

to purchases of firearms by nonlicensed individuals.

Section 55.129 is being amended to require that where commercial explosives (except for defense articles subject to the Arms Export Control Act) are exported, exportation is to be in compliance with the Export Administration Act. We are also amending this section to require licensees to maintain proof of exportation of explosive materials to the actual end user. This is intended to prevent diversion activities.

D. Subpart H—Exemptions

Section 55.141 is being amended by revising paragraph (a)(7) to clarify the items exempt from the requirements of part 55. Paragraph (a)(9) is being amended to remove the DOT's regulation cite (49 CFR parts 100 to 177) in order to eliminate possible confusion in the event these regulations are subsequently revised or removed.

E. Subpart K—Storage

Section 55.206(a) currently states that magazines in which high explosives are stored must be a minimum distance from other high explosive magazines. This section is being amended to clarify that, except where magazines are "combined" as provided in footnote 2 of section 55.218, magazines in which high explosives are stored must be located no closer to magazines in which any explosive materials are stored, than the minimum distances specified in the table of distances for storage of explosive materials in section 55.218. This will ensure that all types of explosive materials will be stored appropriately when located in proximity to magazines containing high explosives. To be consistent with the proposed amended definition of "highway," the word "public" is being removed in paragraph (b) of section 55.206. Paragraph (c)(1) of section 55.206 is being amended to require that minimum separation distances be placed between outdoor magazines containing any amount of blasting agents and inhabited buildings, highways, and passenger railways, per the table in section 55.218. This was previously unclear in the notes to the tables of distances in sections 55.218 and 55.220, and the fact that section 55.206 only specifies minimum separation distances for amounts over 50 pounds.

Several amendments are being proposed with respect to section 55.207:

1. IME has suggested that ATF make all references to bullet resistance within part 55 consistent with its standard of 1/4-inch steel lined with 3 inches of

hardwood. In its letter, IME referred to section 55.207(a)(7)(ii) that describes the bullet-resistance standard for roof construction for type 1 magazines. Accordingly, this section is being amended to reflect the suggested standard of 1/4-inch steel and 3 inches of hardwood. However, 3/16-inch steel lined with 4 inches of hardwood, which is currently prescribed in section 55.207(a)(7)(ii), will still be considered bullet-resistant construction as referenced in ATF Ruling 76-18. We are also removing the parenthetical text in section 55.207(a)(7)(ii) to ensure that the exteriors of magazines are constructed with a sufficient amount of fire-resistant materials. In addition, this section is being amended to remove the word "plate" in the phrase "plate steel." This provides consistency with the standards prescribed for other high explosives storage magazines.

Paragraph (a)(8) of section 55.207 is being amended to increase the thickness of hardwood required for magazine door linings from 2 inches to 3 inches. Previously, ATF believed that a wall or door constructed of 1/4-inch steel lined with 2 inches of hardwood would resist the penetration of a bullet, based on the standard test. The standard test involves firing a 150 grain M2 ball ammunition having a nominal muzzle velocity of 2700 feet per second from a .30 caliber rifle from a distance of 100 feet perpendicular to the wall or door (see ATF Rul. 76-18). Examination of bullet-resistance tests conducted by IME indicates that the previous standard is not sufficient. Paragraph (a)(8) is being amended to reflect the standard recommended by IME. Accordingly, effective 1 year from the date of publication of the final rule in the **Federal Register**, all type 1 magazines must have 1/4-inch steel doors lined with 3 inches of hardwood. This is consistent with the provisions of ATF Rul. 76-18. For the same reason explained above, this paragraph is also being amended to remove the word "plate" in the phrase "plate steel."

2. Paragraph (a)(9)(v) of section 55.207 provides that, with respect to type 1 magazines, padlocks must have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. We believe that a 3/8-inch diameter requirement is insufficient to prevent cutting the shackle. Accordingly, we are proposing that case-hardened shackles be at least 1/2-inch diameter.

3. Finally, section 55.207 is being amended by adding a new paragraph (c) that incorporates the provisions of ATF Ruling 76-18.

Sections 55.208, 55.210, and 55.211 require that magazines be equipped

with 2 hooded locks with at least 3/8-inch shackles and five tumblers. In past years, ATF issued a number of variances allowing mobile outdoor type 2 and type 4 magazines to have only one lock, with no hood requirement. This variance was subsequently extended to the entire explosives industry. A review of explosives theft data indicates that in a significant number of explosives thefts access was gained to the explosives by cutting or prying the padlocks. Based on these findings, ATF has determined that the reduction in explosives magazine security allowed by these variances is inappropriate. Therefore, we are proposing to amend the regulations to require that all types 1, 2, 4, and 5 outdoor magazines (except for type 5 bins used to load bulk trucks), including vehicular/mobile magazines, be secured with 2 hooded locks with 1/2-inch (rather than 3/8-inch) shackles and five tumblers. We are proposing the same requirement for types 2, 4, and 5 indoor magazines. Upon the effective date of the final rule, the above-mentioned variances will no longer be valid. ATF is soliciting comments from the industry on the economic burden these actions will impose. Commenters should address such issues as whether it is physically and economically viable to lock all magazines as stated in the proposed regulations in sections 55.207 through 55.211 and whether such actions will afford increased security. In addition, commenters should address the costs associated with increasing the lock size requirements as stated above. Comments should contain specific estimates of the monetary cost of this action.

Several other amendments are being proposed with respect to section 55.208:

1. The word "exterior" in the heading of paragraphs (a)(2) and (b)(2) is being removed for clarification purposes.

2. Paragraph (a)(2) is being amended to impose a bullet-resistance standard of 1/4-inch steel and 3 inches of hardwood for the construction of type 2 magazines. We are proposing that the effective date of this particular amendment be one year from the date of publication of the final rule in the **Federal Register**.

3. Paragraphs (a)(2) and (b)(2) are being amended to add the exposed metal restriction specified in section 55.207(a)(11) in order to ensure that construction of type 2 magazines is such that there will exist a reduced chance of a sparking hazard.

4. Paragraph (b)(1) is being amended to increase the poundage allowable for indoor storage of explosives from 50 pounds to 60 pounds. This is consistent with the standards for indoor storage set forth by IME. It also reflects the fact that