

whether additional information or documents are required. If the record is corrected as a result of the application to the originating agency, the individual may so notify ATF which will, in turn, verify the record correction with the originating agency and take all necessary steps to contact the agency responsible for the record system and correct the record. The employee may provide to ATF additional and appropriate documentation or record(s) establishing the legal and/or factual basis for the challenge to ATF's decision to uphold the initial denial. If ATF does not receive such additional documentation or record(s) within 45 days of the date of the decision upholding the initial denial, ATF will close the appeal.

(3) Responsible persons. The letter of denial, among other things, will advise a responsible person of the agency name and address which originated the record containing the information causing the adverse determination ("originating agency"). A responsible person who elects to challenge the adverse determination, where appropriate, is encouraged to apply to the originating agency to challenge the accuracy of the record(s) upon which the denial is based. The originating agency may respond to the individual's application by addressing the individual's specific reasons for the challenge, and by indicating whether additional information or documents are required. If the record is corrected as a result of the application to the originating agency, the individual may so notify ATF which will, in turn, verify the

record correction with the originating agency and take all necessary steps to contact the agency responsible for the record system and correct the record. A responsible person may provide additional documentation or records as specified for employees in paragraph (b)(2) of this section.

(Approved by the Office of Management and Budget under control number 1140-0081)  
[ATF No. 1, 68 FR 13783, Mar. 20, 2003]

### **§ 555.34 Replacement of stolen or lost ATF Form 5400.30 (Intrastate Purchase of Explosives Coupon (IPEC)).**

When any Form 5400.30 is stolen, lost, or destroyed, the person losing possession will, upon discovery of the theft, loss, or destruction, immediately, but in all cases before 24 hours have elapsed since discovery, report the matter to the Director by telephoning 1-888-ATF-BOMB (nationwide toll free number). The report will explain in detail the circumstances of the theft, loss, or destruction and will include all known facts that may serve to identify the document. Upon receipt of the report, the Director will make such investigation as appears appropriate and may issue a duplicate document upon such conditions as the circumstances warrant.

(Approved by the Office of Management and Budget under control number 1140-0077)  
[ATF No. 1, 68 FR 13783, Mar. 20, 2003]

## **Subpart D—Licenses and Permits**

### **§ 555.41 General.**

(a) Licenses and permits issued prior to May 24, 2003.

(1) Each person intending to engage in business as an importer or manufacturer of, or a dealer in, explosive materials, including black powder, must, before commencing business, obtain the license required by this subpart for the business to be operated. Each person who intends to acquire for use explosive materials from a licensee in a State other than the State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, must obtain a permit under this subpart; except that it is not necessary to obtain a permit if the user intends to lawfully purchase:

(i) Explosive materials from a licensee in a State contiguous to the user's State of residence and the user's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State; or

(ii) Commercially manufactured black powder in quantities not to exceed 50 pounds, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices.

(2) Each person intending to engage in business as an explosive materials importer, manufacturer, or dealer must file an application, with the required fee (see §555.42), with ATF in

accordance with the instructions on the form (see §555.45). A license will, subject to law, entitle the licensee to transport, ship, and receive explosive materials in interstate or foreign commerce, and to engage in the business specified by the license, at the location described on the license. A separate license must be obtained for each business premises at which the applicant is to manufacture, import, or distribute explosive materials except under the following circumstances:

(i) A separate license will not be required for storage facilities operated by the licensee as an integral part of one business premises or to cover a location used by the licensee solely for maintaining the records required by this part.

(ii) A separate license will not be required of a licensed manufacturer with respect to his on-site manufacturing.

(iii) It will not be necessary for a licensed importer or a licensed manufacturer (for purposes of sale or distribution) to also obtain a dealer's license in order to engage in business on his licensed premises as a dealer in explosive materials.

(iv) A separate license will not be required of licensed manufacturers with respect to their on-site manufacture of theatrical flash powder.

