

explosives issues. ATF often incorporates sections of NFPA guidelines into its regulations. However, adopting an outside organization's guidelines by reference may limit ATF's control over its own regulations because regulatory requirements could be changed based upon decisions made by NFPA to revise its code. Therefore, we are not proposing to adopt the NFPA standards by reference.

5. Finally, two commenters suggested that the 500-pound limitation (on the amount of pyrotechnic compositions allowed in fireworks process buildings) not apply to drying operations that are part of the manufacturing process and that these operations be subject to the table of distances in section 55.219. The tables at sections 55.222 and 55.223 currently require that process operations, including drying, be located specific distances from, among other things, fireworks process and nonprocess buildings, fireworks plant buildings, and fireworks shipping buildings. The table at section 55.219 applies to the storage of low explosives other than display fireworks. Although some drying operations may present less of a mass explosion hazard than others, we believe that the application of the low explosives table to display fireworks, which sometimes contain high explosives, would not be in the interest of public safety. Therefore, we are not proposing this suggestion.

ATF received four comments on the application of the table of distances in section 55.224. Those comments are discussed as follows:

1. Two commenters suggested modifying the table such that it would provide distance requirements specifically for display fireworks up to 200,000 pounds. Under the current table, persons are required to refer to section 55.218 for the storage of display fireworks in excess of 10,000 pounds to calculate separation distances of magazines from inhabited buildings, public highways, passenger railways, and other magazines. The problem presented is that the distance requirements change drastically when going from section 55.224 (for weights up to 10,000 pounds) to section 55.218 (for weights over 10,000 pounds). In comparing the two tables, there are also discrepancies in separation requirements for distances between magazines. The proposed table provides for more proportionate increases in distances for weights of materials above 10,000 pounds, and it provides for a smooth transition to the table at section 55.218 for weights above 200,000 pounds. ATF agrees that the adoption of this table will not jeopardize public

safety. Accordingly, we are proposing this suggestion. (*See* section IV ("Proposed Amendments to Part 55"), amendment of section 55.224.)

2. One commenter suggested that the table in section 55.219, rather than the table in section 55.218 (as currently required), be used for weights over 10,000 pounds. The transition from the distance requirements in the table in section 55.224 to those in the table in section 55.219 would not be consistent. In fact, the requirements for slightly over 10,000 pounds in the table in section 55.219 are less than those for up to 10,000 pounds in the table in section 55.224. We have determined that this does not further public safety. Therefore, we are not proposing this suggestion. However, as stated above, we are proposing a revision to the table in section 55.224 that remedies this problem by providing for more proportionate increases in distances for weights of materials above 10,000 pounds, and by providing for a smooth transition to the table at section 55.218 for weights above 200,000 pounds.

3. Finally, one commenter stated that the table in section 55.224 is unnecessarily restrictive for hobbyists storing less than 1,000 pounds of fireworks. The commenter suggested that the table be further broken down to account for smaller weight categories, with corresponding shorter distances than those currently required for up to 1,000 pounds. The commenter submitted a specific table of distances for consideration. We have determined through consultation with the APA that the suggested table would apply to certain shell sizes only. We believe that implementation of such a provision would result in confusion as to the applicability of the table in situations in which a variety of sizes and types of fireworks shells are stored together. Accordingly, in the interest of clarity and administration, we are not proposing this suggestion.

Two commenters proposed that ATF implement regulations relaxing the requirements for explosives storage at a display site. The commenters suggested that the language formerly contained on ATF Form 5400.21, "Application for Permit User Limited Display Fireworks," be incorporated into the regulations. The language formerly used in the instructions on Form 5400.21 has been changed specifically because it tended to cause a misconception that fireworks could be stored in a manner not in compliance with the regulations in part 55. ATF believes that adoption of this language would not be consistent with our mission to protect the public from unsafe storage of explosives.

Therefore, we are not proposing this suggestion.

ATF received three comments regarding shipping operations. Two commenters stated that ATF regulations should address "shipping buildings," in which articles commonly used to pack and prepare fireworks for shipping, such as empty cardboard boxes, chairs, telephones, and computers, could be used and kept. The commenters suggested that the regulations be amended to allow such items, as well as certain operations, such as unpacking and handling of fireworks, in separate shipping buildings. ATF regulations currently define the term "fireworks shipping building." The regulations do not prohibit the use or presence of the noted articles or the unpacking or handling of fireworks in a fireworks shipping building. Therefore, we are not proposing this suggestion.

One commenter suggested that ATF allow packing items, such as tape and empty containers to be stored in magazines. The housekeeping requirements in section 55.215 generally prohibit the presence of empty containers and certain other items in magazines, in the interest of reducing fire and explosion hazards in magazines. We believe that implementing provisions allowing for the storage of these items in magazines would be contrary to the regulations and ATF's goal of protecting the public. Therefore, we are not proposing this suggestion.

III. IME Correspondence

In addition to the comments regarding Notice No. 845, ATF received correspondence from the explosives industry concerning additional amendments to part 55. In a letter to ATF dated October 31, 2000, the Institute of Makers of Explosives (IME) submitted suggestions for amending the Federal explosives regulations in part 55. IME stated in its letter that it is the safety association of the commercial explosives industry and that its mission is to promote safety and the protection of employees, users, the public, and the environment, and to encourage the adoption of uniform rules and regulations in the manufacture, transportation, storage, handling, use, and disposal of explosive materials used in blasting and other essential operations. In the following paragraphs, we will summarize IME's suggested amendments to the regulations, along with our evaluation of each proposal.

1. ATF regulations currently require that licensees and permittees maintain all required records in permanent form (*i.e.*, commercial invoices, record