

context of persons to whom distribution of explosive materials is prohibited.

B. Section 555.27 (Out-of-State Disposition of Explosive Materials)

Effective May 24, 2003, the provisions of section 555.27 will no longer apply because this section contemplates that distributions of explosives can be made to persons not holding a Federal explosives license or permit. The Federal explosives law, as amended by the Act, now provides that all persons acquiring explosives must have, at minimum, a limited permit.

C. Section 555.43 (Permit Fees)

Section 555.43 has been amended to describe the fee structure for the issuance of limited permits, including renewals of limited permits. The Act provides that the fee for a limited permit may not exceed \$50. The fee for renewal of a limited permit is capped by statute at one-half the amount of the original fee. This section sets the fee for a limited permit significantly lower than the statutory maximum, providing that the fee for an original limited permit will be \$25 and providing also that the fee for each subsequent renewal of a limited permit will be \$12. ATF believes this fee is affordable for most infrequent users but serves to offset some of the costs associated with processing an application. The fee for the limited permit is not intended as a "user fee," because it does not compensate ATF for the full cost of processing the application, conducting an inspection of storage facilities, and conducting background checks for the applicant, responsible persons, and employees.

D. Section 555.45 (Original License or Permit)

Section 555.45 explains that license and permit applications postmarked on or after the effective date of this interim rule, must be submitted along with ATF Form 5400.28 (Responsible Person Questionnaire) or, where applicable, multiple Forms 5400.28. On this form, applicants and others who will direct the policies of the applicant with respect to explosive materials will be required to answer whether they fall within any of the categories of persons prohibited from possessing explosive materials. Form 5400.28 includes questions concerning the newly added categories of prohibited persons. It is important that ATF obtain this information for all licenses and permits issued after the effective date to ensure that no persons with authority to direct the explosives operations of a licensee or permittee are prohibited by law from possessing explosive materials.

For licenses and permits to be issued on and after May 24, 2003, ATF Forms 5400.13 and 5400.16 will mandate that all responsible persons be identified. The statutory requirement to include fingerprints and photographs of each responsible person will also become effective.

On and after May 24, 2003, ATF Form 5400.28 will be re-titled as the Employee Possessor Questionnaire. Each person who will be possessing explosive materials in the course of his employment will be required to complete this form. Each person completing the form will be required to provide appropriate identifying information, including name of employer and residential address and will be required to declare whether he falls within any of the categories of persons prohibited from possessing explosive materials. This information will be used to conduct a background check to ensure that employees are not within the categories of persons Congress has determined should not possess explosive materials. Responsible persons will not complete a Form 5400.28 because their identifying information will be submitted on the license or permit application form.

An applicant for a license or permit that will be issued on and after May 24, 2003, must submit an application that includes the appropriate identifying information for responsible persons as well as their fingerprints and photographs. Fingerprints must be submitted on FBI Form FD-258 in accordance with the instructions on the form and must be submitted by the applicant with the application. Also, where applicable, Form 5400.28, Employee Possessor Questionnaire must be submitted with the application for each employee who will be possessing explosive materials in the course of his employment.

E. Section 555.102 (Authorized Operations by Permittees)

Section 555.102 has been amended to reflect that, effective May 24, 2003, persons not holding a Federal explosives license or permit will be prohibited from acquiring explosive materials. Accordingly, this section has been changed to provide that permittees disposing of surplus stocks of explosive materials may dispose of those stocks only to licensees or other permittees.

F. Section 555.103 (Transactions Among Licensees/Permittees and Transactions Among Licensees and Holders of User Permits)

Section 555.103 has been amended to clarify the procedures to be followed

where distributions of explosives are made by licensees to other licensees and holders of user permits. These procedures have been clarified to conform to the newly applicable procedures set forth in section 555.105 for transactions in which limited permittees are acquiring explosive materials. In this regard, section 555.103, like section 555.105, has been amended to comport with Congress' intention, as expressed in the House Report No. 107-658, 107th Congress, 2d Session, September 17, 2002, to "provid[e] tighter security for explosive materials and increased security measures for purchasers and possessors of explosives."

In general, the procedures outlined in this section are similar to practices currently authorized (and/or required) under part 555. Included among these are a requirement that the distributor verify the licensed status of the licensee or permittee who wishes to purchase explosive materials and a requirement that, prior to or at the time of distribution, the distributee provide the distributor with a list of persons authorized to accept delivery of explosive materials and with a statement identifying the intended use for the explosive materials. Distributors will be required to verify that any person seeking to accept delivery of explosive materials on behalf of a distributee is, in fact, on the list of persons authorized to accept delivery and to verify the identity of such person by examining an identification document. The term "identification document" is defined in section 555.11.

Current regulations require that purchasers provide the distributor with a certified list of persons authorized to order explosive materials. Because most orders are placed via phone or fax, rather than over-the-counter, ATF believes this requirement is not particularly helpful in ensuring distribution of explosives to authorized persons. Accordingly, sections 555.103 and 555.105 have been revised to eliminate this requirement and to replace it with the requirement to provide a certified list of persons authorized to accept delivery of explosives. ATF believes this system is consistent with Congress' intention that there should be stringent security in the system established for transfers of explosive materials. The system set forth in sections 555.103 and 555.105 is designed to ensure that licensees and permittees deliver explosives only to persons affiliated with a purchaser holding a license or permit and to require verification of those persons' identities prior to relinquishing