 11, 2001, the United States has been on high alert due to concern about possible terrorist threats and, accordingly, has increased security throughout our society. The report notes that additional precautions will help to prevent threats posed by explosive materials, and the legislation seeks to address such precautions. The report mentions incidents of concern such as the 1993 World Trade Center bombing, the 1995 Oklahoma City bombing, the 2002 attempt to detonate a bomb in a suspect's shoe on an aircraft, and the Federal Bureau of Investigation's (FBI's) uncovering of a terrorist plot to detonate