

consistent application of this table where highways are concerned and further facilitate consistent application of the proposed definition of "highway." ATF is soliciting comments on these issues.

To be consistent with the proposed amended definition of "highway," the word "public" is being removed from footnote six at the end of the table in section 55.220.

Section 55.222 is being amended to include fireworks process areas in the table heading. The footnotes at the end of the table are being amended to indicate that this table applies to outdoor areas in which fireworks are processed.

Section 55.223 is being amended to clarify that the placement of explosive materials in a fireworks process area must comply with the requirements of the table of distances contained in this section at all times. We are also amending this section by removing the word "public" with respect to highways in the title heading of the table, since under the proposed amended definition of the term a "highway" can be a private road.

Section 55.224 is being amended to incorporate a table for the storage of display fireworks developed by the APA. The current table requires the storer to refer to section 55.218 for the storage of display fireworks in excess of 10,000 pounds to calculate distances separating 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. APA proposed revising the table at section 55.224 to increase maximum allowable storage under section 55.224 to 200,000 pounds. The revised 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 has reviewed the table and agrees that the adoption of APA's table will not jeopardize public safety. Bulk salutes remain subject to the table specified in section 55.218.

In addition to the above, a technical nonsubstantive amendment is being made to section 55.224 by removing the parenthetical text in footnote 3 at the end of the table and adding in its place "March 7, 1990." This was the date that

the provisions of section 55.224 became effective, pursuant to T.D. ATF-293.

## V. How This Document Complies With the Federal Administrative Requirements for Rulemaking

### A. Executive Order 12866

We have determined that this proposed rule is not a significant regulatory action as defined in E.O. 12866. Therefore, a Regulatory Assessment is not required.

### B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The proposed amendments clarify the existing regulations and will have a minimal economic impact on the explosives industry. Furthermore, we certify that the revised rule will no longer have a significant economic impact on a substantial number of small entities. We base this certification on the lack of response we received to the RFA analysis set forth in T.D. ATF-293 and comments received on Notice No. 845.

Accordingly, we certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

### C. Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Chief, Document Services Branch, Room 3110, Bureau of Alcohol, Tobacco and Firearms, at the address previously specified. Comments are specifically requested concerning:

- Whether the proposed collections of information are necessary for the proper performance of the functions of the Bureau of Alcohol, Tobacco and Firearms, including whether the information will have practical utility;

- The accuracy of the estimated burden associated with the proposed collections of information (*see below*);
- How the quality, utility, and clarity of the information to be collected may be enhanced; and

- How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology.

The collections of information in this proposed regulation are in 27 CFR 55.22(c), 55.63, and 55.129(b) and (c).

This information is required to ensure that public safety is maintained with respect to explosives storage and accountability. The collections of information are mandatory. The likely respondents are businesses.

With respect to 27 CFR 55.22(c):

- Estimated total annual reporting and/or recordkeeping burden: 12.5 hours.

- Estimated average burden hours per respondent and/or recordkeeper: 0.5 hours (30 minutes).

- Estimated number of respondents and/or recordkeepers: 25.

- Estimated annual frequency of responses: 25.

With respect to 27 CFR 55.63:

- Estimated total annual reporting and/or recordkeeping burden: 128 hours.

- Estimated average burden hours per respondent and/or recordkeeper: 0.1 hours (6 minutes).

- Estimated number of respondents and/or recordkeepers: 1,281.

- Estimated annual frequency of responses: 1,281.

With respect to 27 CFR 55.129(b) and (c):

- Estimated total annual reporting and/or recordkeeping burden: 33.3 hours.

- Estimated average burden hours per respondent and/or recordkeeper: 0.03 hours (2 minutes).

- Estimated number of respondents and/or recordkeepers: 1,000.

- Estimated annual frequency of responses: 1,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

## VI. Public Participation

We are requesting comments on the proposed regulations from all interested persons. In addition, we are specifically requesting comments on the clarity of this proposed rule and how it may be made easier to understand.