(3) Except as provided in paragraph (a)(1) of this section, each person intending to acquire explosive materials from a licensee in a State other than a State in which he resides, or from a foreign country, or who intends to transport explosive materials

in interstate or foreign commerce, must file an application, with the required fee (see §555.43), with ATF in accordance with the instructions on the form (see §555.45). A permit will, subject to law, entitle the permittee to acquire, transport, ship, and receive in interstate or foreign commerce explosive materials. Only one permit is required under this part.

**(b)** Licenses and permits issued on and after May 24, 2003—

**(1)** In general.

**(i)** Each person intending to engage in business as an importer or manufacturer of, or a dealer in, explosive materials, including black powder, must, before commencing business, obtain the license required by this subpart for the business to be operated.

**(ii)** Each person who intends to acquire for use explosive materials within the State in which he resides on no more than 6 separate occasions during the 12-month period in which the permit is valid must obtain a limited permit under this subpart. (See §555.105(b) for definition of “6 separate occasions.”)

**(iii)** Each person who intends to acquire for use explosive materials from a licensee or permittee in a State other than the State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, or who intends to acquire for use explosive materials within the State in which he resides on more than 6 separate occasions during a 12-month period, must obtain a user permit under this subpart.

**(iv)** It is not necessary to obtain a permit if the user intends only to lawfully purchase commercially manufactured black powder in quantities not to exceed 50 pounds, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices.

**(2)** Importers, manufacturers, and dealers. Each person intending to engage in business as an explosive materials importer, manufacturer, or dealer must file an application, with the required fee (see §555.42), with ATF in accordance with the instructions on the form (see §555.45). A license will, subject to law, entitle the licensee to transport, ship, and receive explosive materials in interstate or foreign commerce, and to engage in the business specified by the license, at the location described on the license. A separate license must be obtained for each business premises at which the applicant is to manufacture, import, or distribute explosive materials except under the following circumstances:

**(i)** A separate license will not be required for storage facilities operated by the licensee as an integral part of one business premises or to cover a location used by the licensee solely for maintaining the records required by this part.

**(ii)** A separate license will not be required of a licensed manufacturer with respect to his on-site manufacturing.

**(iii)** It will not be necessary for a licensed importer or a licensed manufacturer (for purposes of sale or distribution) to also obtain a dealer’s license in order to engage in business on his licensed premises as a dealer in explosive materials. No licensee will be required to obtain a user permit to lawfully transport, ship, or receive explosive materials in interstate or foreign commerce.

**(iv)** A separate license will not be required of licensed manufacturers with respect to their on-site manufacture of theatrical flash powder.

**(3)** Users of explosive materials.

**(i)** A limited permit will, subject to law, entitle the holder of such permit to receive for his use explosive materials from a licensee or permittee in his state of residence on no more than 6 separate occasions during the 12-month period in which the permit is valid. A limited permit does not authorize the receipt or transportation of explosive materials in interstate or foreign commerce. Holders of limited permits who need to receive explosive materials on more than 6 separate occasions during a 12-month period must obtain a user permit in accordance with this subpart.

**(ii)** Each person intending to acquire explosive materials from a licensee in a State other than a State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, must file an application for a user permit, with the required fee (see §555.43), with ATF in accordance with the instructions on the form (see §555.45). A user permit will, subject to law, entitle the permittee to transport, ship, and receive in interstate or foreign commerce explosive materials. Only one user permit per person is required under this part, irrespective of the number of locations relating to explosive materials operated by the holder of the user permit.

