

contract carrier who is an agent of the limited permittee, the licensee, permittee, or an agent of the licensee or permittee, must verify the identity of the holder of the limited permit by examining an identification document (as defined in § 555.11) and noting on the Form 5400.4 the type of document presented. The licensee or permittee must complete the appropriate section on Form 5400.4 to indicate the type and quantity of explosive materials distributed, the license or permit number of the seller, and the date of the transaction. The licensee or permittee must sign and date the form and include any other information required by the instructions on the form and the regulations in this part.

(3) One copy of Form 5400.4 must be retained by the distributor as part of his permanent records in accordance with paragraph (b)(4) of this section and for the period specified in § 555.121. The distributor must mail the other copy of Form 5400.4 to the Bureau of Alcohol, Tobacco, Firearms and Explosives in accordance with the instructions on the form.

(4) Each Form 5400.4 must be retained in chronological order by date of disposition, or in alphabetical order by name of limited permittee. A licensee may not, however, use both methods in a single recordkeeping system. Where there is a change in proprietorship by a limited permittee, the forms may continue to be filed together after such change.

(5) The requirements of this section are in addition to any other recordkeeping requirement contained in this part.

(Approved by the Office of Management and Budget under control number 1140-0078)

Par. 26. Section 555.128 is amended by adding the phrase “or new permittee” after the phrase “new licensee” in the first sentence.

Par. 27. Section 555.141 is amended by adding two new sentences at the end of paragraph (a)(1) to read as follows:

§ 555.141 Exemptions.

(a) * * *

(1) * * * For example, regulations issued by the Department of Transportation addressing the security risk of aliens transporting explosives by commercial motor or railroad carrier from Canada preclude the enforcement of 18 U.S.C. 842(i)(5) against persons shipping, transporting, receiving, or possessing explosives incident to and in connection with the commercial transportation of explosives by truck or rail from Canada into the United States. Questions concerning this exception

should be directed to ATF's Public Safety Branch in Washington, DC.

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Par. 28. Section 555.142 is amended by revising the section heading; by revising paragraphs (a) through (d); by adding a new paragraph (f); and by adding a parenthetical text at the end of the section to read as follows:

§ 555.142 Relief from disabilities (effective January 24, 2003).

(a) Any person prohibited from shipping or transporting any explosive in or affecting interstate or foreign commerce or from receiving or possessing any explosive which has been shipped or transported in or affecting interstate or foreign commerce may make application for relief from disabilities under section 845(b) of the Act.

(b) An application for relief from disabilities must be filed with the Director by submitting ATF Form 5400.29, Application for Restoration of Explosives Privileges, in accordance with the instructions on the form. The application must be supported by appropriate data, including the information specified in paragraph (f) of this section. Upon receipt of an incomplete or improperly executed application for relief, the applicant will be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application will be considered abandoned.

(c)(1) The Director may grant relief to an applicant if it is established to the satisfaction of the Director that the circumstances regarding the disability and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

(2) Except as provided in paragraph (c)(3) of this section, the Director will not grant relief if the applicant—

(i) Has not been discharged from parole or probation for a period of at least 2 years;

(ii) Is a fugitive from justice;

(iii) Is a prohibited alien;

(iv) Is an unlawful user of or addicted to any controlled substance;

(v) Has been adjudicated a mental defective or committed to a mental institution, unless the applicant was subsequently determined by a court, board, commission, or other lawful authority to have been restored to mental competency, to be no longer suffering from a mental disorder, and to have had all rights restored; or

(vi) Is prohibited by the law of the State where the applicant resides from receiving or possessing explosive materials.

(3)(i) The Director may grant relief to aliens who have been lawfully admitted to the United States or to persons who have not been discharged from parole or probation for a period of at least 2 years if he determines that the applicant has a compelling need to possess explosives, such as for purposes of employment.

(ii) The Director may grant relief to the persons identified in paragraph (c)(2) of this section in extraordinary circumstances where the granting of such relief is consistent with the public interest.

(d) A person who has been granted relief under this section is relieved of all disabilities imposed by the Act for the disabilities disclosed in the application. The granting of relief will not affect any disabilities incurred subsequent to the date the application was filed. Relief from disabilities granted to aliens will be effective only so long as the alien retains his or her lawful immigration status.

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(f)(1) Applications for relief from disabilities must include the following information:

(i) In the case of a corporation, or of any person having the power to direct or control the management of the corporation, information as to the absence of culpability in the offense for which the corporation, or any such person, was indicted, formally accused or convicted;

(ii) In the case of an applicant who is an individual, two properly completed FBI Forms FD-258 (fingerprint card), and a written statement from each of three references who are not related to the applicant by blood or marriage and have known the applicant for at least 3 years, recommending the granting of relief;

(iii) Written consent to examine and obtain copies of records and to receive statements and information regarding the applicant's background, including records, statements and other information concerning employment, medical history, military service, immigration status, and criminal record;

(iv) In the case of an applicant having been convicted of a crime punishable by imprisonment for a term exceeding one year, a copy of the indictment or information on which the applicant was convicted, the judgment of conviction or record of any plea of *nolo contendere* or plea of guilty or finding of guilt by the court;