

specify that the term, when used with respect to a manufacturer, importer, or dealer, means the property on which explosive materials are manufactured, imported, stored, or distributed. Similarly, when used with respect to an explosives permittee, the term will mean the property on which the explosive materials are received or stored.

The definitions for the terms “articles pyrotechnic,” “consumer fireworks,” and “display fireworks” are being amended for clarification purposes. In addition, technical non-substantive changes are being made to the definition of the term “fireworks process building.”

A definition for the term “fireworks process area” is being added in order to ensure that open-air processing operations are conducted in compliance with the tables of distances in sections 55.222 and 55.223. This is being done in the interest of public safety.

The definition of the term “fireworks shipping building” is being amended to clarify that such a building may be used for the packing of assorted display fireworks into shipping cartons for individual displays or for the loading of packaged displays for shipment to purchasers.

The definition of the term “flash powder” is being amended in order to be more descriptive of the possible ingredients of this explosive.

The definition of the term “hardwood” is being amended to be consistent with the well-recognized industry standards of the NFPA.

As defined in the regulations, the term “highway” means any public street, public alley, or public road, including a privately financed, constructed, or maintained road that is regularly and openly traveled by the general public. It has come to our attention that there is confusion as to the meaning of the term “general public.” We believe that even small segments of the general public traveling on roads near explosives magazines are entitled to protections similar to those afforded to large numbers of persons traveling on similar roadways. Moreover, we believe that individuals employed by, or otherwise associated with, one explosives facility should be deemed to be members of the “general public” with respect to any other explosives facility. We are amending the definition of the term “highway” to clarify that any road regularly and openly traveled by any member of the general public would be subject to the table of distance requirements.

The definition of “inhabited building” is being amended to clarify

specific conditions where a building would be considered to be occupied in connection with the manufacture, storage, transportation, and use of explosive materials and, therefore, not be considered an inhabited building. For example, where there are two explosives businesses (Business A and Business B), a building occupied solely by Business A will be considered an “inhabited building” with respect to the explosives storage magazines that are maintained by Business B. However, this same building would fall within the exception for “buildings occupied in connection with the manufacture, transportation, storage, or use of explosive materials” with respect to explosives storage magazines maintained by Business A. This clarification ensures that personnel employed by or otherwise associated with one explosives facility will not “assume the risk” associated with another explosives facility’s operations.

The definition of the term “manufacturer” is being amended to include persons who assemble explosive materials from other explosive materials and/or non-explosive materials, such as fireworks and pyrotechnics. By adding “assemblers” to the definition, the marking requirements of section 55.109 will apply to persons assembling explosive materials.

The definition of the term “softwood” is being amended to be consistent with the well-recognized industry standards of the NFPA.

B. Subpart C—Administrative and Miscellaneous Provisions

Section 55.22 is being amended to clarify that copies of approved variances (rather than the applications) are to be kept by the permittee or licensee to whom they are issued so that they can be reviewed by ATF officers. This section is also being amended to provide that the Director may require the resubmission of all variances for the purpose of re-evaluation. For example, the Director may require the resubmission of all variances when there is a change of ownership, control, or personnel; at the time of renewal; or upon disclosure of a person’s possible inability or unwillingness to comply with the terms of a variance.

Section 55.46 is being amended to provide that the Chief, Firearms and Explosives Licensing Center (now known as the “Chief, National Licensing Center”) may, in writing, require the applicant for license or permit renewal to file an original application for license or permit as required by section 55.45. This would be in addition to filing an

application for license renewal on ATF F 5400.14 (part III), or application for permit renewal on ATF F 5400.15 (part III). This ensures compliance with existing requirements in part 55 and is consistent with the firearms regulations in part 178 of this chapter with respect to the renewal of Federal firearms licenses.

Several amendments are being made to section 55.63, relating to changes in explosives magazines:

1. Paragraph (a)(1) is being amended to clarify that magazines used for storage of explosives are subject to the table of distances and magazine construction requirements prescribed in sections 55.206 through 55.211.

2. Paragraphs (a)(2) and (a)(3) are being removed. The provisions of these paragraphs are considered unnecessary because they duplicate the standards specified in sections 55.206 through 55.211.

3. Paragraph (a)(4) is being revised for clarification purposes and is being redesignated as paragraph (e).

4. Paragraph (b), which exempts mobile or portable type 5 magazines from the requirements of section 55.63, is being amended by redesignating the paragraph as paragraph (f) and by providing that type 3 magazines are also exempt from the requirements of this section. We are not proposing to exempt type 4 magazines from the notification provisions of this section, as such magazines are often used and relocated at the premises of fireworks companies. Due, in part, to the seasonal nature of their business, such companies often relocate type 4 magazines during periods of high volume. In the interest of public safety, we will still require that such businesses notify ATF of relocations of type 4 magazines.

5. Paragraphs (c) and (d) provide that the regional director (compliance) (now known as the “Director of Industry Operations”) must be notified prior to repairing, reconstructing, or acquiring new magazines. These paragraphs further require that the regional director (compliance) be notified prior to commencing storage in a new or repaired magazine. We believe that the additional burden of this second notification to ATF after acquisition or repair and prior to storing is not justified. Accordingly, we are amending these paragraphs by redesignating them as paragraphs (b) and (c), respectively, and by removing the requirement that the regional director (compliance) be notified after the acquisition of a new magazine or the repair or reconstruction of an existing magazine.

6. Finally, we are amending section 55.63 by adding a new paragraph (d) to