(Approved by the Office of Management and Budget under control number 1140–0083)

[ATF No. 1, 68 FR 13783, Mar. 20, 2003, as amended by ATF 5F, 70 FR 30633, May 27, 2005]

### **§ 555.42 License fees.**

**(a)** Each applicant shall pay a fee for obtaining a three year license, a separate fee being required for each business premises, as follows:

**(1)** Manufacturer—\$200.

**(2)** Importer—\$200.

**(3)** Dealer—\$200.

**(b)** Each applicant for a renewal of a license shall pay a fee for a three year license as follows:

**(1)** Manufacturer—\$100.

**(2)** Importer—\$100.

**(3)** Dealer—\$100.

[T.D. ATF-400, 63 FR 45002, Aug. 24, 1998]

### § 555.43 Permit fees.

(a) Each applicant must pay a fee for obtaining a permit as follows:

- (1) User—\$100 for a three-year period.
- (2) User-limited (nonrenewable)—\$75.
- (3) Limited—\$25 for a one-year period.

(b) (1) Each applicant for renewal of a user permit must pay a fee of \$50 for a three-year period.

(2) Each applicant for renewal of a limited permit must pay a fee of \$12 for a one-year period.

[ATF No. 1, 68 FR 13785, Mar. 20, 2003]

### § 555.44 License or permit fee not refundable.

No refund of any part of the amount paid as a license or permit fee will be made where the operations of the licensee or permittee are, for any reason, discontinued during the period of an issued license or permit. However, the license or permit fee submitted with an application for a license or permit will be refunded if that application is denied, withdrawn, or abandoned, or if a license is cancelled subsequent to having been issued through administrative error.

### § 555.45 Original license or permit.

(a) Licenses issued prior to May 24, 2003. Any person who intends to engage in business as an explosive materials importer, manufacturer, or dealer, or who has not timely submitted application for renewal of a previous license issued under this part, shall file with ATF an application for License, Explosives, ATF F 5400.13 with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a). The application is to be accompanied by the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF F 5400.13 may be obtained from any ATF office. The Chief, Firearms and Explosives Licensing Center, will not approve an application postmarked on or after March 20, 2003, unless it is submitted with a Responsible Person Questionnaire, ATF Form 5400.28. Form 5400.28 must be completed in accordance with the instructions on the form.

(b) Permits issued prior to May 24, 2003. Any person, except as provided in §555.41(a), who intends to acquire explosive materials from a licensee in a state other than the State in which that person resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, or who has not timely submitted application for renewal of a previous permit issued under this part, shall file an application for Permit, Explosives, ATF F 5400.16 or Permit, User Limited Display Fireworks, ATF F 5400.21 with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a). The application is to be accompanied by the

appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF F 5400.16 and ATF F 5400.21 may be obtained from any ATF office. The Chief, Firearms and Explosives Licensing Center, will not approve an application postmarked on or after March 20, 2003, unless it is submitted with a Responsible Person Questionnaire, ATF Form 5400.28. Form 5400.28 must be completed in accordance with the instructions on the form.

(c) Licenses and permits issued on and after May 24, 2003—

(1) License. Any person who intends to engage in the business as an importer of, manufacturer of, or dealer in explosive materials, or who has not timely submitted an application for renewal of a previous license issued under this part, must file an application for License, Explosives, ATF F 5400.13, with ATF in accordance with the instructions on the form. ATF Form 5400.13 may be obtained by contacting any ATF office. The application must:

(i) Be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a);

(ii) Include appropriate identifying information concerning each responsible person;

(iii) Include a photograph and fingerprints for each responsible person;

(iv) Include the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials by submitting ATF F 5400.28 for each employee; and

(v) Include the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(2) User permit and limited permit. Except as provided in 555.41(b)(1)(iv), any person who intends to acquire explosive materials in the State in which that person resides or acquire explosive materials from a licensee or holder of a user permit in a State other than the State in which that person resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, or who has not timely submitted an application for renewal of a previous permit issued under this part, must file an application for Permit, Explosives, ATF F 5400.16 or Permit, User Limited Display Fireworks, ATF F 5400.21 with ATF in accordance with the instructions on the form. ATF Form 5400.16 and ATF Form 5400.21 may be obtained by contacting any ATF office. The application must:

(i) Be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a);

(ii) Include a photograph, fingerprints, and appropriate identifying information for each responsible person;

(iii) Include the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials by submitting ATF F 5400.28 for each employee; and

(iv) Include the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(3) The Chief, Firearms and Explosives Licensing Center, will conduct background checks on responsible persons and employees authorized by the applicant to possess explosive materials in accordance with §555.33. If it is determined that any responsible person or employee is described in any paragraph of section 842(i) of the Act, the applicant must submit an amended application indicating removal or reassignment of that person before the license or permit will be issued.

(Approved by the Office of Management and Budget under control number 1140-0083)

(18 U.S.C. 847 (84 Stat. 959); 18 U.S.C. 926 (82 Stat. 1226))  
[T.D. ATF-200, 50 FR 10497, Mar. 15, 1985, as amended by T.D. ATF-400, 63 FR 45002, Aug. 24, 1998; ATF No. 1, 68 FR 13785, Mar. 20, 2003]

### § 555.46 Renewal of license or permit.

(a) If a licensee or permittee intends to continue the business or operation described on a license or permit issued under this part after the expiration date of the license or permit, he shall, unless otherwise notified in writing by the Chief, Firearms and Explosives Licensing Center, execute and file prior to the expiration of his license or permit an application for license renewal, ATF F 5400.14 (Part III), or an application for permit renewal, ATF F 5400.15 (Part III), accompanied by the required fee, with ATF in accordance with the instructions on the form. In the event the licensee or permittee does not timely file a renewal application, he shall file an original application as required by §555.45, and obtain the required license or permit in order to continue business or operations.

(b) A user-limited permit is not renewable and is valid for a single purchase transaction. Applications for all user-limited permits must be filed on ATF F 5400.16 or ATF F 5400.21, as required by §555.45.

(18 U.S.C. 847 (84 Stat. 959); 18 U.S.C. 926 (82 Stat. 1226))  
[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-200, 50 FR 10497, Mar. 15, 1985; T.D. ATF-290, 54 FR 53054, Dec. 27, 1989; T.D. ATF-400, 63 FR 45002, Aug. 24, 1998]

### § 555.47 Insufficient fee.

If an application is filed with an insufficient fee, the application and fee submitted will be returned to the applicant.

(18 U.S.C. 847 (84 Stat. 959); 18 U.S.C. 926 (82 Stat. 1226))  
[T.D. ATF-200, 50 FR 10498, Mar. 15, 1985]

### § 555.48 Abandoned application.

Upon receipt of an incomplete or improperly executed application, 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 as having been abandoned and the license or permit fee returned.

### § 555.49 Issuance of license or permit.

(a) Issuance of license or permit prior to May 24, 2003. (1) The Chief, Firearms and Explosives Licensing Center, will issue a license or permit if—

(i) A properly executed application for the license or permit is received; and

(ii) Through further inquiry or investigation, or otherwise, it is found that the applicant is entitled to the license or permit.

(2) The Chief, Firearms and Explosives Licensing Center, will approve a properly executed application for a license or permit, if:

(i) The applicant is 21 years of age or over;

(ii) The applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not a person to whom distribution of explosive materials is prohibited under the Act;

(iii) The applicant has not willfully violated any provisions of the Act or this part;

(iv) The applicant has not knowingly withheld information or has not made any false or fictitious statement intended or likely to deceive, in connection with his application;

(v) The applicant has in a State, premises from which he conducts business or operations subject to license or permit under the Act or from which he intends to conduct business or operations;

(vi) The applicant has storage for the class (as described in §555.202) of explosive materials described on the application, unless he establishes to the satisfaction of the Chief, Firearms and Explosives Licensing Center, that the business or operations to be conducted will not require the storage of explosive materials;

(vii) The applicant has certified in writing that he is familiar with and understands all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business; and

(viii) The applicant for a license has submitted the certificate required by section 21 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1341).

(3) The Chief, Firearms and Explosives Licensing Center, will approve or the regional director (compliance) will deny any application for a license or permit within the 45-day period beginning on the date a properly executed application was received. However, when an applicant for license or permit renewal is a person who is, under the provisions of §555.83 or §555.142, conducting business or operations under a previously issued license or permit, action regarding the application will be held in abeyance pending the completion of the proceedings against the



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applicant's existing license or permit, or renewal application, or final action by the Director on an application for relief submitted under §555.142, as the case may be.

(4) The license or permit and one copy will be forwarded to the applicant, except that in the case of a user-limited permit, the original only will be issued.

(5) Each license or permit will bear a serial number and this number may be assigned to the licensee or permittee to whom issued for as long as he maintains continuity of renewal in the same region.

(b) Issuance of license or permit on and after May 24, 2003.

(1) The Chief, Firearms and Explosives Licensing Center, will issue a license or permit if:

(i) A properly executed application for the license or permit is received; and

(ii) Through further inquiry or investigation, or otherwise, it is found that the applicant is entitled to the license or permit.

(2) The Chief, Firearms and Explosives Licensing Center, will approve a properly executed application for a license or permit, if:

(i) The applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in any paragraph of section 842(i) of the Act;

(ii) The applicant has not willfully violated any provisions of the Act or this part;

(iii) The applicant has not knowingly withheld information or has not made any false or fictitious statement intended or likely to deceive, in connection with his application;

(iv) The applicant has in a State, premises from which he conducts business or operations subject to license or permit under the Act or from which he intends to conduct business or operations;

(v) The applicant has storage for the class (as described in §555.202) of explosive materials described on the application;

(vi) The applicant has certified in writing that he is familiar with and understands all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business;

(vii) The applicant for a license has submitted the certificate required by section 21 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1341);

(viii) None of the employees of the applicant who will be authorized by the applicant to possess explosive materials is a person described in any paragraph of section 842(i) of the Act; and

(ix) In the case of an applicant for a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.

(3) The Chief, Firearms and Explosives Licensing Center, will approve or the regional director (compliance) will deny any application for a license or permit within the 90-day period beginning on the date a properly executed application was received. However, when an applicant for license or permit renewal is a person who is, under the provisions of §555.83 or §555.142, conducting business or operations under a previously issued license or permit, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant's existing license or permit, or renewal application, or final action by the Director on an application for relief submitted under §555.142, as the case may be.

(4) The license or permit and one copy will be forwarded to the applicant, except that in the case of a user-limited permit, the original only will be issued.

(5) Each license or permit will bear a serial number and this number may be assigned to the licensee or permittee to whom issued for as long as he maintains continuity of renewal in the same region.

(Approved by the Office of Management and Budget under control number 1140-0082)

[ATF No. 1, 68 FR 13785, Mar. 20, 2003]

### **§ 555.50 Correction of error on license or permit.**

(a) Upon receipt of a license or permit issued under this part, each licensee or permittee shall examine the license or permit to insure that the information on it is accurate. If the license or permit is incorrect, the licensee or permittee shall return the license or permit to the Chief, Firearms and Explosives Licensing Center, with a statement showing the nature of the error. The Chief, Firearms and Explosives Licensing Center, shall correct the error, if the error was made in his office, and return the license or permit. However, if the error resulted from information contained in the licensee's or permittee's application for the license or permit, the Chief, Firearms and Explosives Licensing Center, shall require the licensee or permittee to file an amended application setting forth the correct information and a statement explaining the error contained in the application. Upon receipt of the amended application and a satisfactory explanation of the error, the Chief, Firearms and Explosives Licensing Center, shall make the correction on the license or permit and return it to the licensee or permittee.

(b) When the Chief, Firearms and Explosives Licensing Center, finds through any means other than notice from the licensee or permittee that an incorrect license or permit has been issued, (1) the Chief, Firearms and Explosives Licensing Center, may require the holder of the incorrect license or permit to return the license or permit for correction, and (2) if the error resulted from information contained in the licensee's or permittee's application for the license or permit, the Chief, Firearms and Explosives Licensing Center, shall require the licensee or permittee to file an amended application setting forth the correct information, and a

statement satisfactorily explaining the error contained in the application. The Chief, Firearms and Explosives Licensing Center, then shall make the correction on the license or permit and return it to the licensee or permittee.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

#### **§ 555.51 Duration of license or permit.**

(a) Prior to May 24, 2003. An original license or permit is issued for a period of three years. A renewal license or permit is issued for a period of three years. However, a user-limited permit is valid only for a single purchase transaction.

(b) On and after May 24, 2003.

(1) An original license or user permit is issued for a period of three years. A renewal license or user permit is also issued for a period of three years. However, a user-limited permit is valid only for a single purchase transaction.

(2) A limited permit is issued for a period of one year. A renewal limited permit is also issued for a period of one year. [ATF No. 1, 68 FR 13786, Mar. 20, 2003]

#### **§ 555.52 Limitations on license or permit.**

(a) The license covers the business of explosive materials specified in the license at the licensee's business premises (see §555.41(b)).

(b) The permit is valid with respect to the type of operations of explosive materials specified in the permit.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-387, 62 FR 8376, Feb. 25, 1997; ATF 5F, 70 FR 30633, May 27, 2005]

#### **§ 555.53 License and permit not transferable.**

Licenses and permits issued under this part are not transferable to another person. In the event of the lease, sale, or other transfer of the business or operations covered by the license or permit, the successor must obtain the license or permit required by this part before commencing business or operations. However, for rules on right of succession, see §555.59.

#### **§ 555.54 Change of address.**

(a) During the term of a license or permit, a licensee or permittee may move his business or operations to a new address at which he intends to regularly carry on his business or operations, without procuring a new license or permit. However, in every case, the licensee or permittee shall—

(1) Give notification of the new location of the business or operations to the Chief, Firearms and Explosives Licensing Center at least 10 days before the move; and

(2) Submit the license or permit to the Chief, Firearms and Explosives Licensing Center. The Chief, Firearms and Explosives Licensing Center will issue an amended license or permit, which will contain the new address (and new license or permit number, if any).

(b) Licensees and permittees whose mailing address will change must notify the Chief, Firearms and Explosives Licensing Center, at least 10 days before the change.

(Paragraph (b) approved by the Office of Management and Budget under control number 1140-0080)

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989; ATF No. 1, 68 FR 13786, Mar. 20, 2003]

#### **§ 555.56 Change in trade name.**

A licensee or permittee continuing to conduct business or operations at the location shown on his license or permit is not required to obtain a new license or permit by reason of a mere change in trade name under which he conducts his business or operations. However, the licensee or permittee shall furnish his license or permit and any copies furnished with the license or permit for endorsement of the change to the Chief, Firearms and Explosives Licensing Center, within 30 days from the date the licensee or permittee begins his business or operations under the new trade name.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

#### **§ 555.57 Change of control, change in responsible persons, and change of employees.**

(a) In the case of a corporation or association holding a license or permit under this part, if actual or legal control of the corporation or association changes, directly or indirectly, whether by reason of change in stock ownership or control (in the corporation holding a license or permit or in any other corporation), by operation of law, or in any other manner, the licensee or permittee shall, within 30 days of the change, give written notification executed under the penalties of perjury, to the Chief, Firearms and Explosives Licensing Center. Upon expiration of the license or permit, the corporation or association shall file an ATF F 5400.13 or an ATF F 5400.16 as required by §555.45, and pay the fee prescribed in §555.42(b) or §555.43(b).

(b) For all licenses or permits issued on and after May 24, 2003, each person holding the license or permit must report to the Chief, Firearms and Explosives Licensing Center, any change in responsible persons or employees authorized to possess explosive materials. Such report must be submitted within 30 days of the change and must include appropriate identifying information for each responsible person. Reports relating to newly hired employees authorized to possess explosive materials must be submitted on ATF F 5400.28 for each employee.

(c) Upon receipt of a report, the Chief, Firearms and Explosives Licensing Center, will conduct a background check, if appropriate, in accordance with §555.33.

(d) The reports required by paragraph (b) of this section must be retained as part of a licensee's or permittee's permanent records for the period specified in §555.121.

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(Approved by the Office of Management and Budget under control number 1140-0074)

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989; ATF No. 1, 68 FR 13786, Mar. 20, 2003]

### **§ 555.58 Continuing partnerships.**

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to conduct the business or operations under the license or permit of the partnership. If the surviving partner acquires the business or operations on completion of settlement of the partnership, he shall obtain a license or permit in his own name from the date of acquisition, as provided in §555.45. The rule set forth in this section will also apply where there is more than one surviving partner.

### **§ 555.59 Right of succession by certain persons.**

(a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same business premises for the remainder of the term of license or permit. These persons are:

(1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and

(2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

(b) In order to secure the right of succession, the person or persons continuing the business or operations shall submit the license or permit and all copies furnished with the license or permit for endorsement of the succession to the Chief, Firearms and Explosives Licensing Center, within 30 days from the date on which the successor begins to carry on the business or operations. [T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

### **§ 555.60 Certain continuances of business or operations.**

A licensee or permittee who furnishes his license or permit to the Chief, Firearms and Explosives Licensing Center, for correction, amendment, or endorsement, as provided in this subpart, may continue his business or operations while awaiting its return. [T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

### **§ 555.61 Discontinuance of business or operations.**

Where an explosive materials business or operations is either discontinued or succeeded by a new owner, the owner of the business or operations discontinued or succeeded shall, within 30 days, furnish notification of the discontinuance or succession and

submit his license or permit and any copies furnished with the license or permit to the Chief, Firearms and Explosives Licensing Center. (See also §555.128.)

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

### **§ 555.62 State or other law.**

A license or permit issued under this part confers no right or privilege to conduct business or operations, including storage, contrary to State or other law. The holder of a license or permit issued under this part is not, by reason of the rights and privileges granted by that license or permit, immune from punishment for conducting an explosive materials business or operations in violation of the provisions of any State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under Federal law or regulations.

### **§ 555.63 Explosives magazine changes.**

#### **(a) General.**

(1) The requirements of this section are applicable to magazines used for other than temporary (under 24 hours) storage of explosives.

(2) A magazine is considered suitable for the storage of explosives if the construction requirements of this part are met during the time explosives are stored in the magazine.

(3) A magazine is considered suitable for the storage of explosives if positioned in accordance with the applicable table of distances as specified in this part during the time explosives are stored in the magazine.

(4) For the purposes of this section, notification of the regional director (compliance) may be by telephone or in writing. However, if notification of the regional director (compliance) is in writing it must be at least three business days in advance of making changes in construction to an existing magazine or constructing a new magazine, and at least five business days in advance of using any reconstructed magazine or added magazine for the storage of explosives.

(b) **Exception.** Mobile or portable type 5 magazines are exempt from the requirements of paragraphs (c) and (d) of this section, but must otherwise be in compliance with paragraphs (a) (2) and (3) of this section during the time explosives are stored in such magazines.

(c) **Changes in magazine construction.** A licensee or permittee who intends to make changes in construction of an existing magazine shall notify the regional director (compliance) describing the proposed changes prior to making any changes. Unless otherwise advised by the regional director (compliance), changes in construction may commence after explosives are removed from the magazine. Explosives may not be stored in a reconstructed magazine before the regional director (compliance) has been notified in accordance with paragraph (a)(4) of this section that the changes have been completed.

**(d) Magazines acquired or constructed after permit or license is issued.** A licensee or permittee who intends to construct or acquire additional magazines shall notify the regional director (compliance) in accordance with paragraph (a)(4) of this section describing the additional magazines and the class and quantity of explosives to be stored in the magazine. Unless otherwise advised by the regional director (compliance),

additional magazines may be constructed, or acquired magazines may be used for the storage of explosives. Explosives must not be stored in a magazine under construction. The regional director (compliance) must be notified that construction has been completed.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-400, 63 FR 45002, Aug. 24, 1998]

## Subpart E—License and Permit Proceedings

### § 555.71 Opportunity for compliance.

Except in cases of willfulness or those in which the public interest requires otherwise, and the regional director (compliance) so alleges in the notice of denial of an application or revocation of a license or permit, no license or permit will be revoked or renewal application denied without first calling to the attention of the licensee or permittee the reasons for the contemplated action and affording him an opportunity to demonstrate or achieve compliance with all lawful requirements and to submit facts, arguments, or proposals of adjustment. The notice of contemplated action, ATF F 5400.12, will afford the licensee or permittee 15 days from the date of receipt of the notice to respond. If no response is received within the 15 days, or if after consideration of relevant matters presented by the licensee or permittee, the regional director (compliance) finds that the licensee or permittee is not likely to abide by the law and regulations, he will proceed as provided in §555.74.

[T.D. ATF-87, 46 FR 40384, Aug. 7 1981, as amended by T.D. ATF-446, 66 FR 16602, Mar. 27, 2001]

### § 555.72 Denial of initial application.

Whenever the regional director (compliance) has reason to believe that an applicant for an original license or permit is not eligible to receive a license or permit under the provisions of §555.49, he shall issue a notice of denial on ATF F 5400.11. The notice will set forth the matters of fact and law relied upon in determining that the application should be denied, and will afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within that time, a copy of the application, marked “*Disapproved*”, will be returned to the applicant.

### § 555.73 Hearing after initial application is denied.

If the applicant for an original license or permit desires a hearing, he shall file a request with the regional director (compliance) within 15 days after receipt of the notice of denial. The request should include a statement of the reasons for a hearing. On receipt of the request, the regional director (compliance) shall refer the matter to an administrative law judge who shall set a time and place (see §555.77) for a hearing and shall serve notice of the hearing upon the applicant and the regional director (compliance) at least 10 days in advance of the hearing date. The hearing will be conducted in accordance with the hearing procedures prescribed in part 71 of this chapter (see §555.82).

Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the administrative law judge shall render his recommended decision. He shall certify to the complete record of the proceedings before him and shall immediately forward the complete certified record, together with four copies of his recommended decision, to the regional director (compliance) for decision.

### § 555.74 Denial of renewal application or revocation of license or permit.

If following the opportunity for compliance under §555.71, or without opportunity for compliance under §555.71, as circumstances warrant, the regional director (compliance) finds that the licensee or permittee is not likely to comply with the law or regulations or is otherwise not eligible to continue operations authorized under his license or permit, the regional director (compliance) shall issue a notice of denial of the renewal application or revocation of the license or permit, ATF F 5400.11 or ATF F 5400.10, as appropriate. In either case, the notice will set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The notice will, in the case of revocation of a license or permit, specify the date on which the action is effective, which date will be on or after the date the notice is served on the licensee or permittee. The notice will also advise the licensee or permittee that he may, within 15 days after receipt of the notice, request a hearing and, if applicable, a stay of the effective date of the revocation of his license or permit.

### § 555.75 Hearing after denial of renewal application or revocation of license or permit.

If a licensee or permittee whose renewal application has been denied or whose license or permit has been revoked desires a hearing, he shall file a request for a hearing with the regional director (compliance). In the case of the revocation of a license or permit, he may include a request for a stay of the effective date of the revocation. On receipt of the request the regional director (compliance) shall advise the licensee or permittee whether the stay of the effective date of the revocation is granted. If the stay of the effective date of the revocation is granted, the regional director (compliance) shall refer the matter to an administrative law judge who shall set a time and place (see §555.77) for a hearing and shall serve notice of the hearing upon the licensee or